

REGIONAL RECYCLED WATER SERVICE ORDINANCE

ORDINANCE NO. 112

AN ORDINANCE OF THE BOARD OF DIRECTORS OF INLAND EMPIRE UTILITIES AGENCY, A MUNICIPAL WATER DISTRICT, ESTABLISHING THE AVAILABILITY AND REGULATING THE PERMITTED USE OF RECYCLED WATER FROM THE REGIONAL RECYCLED WATER DISTRIBUTION SYSTEM IN THE INLAND EMPIRE UTILITIES AGENCY, SAN BERNARDINO COUNTY, STATE OF CALIFORNIA.

WHEREAS, The California State Legislature has adopted the Recycled Water Act of 1991 (Water Code 13750 et seq.) and the Recycled Water Law (Water Code 13500 et seq.) with the intent of promoting the implementation of recycled water projects throughout the State of California;

WHEREAS, The Recycled Water Act of 1991 has been amended from time to time to strengthen the level of cooperation and coordination among and between the recycled water producers, the recycled water retailers, and the recycled water customers within the State of California;

WHEREAS, The Regional Sewage Service Contract, (Section 15, paragraph B) provided each Regional Contracting Agency with the right of first purchase, for that volume of treated effluent, up to the quantity of its base entitlement, that is tributary to the Regional Wastewater Treatment System from its service area;

WHEREAS, The Regional Sewage Service Contract will expire on January 2, 2023, and despite several years of negotiations a new agreement could not be reached. Inland Empire Utilities Agency (IEUA) wishes to re-establish the right of first purchase of recycled water for Sewage Collection Agencies (previously known as Regional Contracting Agencies) on an interim basis until such time as a new contract has been reached;

WHEREAS, IEUA has maintained its National Pollutant Discharge Elimination System Permit (a Master Recycling Permit, pursuant to Water Code Section 13523.1) and continues to own and operate the Regional Water Recycling Facilities which produces high-quality recycled water for distribution to its Sewage Collection Agencies, and others;

WHEREAS, IEUA has developed a Regional Recycled Water Distribution System for the delivery of recycled water to its Sewage Collection Agencies, Retail Water Agencies, and other Customers within the IEUA service area;

WHEREAS, Regulations pertaining to Recycled Water continue to evolve and further change affecting the available uses of recycled water is likely and unpredictable over the long term;

WHEREAS, IEUA intends for Recycled Water to be put to beneficial use locally within the IEUA service area and the Chino Basin to the greatest extent practicable and allowed.

NOW THEREFORE, BE IT ORDAINED by the Board of Directors of the Inland Empire Utilities Agency as follows:

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PART I - ADMINISTRATION

SECTION 1 - AUTHORIZATION

This Ordinance is enacted pursuant to the authority contained in the Municipal Water District Law of 1911; California Water Code, Section §71000 et seq., as amended; the Recycled Water Law, California Water Code 13500 et seq., and the Recycled Water Act of 1991, California Water Code, Section §13575 et seq.; as these documents now exist and as they may be amended from time to time.

SECTION 2 - PURPOSE AND OBJECTIVES

The purpose of this Ordinance is to promote the conservation of all water resources and to provide for the maximum public benefit from the use of recycled water supplies made available from the regional water recycling facilities owned and operated by IEUA, and to provide a right of first purchase of recycled water to SCAs. The use of recycled water will be encouraged and provided for uses including, but not limited to: landscape irrigation, commercial and/or industrial process, construction, groundwater recharge, wildlife habitat, recreational impoundment, agriculture, and any additional uses permitted under Title 22, Division 4, Chapter 3, Water Recycling Criteria, Section 60301.050 et seq., of the California Code of Regulations.

SECTION 3 - INTENT

The Ordinance is intended to incorporate retail utility specific requirements as approved and adopted by the SCAs, water districts, and other local agencies.

This Ordinance shall also provide for the establishment of certain rules, requirements, and responsibilities, under which, recycled water service is provided and shall supplement local municipal requirements and standards.

SECTION 4 - EXTENSION OF MASTER RECLAMATION PERMIT AUTHORITY

Section 13523.1 of the California Water Code states that a recycled water supplier or distributor may be issued either waste discharge requirements or a master recycling permit. IEUA is a supplier of recycled water as a result of the operation of IEUA's regional water recycling facilities. The IEUA National Pollutant Discharge Elimination System (NPDES) permit also serves as a master recycling permit. The SCAs and Retail Water Agencies, as retail distributors of the recycled water, shall be granted the privileges and responsibilities of the master recycling permittee. Accordingly, permittee shall be responsible for compliance with the terms and condition of the IEUA NPDES permit and shall indemnify and hold IEUA harmless for any fines, penalties and/or assessments arising from a violation of said permit by permittee.

SECTION 5 - RECYCLED WATER SERVICE AREA

This Ordinance shall pertain to the implementation and the on-going operation of the Regional Recycled Water Distribution System within the legal boundaries of IEUA's service area, unless otherwise stated. With the expressed approval of the Board of Directors, recycled water service shall also be extended to lands, uses, and/or improvements lying outside the legal boundaries of IEUA's service area, subject to the rights of first purchase described in this Ordinance.

SECTION 6 - DUTY TO COMPLY

All Customers shall comply with all conditions of this Ordinance. Any Customer that is not in compliance with any provision of this Ordinance constitutes a violation of this Ordinance and is grounds for enforcement action as provided for in Part II of this Ordinance.

SECTION 7 - SEVERABILITY

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason found to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the remaining portion of this Ordinance. The IEUA Board of Directors declares that it would have approved this Ordinance by section, subsection, sentence, clause, or phrase irrespective of the fact that any one or more of the sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 8 - RIGHT OF REVISION

IEUA reserves the right to amend this Ordinance, as it deems appropriate.

SECTION 9 - ADMINISTRATOR

Except as otherwise provided herein, the General Manager shall administer, implement, and enforce the provision of this Ordinance. The General Manager may, at his discretion, delegate any or all of these powers and duties.

SECTION 10 - DEFINITION OF TERMS

- (A) **APPLICANT:** any person, firm, corporation, association, or agency that applies for recycled water service as provided in accordance with this Ordinance.
- (B) **AUTHORIZED REPRESENTATIVE:** a person, group, firm, partnership, corporation, association, or agency that, pursuant to written permission, from the owner of a property, has the responsibility for establishing recycled water service for a given property.
- (C) **BOARD OF DIRECTORS:** the Board of Directors of the Inland Empire Utilities Agency.

- (D) **CALENDAR YEAR:** the time period which commences January 1 of each calendar year and ends December 31 of the calendar year.
- (E) **CHINO BASIN:** means that area underlain by the Chino and Cucamonga groundwater basins and that portion of the Claremont Heights groundwater basin within San Bernardino County which groundwater basins are described in Bulletin No. 53 of the California Division of Water Resources, dated March 1947, and entitled “South Coastal Basin Investigation - Overdraft on Groundwater Basins.”
- (F) **CUSTOMER:** any purchaser of recycled water from IEUA.
- (G) **DELIVERY POINT:** the location whereby the Retail Water Agency measures usage and delivers recycled water to a Recycled Water User.
- (H) **DIRECT RECYCLED WATER USER:** any person, group, firm, partnership, corporation, association, or agency that, pursuant to an approved Recycled Water Use Permit, directly purchases recycled water from the IEUA Regional Recycled Water Distribution System. The rights of any Direct Recycled Water User shall be subject to the SCA’s rights of first purchase.
- (I) **FISCAL YEAR:** the time period which commences July 1 of each calendar year and ends June 30 of the following calendar year.
- (J) **GENERAL MANAGER:** shall mean the General Manager, or a duly Authorized Representative, of IEUA.
- (K) **IEUA:** the Inland Empire Utilities Agency, a municipal water district.
- (L) **INDIRECT RECYCLED WATER USER:** any person, group, firm, partnership, corporation, association, or agency that, pursuant to an approved Recycled Water Use Permit, purchases recycled water from the IEUA Regional Recycled Water Distribution System through a Retail Water Agency.
- (M) **LOCAL RECYCLED WATER DISTRIBUTION SYSTEM:** a recycled water distribution system which is owned and/or operated by a Retail Water Agency; the local recycled water distribution system is generally an approved extension of the Regional Recycled Water Distribution System.
- (N) **NPDES PERMIT:** National Pollutant Discharge Elimination System Permit issued to regulate the operation of a wastewater treatment plant/water recycling facility, the quality of recycled water produced, and to provide a master recycling permit.
- (O) **ORANGE COUNTY JUDGMENT:** means the judgment entered in the action entitled Orange County Water District v. City of Chino, et al. (Case No. 117628, Superior Court, County of Orange).

- (P) OWNER: the owner of a property that is anticipated to receive or is currently receiving recycled water service.
- (Q) PERSON: shall mean any individual or entity including but not limited to any person, firm, company, or corporation, partnership, association, any public corporation, political subdivision, city, county, district, the State of California, the United States of America or any department or agency thereof. The singular in each case shall include the plural.
- (R) POINT OF CONNECTION: the point where the Local Recycled Water Distribution system connects to the Regional Recycled Water Distribution System.
- (S) RECYCLED WATER: as defined in Title 22, Division 4, Chapter 3, Water Recycling Criteria, Section 60301.050 et seq., of the California Code of Regulations; water which is available as a result of the treatment of wastewater. Also as described in subdivision (n) of Section 13050 of the Water Code of the State of California, treated wastewater that is suitable for direct beneficial use or a controlled use that would not otherwise occur.
- (T) RECYCLED WATER PRODUCER: any local entity that produces recycled water.
- (U) RECYCLED WATER RATE: any rates or fees used to recover the cost of providing Recycled Water services that will be set by resolution of the IEUA Board of Directors.
- (V) RECYCLED WATER USE PERMIT: a document evidencing that an application for connection to the Regional Recycled Water Distribution System has been prepared by a Retail Water Agency and examined by IEUA staff.
- (W) RECYCLED WATER WHOLESALER: any person or entity that distributes recycled water to a Retail Water Agency and which has constructed, or is constructing, a wholesale recycled water distribution system.
- (X) REGIONAL RECYCLED WATER DISTRIBUTION SYSTEM: the equipment, structures, pipelines, controls, and other facilities used for preparation, pumping, transmission, storage, and distribution of recycled water, owned and operated by IEUA.
- (Y) REGIONAL SEWERAGE SYSTEM: all facilities owned, controlled, or operated by IEUA and any interest or capacity rights of IEUA in facilities owned, controlled, or operated by others, for the purpose of transmitting, treating and/or disposing of Sewage, including interceptor sewers, sewage treatment and disposal plants, facilities for the Disposal of Effluent and solid waste residuals and any facilities appurtenant to the foregoing. The Regional Sewerage System does not include the recycled water system which is owned, operated, managed, and maintained by IEUA for the purpose of providing for the distribution of Recycled Water for beneficial reuse, or to meet the requirements of SCAs exercising the right of first purchase of recycled water. The Regional Sewerage System shall include all other disposal facilities which are required to meet the requirements of the National Pollutant Discharge Elimination System Permit or permits or Waste Discharge

Requirements issued to IEUA by the Regional Water Quality Control Board, Santa Ana Region, for the operation of the Regional Treatment Plants.

- (Z) REGIONAL TREATMENT PLANT: a sewage and wastewater treatment plant operated by IEUA as part of the Regional Sewerage System.
- (AA) RESOLUTION: a legal document set by the Board of Directors in the form of a Resolution to establish rates, fees, or other terms.
- (BB) RETAIL WATER AGENCY: any local entity, a public agency, SCA or a private water company that delivers recycled water to Customers requesting recycled water service at properties within its service area.
- (CC) SANTA ANA RIVER (SAR) BASE FLOW OBLIGATION: established under the Orange County Judgment and defined under the Prado Settlement, Stipulations Re Dismissal of Certain Defendants and Allocation Agreement (collectively “Settlement Agreement”) which defines the shared responsibility for a Base Flow obligation at Prado between IEUA and Western Municipal Water District. IEUA implements the Chino Basin portion of the Settlement Agreement which is commonly referred to as the Santa Ana River (“SAR”) Base Flow obligation at Prado.
- (DD) SERVICE: the delivery of recycled water.
- (EE) SERVICE CONNECTION: the IEUA facilities or the Retail Water Agency's facilities, including but not limited to, a service valve, a meter box, a meter, and piping; between the Regional Recycled Water Distribution System and the Customer's on-site facilities, or between the Retail Water Agency's facilities and the Customers on-site facilities.
- (FF) SEWAGE COLLECTION AGENCY (SCA): means any county, city, or special district, other than IEUA, which is located in whole or in part within the IEUA service area and which is authorized to own, control, and operate a Community Sewer System that discharges into the IEUA Regional Sewerage System. Currently the SCAs are: City of Chino, City of Chino Hills, Cucamonga Valley Water District, City of Fontana, City of Montclair, City of Ontario, and City of Upland.
- (GG) SWRCB: California State Water Resources Control Board.
- (HH) WHOLESALE OF RECYCLED WATER: the transfer/sale of recycled water, from IEUA to a SCA or Retail Water Agency.

PART II - ENFORCEMENT

SECTION 11 - GENERAL

The enforcement provisions provided in Part II shall be applicable to both the Direct or Indirect Recycled Water User. In the case of an Indirect Recycled Water User, IEUA shall exercise the enforcement provisions of this Ordinance when IEUA determines that the Retail Water Agency is not providing effective permitting, regulation or enforcement of the provisions of this Ordinance, or any applicable Federal, State, District or local statutes for the distribution, delivery and use of recycled water by an Indirect Recycled Water User.

SECTION 12 - PROTECTION FROM DAMAGE

No Person, organization, or Customer shall maliciously, willfully, or negligently break, damage, destroy, impair the usefulness, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of IEUA's Regional Recycled Water Distribution System. Similarly, no Person shall maliciously, willfully, or negligently break, damage, destroy, impair the usefulness, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of either on-site facilities or off-site facilities that could prevent the full function of the Regional Recycled Water Distribution System.

SECTION 13 - NOTIFICATION OF VIOLATION

IEUA will serve any Direct or Indirect Recycled Water User found to be violating any provision of this Ordinance, or any applicable Federal, State, District or local statutes, regulations, guidelines, ordinances, or other requirements with a written notice of non-compliance. The notice of non-compliance will state the nature of the violation and provide a reasonable time limit, as determined by IEUA, for the satisfactory correction thereof. IEUA may require the submittal of a plan to satisfactorily correct the violation or require any other action which, IEUA determines is appropriate to correct the violation. The Direct or Indirect Recycled Water User served with the notice of violation shall, within the period of time stated in such notice, cease all violations. This provision is in addition to, and not by way of derogation of, any other remedies or procedures available to IEUA by law, regulation, or pursuant to any of the provisions of this Ordinance. This notice of violation procedure shall be in addition to any other remedies available to IEUA under Section 71000 et seq. of the Water Code of the State of California.

SECTION 14 - RIGHT TO INSPECT DOCUMENTS AND PROPERTY

IEUA retains the right, upon reasonable notice, to audit all public records and accounts of any Customer, to ensure ongoing compliance and enforcement of this Ordinance. Additionally, pursuant to California Water Code §71601, IEUA may enter upon the private property of any Person to investigate possible violations of this Ordinance, including, but not limited to the verification of meter connections previously issued by IEUA to verify that no unauthorized or non-permitted meter change has occurred.

SECTION 15 - PENALTY FOR VIOLATION

Enforcement and penalties for violation shall be as authorized in California Water Code 71601. A Customer not in compliance with any portion of this Ordinance will be notified of the IEUA's intention of enforcement, with an explanation of the violation or infraction committed. A Customer notified shall have thirty (30) calendar days to respond before any action will be taken by the IEUA. However, no such notice to afford an opportunity to comply need be given in those instances in which the non-compliance may cause conditions dangerous and detrimental to public health, safety and welfare, or are in violation of State law or applicable section of the California Penal Code. These violations include, but are not limited to trespass, assault, water theft, cross connection, and recycled water system damage.

SECTION 16 - EMERGENCY ACTION

- (A) If the General Manager determines that a violation constitutes a serious threat, of an immediate or emergency nature, to the health and welfare of the community or to the environment or may cause IEUA to violate any State or Federal law, regulation or Recycled Water Use Permit requirement, the General Manager may order an immediate cessation of the use of recycled water and suspend the Direct or Indirect Recycled Water User's permission to use recycled water. If the Direct or Indirect Recycled Water User does not cease using recycled water at once, the General Manager may disconnect the Direct or Indirect Recycled Water User from the Local Recycled Water Distribution System or Regional Recycled Water Distribution System. In the case where IEUA is wholesaling the recycled water to a Retail Water Agency, IEUA shall contact the Retail Water Agency before physical disconnection.
- (B) As soon as reasonably practicable following the issuance of a cessation order and/or suspension order, but in no event more than seven (7) days following the issuance of such order, the General Manager shall hold a hearing to provide the Direct or Indirect Recycled Water User an opportunity to present information in opposition to the issuance of the cessation or suspension order. The hearing shall be conducted in accordance with procedures established by the General Manager. The General Manager shall issue a written decision and order within seven (7) days following the hearing, which decision shall be sent by certified mail to the Direct or Indirect Recycled Water User's business address. Any cessation or suspension order included within the General Manager's written statement shall be deemed final upon delivery to the Direct or Indirect Recycled Water User.

PART III - RECYCLED WATER SERVICE

Part III establishes the process for the application for recycled water service. An applicant, at IEUA's discretion, may be connected directly to the Regional Recycled Water Distribution System, or may be connected indirectly to the Regional Recycled Water Distribution System via laterals that may be owned and operated by Retail Water Agencies within the IEUA service area. Records for each connection, direct or indirect, shall be consistent for all applicants.

SECTION 17 - GENERAL

IEUA may provide Recycled Water Service for applicants whose property falls outside of a Retail Water Agency's service area subject to the SCAs' rights of first purchase described in this Ordinance. If the applicant's property falls within a Retail Water Agency's service area the applicant shall enter into a contract with the Retail Water Agency to apply for Recycled Water Service. Depending on the location of a given property, the lowest cost Recycled Water Service could be provided through a direct connection to the Regional Recycled Water System within the Retail Water Agency's service area or through a connection to the Retail Water Agency's local distribution system. To execute such a connection the Applicant and the Retail Water Agency shall enter a Recycled Water Service Agreement with IEUA for Recycled Water Service on a case-by-case basis.

Whether IEUA provides the direct delivery of recycled water or delivery through a local Retail Water Agency, IEUA assumes the primary responsibility to assure that recycled water quality distributed to and utilized, in accordance with the provisions of this Ordinance, and in compliance with applicable Federal, State, and Local statutes. The Retail Water Agency or Customer shall, from the connection point to the Regional Recycled Water Distribution System, be responsible for the recycled water quality distributed to and utilized by all subsequent connections, in accordance with the provisions of this Ordinance, and in compliance with applicable Federal, State, and Local statutes.

SECTION 18 - RECYCLED WATER USE PERMIT

To receive Recycled Water Service, a property owner or an authorized representative of the property, that is intended to be served with recycled water, must submit a completed application for Recycled Water Service to the appropriate Retail Water Agency. A Recycled Water Use Permit shall be required and on file at the Retail Water Agency.

The service-area wide design criteria, for the on-going development and implementation of the recycled water systems, will be discussed with SCAs and Retail Water Agencies. The design criteria will be incorporated into the Regional Recycled Water Distribution System Connection Permit.

SECTION 19 - APPLICANT'S RESPONSIBILITY

A Recycled Water Service Application must be made in writing, signed by the Applicant. In the event that the Applicant and the property owner are not one and the same, the Applicant shall have the written authorization of the property owner. By signing the Application, the owner/applicant shall agree to comply with the requirements of any and all applicable Federal, State, and Local statutes, ordinances, regulations, and all other requirements including this Ordinance. The applicant shall, as evidenced by their signature on the application form, agree to comply with this Ordinance and any and all other applicable governing documents.

SECTION 20 - POINT OF DELIVERY

The point of delivery of recycled water shall be the Customer's or their retail service provider's Point of Connection to the IEUA Regional Recycled Water Distribution System.

SECTION 21 - TRANSFER OF OWNERSHIP

IEUA shall own the recycled water until it leaves the Regional Recycled Water Distribution System at the point of delivery whereupon the Customer shall own the recycled water.

SECTION 22 - OWNERSHIP OR EXPANSION OF FACILITIES

Customers shall acquire no interest in or to any portion of the Regional Recycled Water Distribution System or any IEUA facilities by virtue of this Ordinance, nor do the terms of this Ordinance obligate IEUA to acquire, construct or operate any future reclamation facilities or any additions to existing reclamation facilities or facilities for the distribution and delivery of recycled water.

SECTION 23 - SCHEDULING RECYCLED WATER

IEUA reserves the right to control and schedule the use of recycled water if, in the opinion of IEUA, scheduling is necessary for purposes including, but not limited to:

- (1) The maintenance of an acceptable working pressure in the recycled water system;
- (2) Providing for reasonable safeguards of public health;
- (3) Availability of recycled water; and
- (4) Maintenance, operation, or construction of recycled water facilities

SECTION 24 - LIMITATIONS OF USE

Recycled water delivered by IEUA pursuant to this Ordinance has limited uses, and all Customers agree to utilize the recycled water received hereunder only for the use permitted by the applicable regulatory agencies and by local ordinance.

SECTION 25 - LIMITATIONS ON DELIVERY

The rights of SCAs to recycled water under this Ordinance pertain only to the recycled water which is actually produced by IEUA facilities from wastewater delivered by the SCAs. Any circumstances beyond IEUA's control which cause a reduction in the flow available to the Regional Recycled Water Distribution System may result in a temporary or permanent decrease in recycled water available to SCAs in such amounts as IEUA determines are necessary to fairly allocate any such reduced flow among all SCAs purchasing recycled water from IEUA. SCAs may meet and confer with IEUA regarding any proposed reduction in deliveries. Reduced flows may continue until such time as IEUA facilities are restored to normal operations.

SECTION 26 - LIABILITY AND INDEMNIFICATION IN CONTRACTS

All contracts for the delivery of recycled water to others shall contain the following language: Neither IEUA nor any of its officers, agents, or employees shall be liable for the control, carriage, handling, use, disposal, or distribution of recycled water supplied by IEUA to a Customer after such recycled water has been delivered to such Customer; nor for claim of damage of any nature whatsoever, including but not limited to property damage, personal injury or death, arising out of or connected with the control, carriage, handling, use, disposal, or distribution of such recycled water beyond the point of such delivery; and the Customer shall indemnify and hold harmless IEUA and its officers, agents, and employees from any such damages or claims of damages, and shall reimburse IEUA for costs of repair of IEUA's facilities and other damages resulting from the operations of the Customer. Neither the Customer nor any of its officers, agents, or employees shall be liable for the control, carriage, handling, use, disposal, or distribution of recycled water prior to such recycled water being delivered to the Customer; nor for claim of damage of any nature whatsoever, including but not limited to property damage, personal injury or death, arising out of or connected with the control, carriage, handling, use, disposal, or distribution of such recycled water prior to its delivery to such Customer, excepting, however, claims by IEUA for costs of repair to IEUA's facilities and other damages resulting from the operations of the Customer; and IEUA shall indemnify and hold harmless the Customer and its officers, agents, and employees from any such damages or claim of damages, except claims by IEUA for costs of repair of IEUA's facilities and other damages resulting from the operations of the Customer.

PART IV - PURCHASE AND AVAILABILITY OF RECYCLED WATER

IEUA shall retain the exclusive right over the recycled water generated from the sewage delivered to IEUA from the SCAs and shall have sole discretion over its use. This Ordinance extends SCAs the right of first purchase to available recycled water generated by IEUA from the sewage delivered to IEUA's wastewater treatment facilities. If any SCA exercises its right of first purchase of recycled water, then such agency shall have the exclusive right over recycled water delivered to it and the use thereof shall be within the sole discretion of that agency subject to local ordinance.

SECTION 27 - RIGHT OF FIRST PURCHASE

Each SCA shall have the right of first purchase of recycled water as provided herein. The purchase of recycled water shall be voluntary and determined at the option of the SCA from year to year. The right of first purchase shall take priority over any other recycled water purchase agreements between IEUA and non-SCA Customers. IEUA, within its discretion, may prioritize the usage of recycled water for meeting the SAR Base Flow Obligation when it is necessary to do so regardless of the effect on base supply for purchase.

Each SCA shall have the right of first purchase from IEUA of recycled water in a total quantity not exceeding the base entitlement of the SCA.

The total base supply of recycled water which is subject to the right of first purchase from IEUA by the SCAs receiving sewerage service at any Regional Treatment Plant shall be the total quantity of sewage delivered into the Regional Sewerage System by all such SCAs, measured at the intake point of the Regional Treatment Plants, less normal processing losses resulting from the treatment of sewage, and less recycled water exported from the Chino Basin by IEUA to satisfy the SAR Base Flow Obligation if and to the extent deemed necessary by IEUA.

Each SCA shall have a base entitlement to a portion of the total base supply of recycled water, said portion being in the proportion that the quantity of sewage delivered into the Regional Sewerage System by the SCA bears to the total quantity of sewage delivered into the Regional Sewerage System by all SCAs.

SECTION 28 - EXERCISE OF RIGHT OF FIRST PURCHASE/ESTIMATED DEMAND

On or before the first day of March of each year IEUA shall give each SCA written notice requesting the SCA to provide IEUA with an estimated quantity of recycled water proposed to be delivered to the SCA during the next fiscal year. SCAs shall notify IEUA of any planned new users of recycled water that may impact pipeline capacity and operations as a part of this process. The SCA shall provide IEUA with this estimate within 30 days, setting forth the estimated volume of recycled water demand for the next fiscal year.

SECTION 29 - SURPLUS BASE SUPPLY AVAILABLE FOR PURCHASE

Surplus base supply is that portion of base supply remaining after each SCA has exercised its right of first purchase to purchase its base entitlement, or portion thereof.

During and following the end of each year IEUA shall determine the amount of surplus base supply available, if any, for purchase by SCAs, and shall notify all SCAs of that amount, in writing. Each SCA shall have the option to purchase surplus base supply in an amount calculated utilizing the same ratio used to calculate base entitlement. However, if after offering surplus base supply to all SCAs there remains surplus base supply, then a SCA may purchase from the remaining surplus base supply in an unrestricted amount subject to mutual agreement with IEUA. Nothing herein shall prevent SCAs from establishing agreements to purchase recycled water from other SCAs. The purchase of recycled water in excess of a SCA's base entitlement in any given year shall not result in an increase in base entitlement for subsequent years.

SECTION 30 - RECONCILIATION AND NOTICE OF SURPLUS BASE SUPPLY

Before December 1st of each year, IEUA shall tabulate the total amount of recycled water purchased by all SCAs for the preceding fiscal year, reconcile any differences where necessary, and shall issue a written notice of allocation to the SCAs stating the quantity of surplus base supply available for purchase, if any.

SECTION 31 - DISPOSITION BY IEUA OF UNCLAIMED RECYCLED WATER

If after the exercise by SCAs of all options to purchase recycled water, an amount of recycled water remains unclaimed for the year, IEUA may make any lawful use of such recycled water, including beneficial use, sale, or other disposition inside or outside the Chino Basin; provided, that, any funds generated by the sale of recycled water shall be deposited into the IEUA Recycled Water Fund. IEUA will inform the SCAs of the use or sale of any unclaimed recycled water.

PART V - RATES

SECTION 32 - RECYCLED WATER RATES

Rates charged for the purchase of recycled water shall be established for each year by resolution of the IEUA Board of Directors in conjunction with an accompanying cost of service study. The cost of recycled water shall only reflect the true cost of service consistent with California public agency laws and regulations. Rate setting shall be conducted in a public forum and Customers shall have the opportunity to address the IEUA Board of Directors on the subject of recycled water rates in conformity with California open meeting laws.

SECTION 33 - BILLING AND PAYMENT

IEUA shall invoice Customers for actual monthly volumetric deliveries and any fixed charges for the operation of the Regional Recycled Water Distribution System. Customers served through a Point of Connection are responsible for accurately measuring and reporting monthly usage to IEUA. Recycled water which IEUA utilizes for groundwater recharge for purchase by Customers shall be measured by IEUA. SCAs or Retail Water Agencies shall pay to IEUA, within thirty (30) calendar days of receipt of the invoices.

SECTION 34 - DELINQUENT PAYMENT

- (A) In the event any IEUA Customer is delinquent in payment of bills for recycled water rates and charges, a penalty of ten (10) percent of the original unpaid invoice amount shall be added to any fee or charge that becomes delinquent. Interest at the maximum rate provided by California Government Code Section 926.10 as may be amended from time to time, shall accrue on the total of all delinquent fees or charges.
- (B) Additional charges provided herein for delinquent payments may be waived by the Board of Directors upon written request by the IEUA Customer upon a finding that the delinquency was caused by excusable neglect or circumstances beyond the control of the IEUA Customer, provided that the delinquent Customer reimburses IEUA for all costs and penalties actually incurred by IEUA as a result of the delinquent payment.
- (C) In the event a mistake is discovered in a recycled water sales record of IEUA, the General Manager shall initiate appropriate corrective action, except that no mistake made more than three (3) years prior to discovery shall be corrected. If an incorrect invoice has been issued to a Customer, the General Manager shall notify the affected Customer of any adjustment and the manner of making any required credit or charge, neither of which shall bear interest.
- (D) In the event that a retail recycled water Customer does not pay required fees in full, a penalty charge shall be imposed and must be paid in full prior to continued recycled water service. The delinquent payment shall include any unpaid portion of the fee plus a penalty charge of ten (10) percent interest per annum beginning from the date of delinquency. All

charges and penalties shall be assessed based on the connection fee that is in place at the time that full payment occurs.

SECTION 35 - INTERFERENCE BY CUSTOMERS

No Customer shall take or draw water from any water line or pipe of IEUA without paying the established charges therefore. Any Customer interference constitutes a violation of the Ordinance and is grounds for discontinuance of service.

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PART VI - ON-SITE CONTROLS

SECTION 36 - IMPLEMENTATION

To protect the health of the public and any (potential) employees of the Customer, the SWRCB has promulgated guidelines and regulations. The minimum necessary on-site controls are contained in Title 22, Division 4, Chapter 3, Water Recycling Criteria, Sections 60301.050 et seq., and Title 17; both of the California Code of Regulations, and in the County Public Health Code.

SECTION 37 - STATE / LOCAL REGULATIONS

Recycled water system on-site controls shall meet all of the requirements established by IEUA and the applicable State and local regulatory agencies to protect the public health. Plans and specifications for all proposed recycled water operations, distribution, and on-site systems shall be submitted to the applicable State and local health agencies for review and approvals before the systems are constructed.

SECTION 38 - OPERATIONAL CONTROLS

The operational controls for the use of recycled water shall be appropriate for the beneficial use as approved in the Recycled Water Use Permit. Records shall be maintained with the recommended equipment and procedures to achieve the control objectives necessary for the safe and reliable delivery of recycled water.

SECTION 39 - RATES OF FLOW

IEUA shall have the right to regulate and prescribe the maximum and minimum quantities of recycled water that shall be discharged or delivered through any service connection so as to assure equitable service to all Customers.

SECTION 40 - IDENTIFICATION

- (A) All recycled water valves, outlets, quick couplers, and sprinkler heads should be of a type, or secured in a manner that only permits operation by personnel authorized by the Customer.
- (B) All recycled water valves and outlets should be appropriately tagged to warn the public and employees that the water is not intended nor allowed for drinking.
- (C) All piping, valves and outlets should be color-coded or otherwise marked to differentiate recycled water from non-recycled water facilities.
- (D) Hose bibs shall not be used in the recycled water system; quick couplers or comparable connection devices shall be used instead.

SECTION 41 - POSTING OF ON-SITE NOTIFICATIONS

Adequate means of notification shall be provided to inform the public, employees and others that recycled water is being used. Such notification shall include the posting of conspicuous recycled water information signage with proper wording of sufficient size to be clearly read, which shall be posted at adequate intervals around the use area. In some locations, especially at crop irrigation use areas, the recycled water information signs shall be in the primary language of the workers (i.e., Spanish), as well as English.

Signs shall be placed around the perimeter of the site and at such other locations on-site as deemed appropriate by the Retail Water Agency during the Recycled Water Use Permit application review.

SECTION 42 - METERING

Recycled water furnished to Retail Water Agencies through a Point of Connection pursuant to this Ordinance shall be measured by the Retail Water Agencies at the Delivery Point. Such measurement shall be with equipment chosen by the Retail Water Agencies, installed by the Retail Water Agencies, and approved by IEUA. All measuring equipment shall be installed, maintained, repaired, and replaced by the Retail Water Agencies. Retail Water Agencies will regularly calibrate recycled water meters and provide a copy of results of such calibrations to IEUA as requested. Each retailing agency shall have the primary obligation to measure the quantity of recycled water delivered to the Delivery Point on a monthly basis and to furnish this data to IEUA within 15 days after the end of each month for billing purposes. IEUA may request, at any time, investigation, and confirmation by the retailing agency of the measurement being made. Recycled water which IEUA delivers to Customers as groundwater recharge shall be measured by IEUA.

SECTION 43 - CROSS CONNECTION PREVENTION

The Customer is responsible for following their Potable Water Purveyor's rules, regulations and/or Ordinance regarding cross connection prevention.

SECTION 44 - WATER QUALITY

All recycled water to be delivered by IEUA to Retail Water Agencies pursuant to the terms of this Ordinance will be of such quality that the same may be used for all purposes allowed for disinfected tertiary recycled water. Such recycled water shall conform to the quality requirements set forth in the then current disinfected tertiary recycled water quality and monitoring regulations specified in California Code of Regulations, Title 22, Division 4, Chapter 3: Wastewater Reclamation Criteria as further regulated by the California Regional Water Quality Control Board, the California Department of Drinking Water and all other federal, state and local agencies having jurisdiction over recycled water quality.

SECTION 45 - NONCONFORMING RECYCLED WATER

The parties recognize that factors beyond the control of IEUA could cause operational difficulties at reclamation facilities resulting in the temporary production of recycled water which does not meet the quality requirements referenced in Section 44. In such cases, IEUA will be obligated to (1) immediately notify the Retail Water Agencies that the recycled water does not meet the currently applicable regulatory requirements and that deliveries of recycled water will be suspended (2) temporarily suspend deliveries of recycled water to Retail Water Agencies from IEUA facilities, and (3) use its best efforts to reestablish the production of recycled water of a suitable quality as soon as reasonably possible and to reestablish IEUA's supply of such water accordingly. Any notice required under this section shall be delivered first verbally, either personally or by telephone, followed by a written confirmation.

SECTION 46 - LIMITATIONS OF LIABILITY

IEUA is not responsible for any condition of the recycled water itself, or any substance that may be mixed with or be in recycled water, after the point of delivery, except as required by Title 22, Division 4, Chapter 3, Water Recycling Criteria, Section 60301.050 et seq. of the California Code of Regulations.

PART VII - EFFECTIVE DATE

Upon the effective date of this Ordinance No. 112, Ordinance No. 63, Ordinance No. 69, and Ordinance No. 75, including any amendments thereto, shall be repealed and superseded by this Ordinance. This Ordinance shall take effect on January 3, 2023.

ADOPTED, this ____ day of _____, 2022.

Steven J. Elie
President of the Inland Empire
Utilities Agency* and of the Board of
Directors thereof

ATTEST:

Marco Tule
Secretary of the Inland Empire Utilities
Agency* and the Board of Directors thereof

*A Municipal Water District

STATE OF CALIFORNIA)
)SS
COUNTY OF SAN BERNARDINO)

I, Marco Tule, Secretary/Treasurer of the Inland Empire Utilities Agency*, DO HEREBY CERTIFY that the forgoing Ordinance being No. 112, was adopted at a regular meeting on _____, 2022, of said Agency by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Marco Tule
Secretary/Treasurer

(SEAL)