

**MEMORANDUM OF UNDERSTANDING
FOR
EXPLORATION INTO A WATER CAPACITY PARTNERSHIP**

This Memorandum of Understanding for exploration of the sharing of available water capacity, also known as the Water Capacity Partnership (hereinafter, "MOU"), is entered into by and among the City of Roseville, a municipal corporation (hereinafter, "Roseville") and the Placer County Water Agency, a public agency (hereinafter, the "Agency") and will take effect as of the date on which both Roseville and the Agency have executed this MOU. Roseville and the Agency may be collectively referred to as the "Parties," or each individually as a "Party."

RECITALS

A. Whereas, Roseville and the Agency have an existing "Contract Between the Placer County Water Agency and the City of Roseville Relating to Water Supplies and Exchanges," dated September 1, 2010 (hereinafter, "2010 Contract"); and

B. Whereas, the Agency has rights granted by the State of California Water Resources Control Board ("Water Board") to divert up to 120,000 acre-feet of water for consumptive use from its Middle Fork Project, a hydroelectric power generation project on the Middle Fork of the American River; and

C. Whereas, water supplied from the Middle Fork Project can be beneficially used within a service area covering western Placer County, including Roseville, as permitted by the Water Board; and

D. Whereas, the 2010 Contract provides for Roseville's Annual Entitlement of up to 30,000 acre-feet of water from the Agency's Middle Fork Project (based upon an incremental "build up" schedule), with delivery of the water from the Agency to Roseville at Folsom Reservoir; and

E. Whereas, the 2010 Contract also provides Roseville a right to participate in the enlargement of an Agency water treatment plant having the capability of delivering water diverted from the Agency's pump station at the North Fork American River at Auburn; and

F. Whereas, the Parties wish to delay construction of new treated water capacity as long as possible to curtail infrastructure financing costs and depreciation; and

G. Whereas, since the drought beginning in 2014 and ending in 2016, peak day demands in the Parties' treated water systems have consistently been lower than prior to the drought, which has made capacity available; and

H. Whereas, the Parties wish to explore leveraging their existing water capacity by strategically sharing reasonable portions of existing capacity in a manner that extends the time needed before the construction of additional capacity by either Party; and

I. Whereas, delivery of water from Folsom Reservoir is subject to United States Bureau of Reclamation ("USBR") operations of its Central Valley Project ("CVP") and is vulnerable to drought, when reservoir levels can become extraordinarily low and fall below the intake serving Roseville and halt delivery of water provided under the 2010 Contract, as well as Roseville's CVP supply from the USBR; and

J. Whereas, the Parties wish to explore a new option for water to be delivered to Roseville through the Agency's pump station at the North Fork American River at Auburn as treated water; and

K. Whereas, the Parties share existing treated water interties along the shared boundaries of their service areas and at delivery points into the California-American Water Company franchise service area, that can be used to share existing capacity; and

L. Whereas, the Parties recognize that construction of additional water facilities for the benefit of sharing capacity, as provided for herein, would also provide redundancy and operational flexibility within each Party's water system.

NOW, THEREFORE, in consideration of the mutual obligations set forth herein, the Parties hereby understand and agree as follows:

AGREEMENT

1. Incorporation of Recitals. The foregoing recitals are hereby incorporated by reference.
2. Purpose. The purpose of this MOU is to establish a cost-sharing partnership that enables the Parties to coordinate efforts to explore the feasibility, infrastructure needs, and costs of sharing of water capacity and augmenting access to contracted water supplies. Such sharing would be both in times of normal water supply and in drought, as well as during other water supply emergencies.

Nothing in this MOU grants the Parties any power or authority to alter any water right, contract right or any similar right of the other Party or to direct the water-delivery practices of the other Party without the prior written consent of the Party and receipt of all required approvals.

The Parties anticipate that any future development or implementation of the partnership would be governed by future agreement(s), and approval of any such agreements will be subject to compliance with the California Environmental Quality Act and all other applicable environmental laws or regulations.

3. Technical Evaluations. The following are technical evaluations that the Parties have identified as necessary to complete in order to achieve the purpose of this MOU:
 - a. The amount of water capacity that can be shared by each Party and where this capacity can be delivered to the other Party;
 - b. The extent and location of new treated demands within each Parties' service area that can be met until construction of a new water treatment plant;
 - c. Identification of new water facilities within each Party's service area necessary to deliver the capacity identified in (a) above;
 - d. Impacts to each Party's drought resiliency under a scenario of shared water capacity;
 - e. Other operational matters as identified during course of exploration;
 - f. Implementation plans for construction and operation of new facilities, including cost share between the Parties.
4. Performance. In order to perform the technical evaluations outlined herein, the Parties will both utilize their own internal staff as well as retain outside services when deemed necessary. The retention of any outside services will be performed pursuant to Paragraph 5, Cost Sharing.
5. Cost Sharing. It is the intent of the Parties to split equally the costs of any outside services undertaken pursuant to this MOU, such as engineering, financial, or public outreach consulting costs. The following terms apply with respect to the retention of such outside services and project-related costs:
 - a. Staff time, overhead, and internal costs borne by each Party may be separately tracked by same at the Party's sole discretion, but there is no obligation to report these costs to the other Party nor any right to pursue reimbursement for same from the other Party;
 - b. Either Party may retain outside services to perform or assist in the performance of technical evaluations, but such retention is subject to the other Party's approval of the service provider, scope of work, and not-to-exceed cost of the services;
 - c. The total cost of outside services shall not exceed \$100,000, split equally between the Parties. Any changes to this total cost amount shall be by written amendment to this MOU;
 - d. Each Party shall follow its respective legal requirements, policies, and procedures in the retention of outside services;

- e. Upon payment for approved outside services, each Party shall promptly invoice the other for its equal share of actual costs. Payment by the other Party is due within sixty (60) days of receipt of invoice.
6. Notices. All notices that are required either expressly or by implication to be given by any party to the other under this MOU shall only be signed by authorized officers of the notifying party.

All notices to Parties required by this MOU shall be delivered personally or mailed, U.S. first class postage prepaid, to the following addresses:

Roseville

City Manager
311 Vernon Street
Roseville, CA 95768

PCWA

General Manager
P.O. Box 6570
Auburn, CA 95604

7. Term. This MOU will remain in full force and effect until one of the following occurs: (a) the MOU is terminated by either Party upon thirty (30) days' written notice; or (b) the technical evaluations have been completed and no obligations under this MOU, including payment for outside services as set forth in Paragraph 5, remain outstanding.
8. Termination. If this MOU is terminated pursuant to Paragraph 7, each Party will remain responsible for its share of financial obligations or indebtedness incurred under this MOU prior to the effective date of termination.
9. Amendments. Any amendments to this MOU must be in writing and executed by both Parties.
10. Sharing of Records and Access. The Parties shall maintain records directly pertinent to performance of technical evaluations under this MOU for a minimum of three (3) years. Where an outside provider is retained, the retaining Party shall promptly provide the other Party with copies of any reports, spreadsheets, and other project-related data or documents. Each Party shall have access to such project-specific records of the other Party for the purpose of inspection and copying.
11. Choice of Law. This MOU shall be governed by the laws of the State of California. The Parties each waive any federal court removal and/or jurisdictional rights they may have.
12. Dispute Resolution. In recognition of the negative consequences associated with disputes both in terms of lost time and expense to all Parties, the Parties agree to attempt to settle their disputes by good-faith, non-binding mediation as a condition precedent to the institution of legal proceedings by either Party. Request for mediation shall be filed in writing with the other Party to this MOU and with the American Arbitration Association. If mediation would jeopardize the substantive rights of either Party including, but not limited to, the application of any applicable statute of limitations or other timing

requirement, then such Party may proceed to enforce such rights notwithstanding this mediation requirement and mediation will be required during the dispute resolution process to the extent it may be used without jeopardizing the substantive rights of either Party. The Parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in Placer County, California unless another location is mutually agreed upon.

13. Headings. The paragraph headings used in this MOU are intended for convenience only and shall not be used in interpreting this MOU or in determining any of the rights or obligations of the Parties to this MOU.
14. No Third Party Beneficiaries. The Parties understand and agree that this MOU creates rights and obligations solely between the Parties and is not intended to benefit any other party. No provision of this MOU shall in any way inure to the benefit of any third person so as to constitute any such third-person as a third-party beneficiary of this MOU or any of its items of conditions, or otherwise give rise to any cause of action in any person not a party hereto.
15. Reasonable Cooperation; No Agency. The Parties will reasonably cooperate with each other, including the execution of all necessary documents required to perform the obligations under this MOU, and to carry out the purpose and intent of this MOU; provided that each Party understands and agrees that there is no agency or joint venture relationship between the Parties, and no Party is authorized to act for or on behalf of any other Party except as expressly authorized under this MOU.
16. Construction and Interpretation. This MOU is entered into freely and voluntarily. This MOU has been arrived at through negotiation, and each Party has had a full and fair opportunity to revise the terms of this MOU. Consequently, the normal rule of construction that any ambiguities are to be resolved against the drafting party will not apply in construing or interpreting this MOU.
17. Liabilities. Each Party understands and agrees that any internal, in-house or administrative costs or expenses incurred by any Party related to that Party's obligations under this MOU shall be the sole responsibility of the Party incurring said costs and expenses.

With the exception of the agreed cost sharing set forth in Paragraph 5, the Parties expressly agree that the debts, liabilities and obligations of each Party shall remain the debts, liabilities and obligations of that Party alone and shall not be the debts, liabilities and obligations of any other Party to this MOU, except as may be otherwise set forth herein or in an amendment to this MOU.

18. Counterparts. The Parties agree that this MOU may be executed and delivered in counterparts which, when taken together, shall constitute a fully-executed MOU. In

addition, this MOU may be executed via electronic pdf transmission and any such pdf signature shall be deemed to be an original signature.

The foregoing is hereby agreed to by the Parties.

IN WITNESS THEREOF, the Parties have executed this MOU as of the dates written below and the City of Roseville, a municipal corporation, has authorized the execution of this MOU by its City Manager and attested to by its City Clerk under the authority of Resolution No. _____, adopted by the Council of the City of Roseville on the ____ day of _____, 20__.

PLACER COUNTY WATER AGENCY

Chair of the Board

Date: _____

ATTEST:

Clerk, Board of Directors
Placer County Water Agency
P.O. Box 6570
Auburn, California 95604

Date: _____

CITY OF ROSEVILLE

DOMINICK CASEY
City Manager

Date: _____

ATTEST:

SONIA OROZCO
City Clerk

Date: _____

APPROVED AS TO FORM:

BY: _____
ROBERT R. SCHMITT
City Attorney

APPROVED AS TO SUBSTANCE:

BY: _____
RICHARD D. PLECKER
Environmental Utilities Director