

LOCAL AGENCY AGREEMENT

This Agreement is entered into as of January 1, 2003, by and among the Inland Empire Utilities Agency ("IEUA"), a municipal water district duly organized and existing under the laws of the State of California, ~~Chino Basin Watermaster ("Watermaster"), a court-created entity existing under the laws of the State of California, and the Local Agency ("Local Agency"), a Municipality~~ duly organized and existing under the laws of the State of California

WITNESSETH:

WHEREAS, in March 2000, California voters approved Proposition 13 ("Prop. 13") authorizing the State of California to sell \$1.97 billion in general obligation bonds for water related projects throughout the State. The Governor's Budget Act for 2000, Chapter 52, Statutes of 2000, appropriated to the California Department of Water Resources ("DWR") local assistance grants for groundwater storage and supply reliability projects in the amount of \$161,544,000 by budget item 3860-01-6027, payable from the Interim Reliable Water Supply and Water Quality Infrastructure and Managed Subaccount; and

WHEREAS, Metropolitan was subsequently selected by DWR as a grant recipient for \$45 million (the "Prop. 13 Funds") to be used for groundwater storage projects within its service area. In a letter dated October 13, 2000, DWR set forth the specific terms and conditions of the grant to Metropolitan; and

WHEREAS, on September 20, 2000, Metropolitan sent a letter to its twenty-six member public agencies (consisting of cities, municipal water districts and a county water authority within its 5,155 square-mile service area covering portions of Los Angeles, Orange, San Diego, Riverside, San Bernardino and Ventura Counties), requesting a list of groundwater storage projects to be considered for Prop. 13 Funding. On November 1, 2000, Metropolitan delivered to those member public agencies that indicated an interest in the Prop. 13 groundwater storage programs for the Request for Proposals for Participation in Groundwater Storage Programs Using Proposition 13 Funds, RFP No. WRM-2 (the "RFP"); and

WHEREAS, Metropolitan anticipated that programs funded by the Prop. 13 Funds would store water (by various methods) that Metropolitan imports from the State Water Project and the Colorado River. This stored water would be pumped by the member agency (or a sub-agency) with a corresponding reduction in surface water deliveries from Metropolitan. As a result, Metropolitan would have a greater amount of water to distribute within its service area. In addition, such groundwater storage programs are part of a larger effort to meet water supply demands in Southern California, as specifically set forth in the Integrated Water Resources Plan approved by Metropolitan's Board of Directors in 1996, and the Groundwater Storage Principles adopted in connection therewith by Metropolitan's Board of Directors in January 2000; and

WHEREAS, simultaneous with the execution of this Agreement, IEUA is entering into a Groundwater Storage Project Funding Agreement (the "Metropolitan Agreement") with Metropolitan, Three Valleys Municipal Water District and Chino Basin Watermaster whereby, among other things, funding will be provided to finance the facilities listed on Exhibit A hereto (the

"Local Agency Facilities") which are necessary to enhance a groundwater storage program in the Chino Basin; and

WHEREAS, IEUA desires to pass through to Local Agency any amounts received by IEUA under the Metropolitan Agreement which are allocable to the Local Agency Facilities for use by Local Agency to construct the Local Agency Facilities; and

WHEREAS, in exchange for such amounts, the parties hereto intend that Local Agency assume all obligations of IEUA under the Metropolitan Agreement and all obligations relating to the Local Agency Facilities, whether such obligations are imposed by Metropolitan, DWR or another entity, such obligations including but not limited to the obligations recited in Sections III, IV, V, VII, X, XI and XII of the Metropolitan Agreement;

NOW THEREFORE, the parties hereto do agree as follows:

Section 1. Definitions. All capitalized terms used herein and not otherwise defined shall have the meanings given in the Metropolitan Agreement.

Section 2. Effective Date; Terminate Date. This Agreement shall become effective upon the Effective Date of the Metropolitan Agreement and shall terminate upon the termination of the Metropolitan Agreement.

Section 3. Funding of Local Agency Facilities. All amounts allocable to the Local Agency Facilities disbursed to IEUA under Section V of the Metropolitan Agreement shall be paid to Local Agency for construction of the Local Agency Facilities.

Section 4. Local Agency Duties Generally. Local Agency hereby accepts and agrees to perform all of IEUA's duties under the Metropolitan Agreement relating to the Local Agency Facilities, it being the intention of IEUA and Local Agency that Local Agency will be directly responsible for all aspects of constructing, operating and maintaining the Local Agency Facilities in accordance with the Metropolitan Agreement.

Section 5. Illustrative List of Local Agency Duties. Among the duties Local Agency shall perform are those set forth below in this Section. Such duties are merely illustrative of the duties Local Agency shall perform and do not limit Local Agency's responsibilities hereunder.

(a) Construction Duties. Local Agency shall perform all of IEUA's duties with respect to the construction of the Local Agency Facilities which are set forth in the Metropolitan Agreement. Such duties include but are not limited to (i) obtaining the Required Approvals applicable to the Local Agency Facilities pursuant to Section III(C) of the Metropolitan Agreement, (ii) providing for the planning and preconstruction requirements of Section IV(A) of the Metropolitan Agreement which relate to the Local Agency Facilities, (iii) providing for the construction of the Local Agency Facilities in accordance with Section IV(B) of the Metropolitan Agreement, and (iv) completing construction of the Local Agency Facilities in accordance with the timeline set forth in Section IV(B) of the Metropolitan Agreement including retaining and supervising qualified contractors.

(b) Cost Overruns. Local Agency agrees to pay Δ for any cost overruns allocable to the Local Agency Facilities Δ pursuant to Section V(B). In addition, Local Agency shall pay Δ any amounts due to Metropolitan pursuant to Section V(B)(2) which are allocable to the Local Agency

Facilities. △ Should bids for construction of the Program Facilities exceed the Approved Budget by more than 5%, IEUA may review such cost increase with Metropolitan to determine the appropriate way to proceed with the program and Metropolitan and IEUA may mutually agree to a cost share, to change in scope of the project, or to discontinue the project, all in accordance with Section V(B)(2) of the Metropolitan Agreement.

(c) Operation and Maintenance Duties. With respect to the Local Agency Facilities, Local Agency agrees to perform those certain duties listed in Section IV(B) of the Metropolitan Agreement, namely:

(i) Cause the Local Agency Facilities to be operated and maintained in as good and efficient condition as upon their construction, ordinary and reasonable wear and depreciation excepted, and otherwise in accordance with industry standards (and DWR standards and requirements, if any);

(ii) Provide for all repairs, renewals, and replacements necessary to the efficient operation of the Local Agency Facilities;

(iii) To the extent existing facilities are utilized for the Program, provide for all repairs, renewals, and replacements necessary to the efficient operation of such existing facilities;

(iv) Certify the amount of water in the Metropolitan Storage Account pursuant to the Operating Committee accounting; and

(v) Upon call by Metropolitan for Stored Water Delivery, operate Facilities, combined with the existing infrastructure, at Operational Capacity Thresholds necessary to meet performance targets as outlined in Exhibit G of the Metropolitan Agreement.

(d) Delivery of Metropolitan Water. Watermaster and IEUA will allocate Metropolitan water supplied by Metropolitan's Trust Storage Account (replenishment, injection or in lieu) through an annual operating plan to be approved by IEUA and Watermaster. To the extent that Local Agency is allocated Metropolitan in lieu water, rate and charges paid by the Local Agency for such in lieu deliveries shall be based upon IEUA rates and charges adopted its Board of Directors for the Metropolitan Dry Year Storage Program from time-to-time.

(e) Groundwater and Pumping Responsibilities. Local Agency acknowledges that Metropolitan has the right to demand the pumping of stored water in the Chino groundwater basin. Local Agency shall provide for the pumping of stored water (on a pro rata basis determined by IEUA on the basis of all applicable groundwater pumpers that have agreements with IEUA similar to this Agreement) upon Metropolitan's request of a Stored Water Delivery, all in accordance with Section VII(C) of the Metropolitan Agreement, and consistent with Exhibit B hereto. Local Agency shall be reimbursed by Metropolitan for operation and maintenance expenses incurred when pumping stored water upon Metropolitan's demand, all in accordance with Section IV(D) of the Metropolitan Agreement.

^(f) Recordkeeping, Reporting, Inspection and Audit Duties. Local Agency shall perform all of IEUA's recordkeeping, reporting, inspection and audit duties which relate to the Local Agency Facilities, all in accordance under Section X of the Metropolitan Agreement.

△

^(g) Indemnity. Local Agency shall immediately reimburse IEUA for any amounts expended for compliance with Section XI of the Metropolitan Agreement which are allocable or which in any way relate to the Local Agency Facilities.

△

^(h) Insurance. Local Agency shall be responsible for providing and paying for all insurance with respect to the Local Agency Facilities required by Section XII of the Metropolitan Agreement.

Section 6. Representations, Warranties and Covenants. Local Agency represents, warrants and covenants as follows:

(a) Power and Authority. That it is a general law city, duly organized and validly existing under the laws of the State of California; that it has all necessary power and authority to enter into this Agreement and to perform its obligations hereunder on the terms set forth in this Agreement, and that the execution and delivery hereof by it and the performance its obligations hereunder will not violate or constitute an event of default under the terms or provisions of any agreement, document or instrument to which it is a party or by which it is a party or by which it is bound.

(b) Authorization; Valid Obligation. That all proceedings required to be taken by or on behalf of Local Agency to authorize it to make, deliver and carry out the terms of this Agreement have been duly and properly taken, and that this Agreement is its valid and binding obligation enforceable in accordance with its terms, except as the same may be affected by bankruptcy, insolvency, moratorium or similar laws or by legal or equitable principles relating to or limiting the rights of contracting parties generally.

(c) No Litigation. To the best of Local Agency's knowledge, there is no litigation, proceeding or investigation pending or threatened, to which it is or would be a party, or which does or would bind or relate to the Program Basin, directly or indirectly, which, individually or in the aggregate, if adversely determined, might materially and adversely affect its ability to perform its obligations under this Agreement, or which raises a question as to the validity of this Agreement, or any action to be taken hereunder.

(d) Compliance with Laws. In the performance of its obligations hereunder, Local Agency and its contractors and subcontractors will comply with all applicable laws, regulations and ordinances, including, without limitation, those listed in Section XII of the Metropolitan Agreement.

Local Agency and its contractors and subcontractors will give written notice of its obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. Local Agency and its contractors will include the nondiscrimination and

compliance provisions of this clause in all contracts and subcontracts let for the construction of the Local Agency Facilities.

(e) Compliance with DWR Requirements. [APPLICABLE TO CCWD ONLY] The Plans will comply with any DWR requirements, including any requirements set forth in the DWR Funding Letter. During the performance of its obligations herein, Local Agency will comply with any DWR requirements, including any requirements set forth in the DWR Funding Letter.

(f) No Construction. That construction of the Local Agency Facilities and related work (including planning activities) did not commence prior to the Effective Date.

(g) Capacity. Local Agency and its contractors, subcontractors and its respective agents will at all times act in an independent capacity and not purport to act as, or represent to others that they are, officers, employees, representatives or agents of Metropolitan, DWR or the State of California.

(h) Oversight and Supervision of Construction. Local Agency will oversee and supervise all contractors and keep control of all work and provisions of services and materials in connection with the Program.

(i) Maintain Ownership of Program Property. Local Agency will not sell, abandon, lease, transfer, exchange, mortgage, hypothecate or encumber in any manner whatsoever all or any portion of any real or other property necessarily connected or used in conjunction with the Program.

(j) Protection of Others' Rights. Local Agency will fully protect and preserve the rights of overlying landowners, other groundwater users or water rights holders, parties whose approval is required by any judgment in an adjudicated basin, and all groundwater management agencies or other applicable regulatory agencies, and will take the necessary actions (including groundwater monitoring and mitigation and/or limiting extractions of groundwater) to protect such rights.

~~Section 7. Watermaster Acknowledgment. Watermaster acknowledges that the groundwater storage program contemplated by the Metropolitan Agreement and this Agreement is intended to implement Program Element 8 of the Optimum Basin Management Program.~~

Section 8. Miscellaneous.

(a) Headings. The headings of the sections hereof are inserted for convenience only and shall not be deemed a part of this Agreement.

(b) Partial Invalidity. If any one or more of the covenants or agreements provided in this Agreement to be performed should be determined to be invalid or contrary to law, such covenant or agreement shall be deemed and construed to be severable from the remaining covenants and agreements herein contained and shall in no way affect the validity of the remaining provisions of this Agreement.

(c) Counterparts. This Agreement may be executed in several counterparts, all or any of which shall be regarded for all purposes as one original and shall constitute and be but one and the same instrument.

(d) Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA.

(e) Notices. Any notices required or permitted to be given hereunder shall be given in writing and shall be delivered (a) in person, (b) by certified mail, postage prepaid, return receipt requested, (c) by Federal Express or another reputable commercial overnight courier that guarantees next day delivery and provides a receipt, or (d) by telefacsimile or telecopy, and such notices shall be addressed as follows:

If to IEUA:	Inland Empire Utilities Agency 9400 Cherry Avenue, Bldg. A Fontana, California 92335 Attention: Treasurer
With a copy to:	Stradling Yocca Carlson & Rauth 660 Newport Center Drive, Suite 1600 Newport Beach, California 92660 Attention: Douglas Brown
If to Watermaster:	Chino Basin Watermaster 8632 Archibald Avenue, Suite 109 Rancho Cucamonga, California 91730 Attention: _____
If to Local Agency:	[Local Agency] City of Upland 460 N. Euclid Upland, CA 91786 Attention: Rob Turner
With a copy to:	City Attorney P.O. Box 460 Upland, CA 91785

or to such other address as either party may from time to time specify in writing to the other party. Any notice shall be deemed delivered when actually delivered, if such delivery is in person, upon deposit with the U.S. Postal Service, if such delivery is by certified mail, upon deposit with the overnight courier service, if such delivery is by an overnight courier service, and upon transmission, if such delivery is by telefacsimile or telecopy.

(f) Merger of Prior Agreements. This Agreement and the exhibits hereto constitute the entire agreement between the parties and supersede all prior agreements and understandings between the parties relating to the subject matter hereof.

(g) Time of the Essence. Time is of the essence in the performance of this Agreement.

IN WITNESS WHEREOF, IEUA has executed this Agreement with the approval of its governing body, ~~Watermaster has executed this Agreement with the approval of its governing body, and Local Agency has executed this Agreement in accordance with the authorization of its governing body.~~

INLAND EMPIRE UTILITIES AGENCY

By: *Euhayel Aswate*
~~President~~ *General Manager*

~~CHINO BASIN WATERMASTER~~

By: _____

[LOCAL AGENCY]

By: *John V. Pomeroy*
Mayor

ATTEST: *Stephanie O'Rear*
CITY CLERK

APPROVED AS TO FORM

By: *William P. Cukley* for
JAMES MARKMAN, CITY ATTORNEY
DATE: *4-28-03*

EXHIBIT A
LOCAL AGENCY FACILITIES

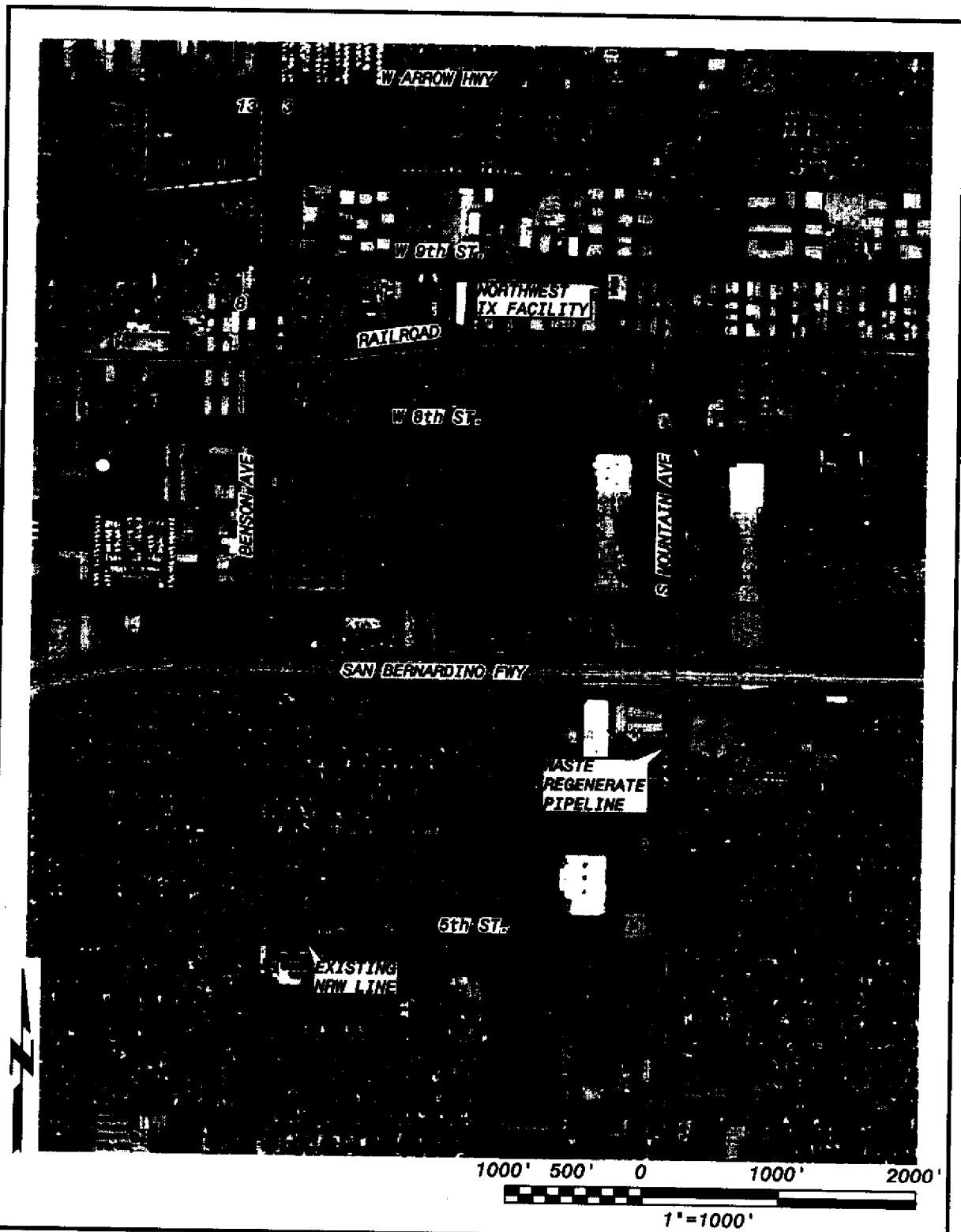
City of Upland - Northwest A IX Facility

The City of Upland has requested a single groundwater treatment facility called the Northwest A IX Facility. The location for this facility is on the south side of Ninth Street, west of Mountain Avenue, in the City of Upland. This site contains an existing reservoir, three offsite wells (Upland Well Nos. 3, 8, & 13) with dedicated pipelines to the reservoir, a pump station which delivers water to the 15th Street Reservoir, and sufficient available land for a new treatment facility.

The Northwest A IX Facility would treat water from the three offsite wells, which have an average nitrate concentration of 82 mg/L as nitrate. The IX facility will have a capacity of approximately 1,500 gpm. Treated water would be delivered to the reservoir, a 16-inch diameter distribution pipeline along Ninth Avenue, or to the pump station. Waste regenerate would be conveyed to the NRW line along Mountain Avenue by a 5,500-foot long, 6-inch diameter pipeline. Table X-X presents the locations of the major facilities associated with the Upland Northwest A IX Facility.

**Table X-X
City of Upland Northwest A IX Facility Locations**

Facility Component	Location
Northwest A IX Facility	1258 West 9 th Street
Raw Water Supply Wells	
Well No. 3	300 North Benson Avenue
Well No. 8	149 North Benson Avenue
Well No. 13	1636 West Arrow Hwy




 BLACK & VEATCH Corporation PROJECT 131314	CITY OF UPLAND NORTHWEST ION EXCHANGE FACILITY	FIGURE NO. 2-1
	LOCATION MAP	

EXHIBIT B

PERFORMANCE TARGETS

CITY OF UPLAND

Dry Year Shift obligation of 3,001 AF over 12-month period

3,001 AF reduced imported water reduction

3,001 AF pumped from MWD storage account

**3,001 AF increase in City of Upland overall local supply
production**

all three criteria must be met plus or minus 10 percent

**Failure to perform would result in City of Upland being charged
a rate equal to two times the Tier 2 rates in such effect at such
time for each AF of the Dry Year Shift obligation not met**

**The funding amount for the City of Upland facilities described in
Exhibit A is \$2,776,064.**