City of Arts & Innovation

City Council Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL **DATE: MAY 16, 2017**

FROM: PUBLIC UTILITIES **WARDS: ALL**

SUBJECT: 2017 COOPERATIVE AGREEMENT FOR LONG-TERM WHEELING AND SURPLUS WATER SALES WITH WESTERN MUNICIPAL WATER DISTRICT THROUGH JUNE 30, 2037 FOR PRODUCTION, TREATMENT AND CONVEYANCE OF WESTERN WATER AND THROUGH JUNE 30, 2027 FOR RIVERSIDE WATER

ISSUE:

Approve the 2017 Cooperative Agreement for Long-Term Wheeling and Surplus Water Sales between the City of Riverside and Western Municipal Water District to lease and monetize anticipated unused production and conveyance capacity within Riverside's water system through June 30, 2037; and, to lease and monetize anticipated unused water export rights in the Bunker Hill Basin through June 30, 2027.

RECOMMENDATION:

That the City Council:

1. Approve the 2017 Cooperative Agreement for Long-Term Wheeling and Surplus Water Sales between the City of Riverside and Western Municipal Water District; and

2. Authorize the City Manager, or his designee, to execute the agreement.

BOARD RECOMMENDATION:

The Board of Public Utilities, by unanimous vote with seven members present (one seat vacant) at their meeting April 24, 2017, recommended the City Council approve the 2017 Cooperative Agreement for Long-Term Wheeling and Surplus Water Sales between the City of Riverside and Western Municipal Water District; and, authorize the City Manager, or his designee, to execute the agreement.

BACKGROUND:

In late 2008, the Board of Public Utilities approved the Cooperative Agreement for Water Production and Conveyance with Western Municipal Water District (WMWD) wherein the City of

Riverside Public Utilities (RPU) operates its excess production, transmission, and distribution facilities to deliver potable and nonpotable water that WMWD owns, leases, or controls in the Bunker Hill, Rialto/Colton, Riverside North, and/or Riverside South groundwater basins to WMWD's service area (i.e. wheeled water). "Wheeling" means that RPU allows WMWD to transport WMWD water through the RPU transmission system. The Agreement was subsequently approved by the City Council and the Agreement executed on March 30, 2009. Between 2009 and 2016 RPU has wheeled, on average, about 4,800 Acre Foot per Year (AFY) to WMWD.

In October 2015, the Board of Public Utilities approved the First Amendment to the Agreement to allow RPU to lease and monetize its unused water export rights in the Bunker Hill Basin to WMWD for the balance of calendar year 2015 (i.e. Surplus Water). The First Amendment was subsequently approved by the City Council and was executed on November 13, 2015. Under the First Amendment, RPU produced and conveyed 1,442 acre feet (AF) or 470,000,000 gallons of Surplus Water. In calendar year 2015, RPU also produced and conveyed about 5,708 acre feet (AF) or 1.86 billion gallons of wheeled water to WMWD.

In August 2016, the Board of Public Utilities approved the Second Amendment to the Agreement to allow RPU to lease and monetize its unused water export rights in the Bunker Hill Basin to WMWD for the balance of calendar year 2016 through February 2017. The Second Amendment was subsequently approved by the City Council and was executed on September 13, 2016. Under the Second Amendment, RPU produced and conveyed 3,197 acre feet (AF) or 1.04 billion gallons of Surplus Water. In calendar year 2016, RPU also produced and conveyed about 5,508 acre feet (AF) or 1.79 billion gallons of wheeled water to WMWD.

DISCUSSION:

WATER MANAGEMENT POLICY PRINCIPLES

The Board of Public Utilities adopted, and the City Council subsequently approved on October 28, 2014, the Policy Principles for Water Portfolio Management (Attachment 1). The principles recognize first and foremost the City's role as stewards of a limited natural resource for the benefit of our customer-owners. Within that role, and recognizing the adjudicated nature of our groundwater rights, the policy principles frame potential actions for the acquisition and use of the City's water resources. To that end, included in the policy principles is the following:

> "Riverside will strive to appropriately monetize unused and potentially expiring local water production and export rights through pre-planned and pre-executed water sales agreements."

RPU CONVEYANCE CAPACITY

RPU's water system is designed to meet peak flow demands which typically occur during summer months. During non-peak conditions, there is excess production, treatment, and conveyance capacity within RPU's wells, treatment plants, booster stations, and pipelines. RPU staff has evaluated several scenarios based on historical seasonal patterns and current water use trends. The analysis demonstrates that RPU will have surplus capacity within its system during non-peak conditions to wheel the estimated 5,408 AF per year to WMWD. Where practical and when deliveries to WMWD will not impact service to RPU customers, water may be wheeled during summer months. The intent is to lease conveyance capacity within RPU's water system,

when surplus capacity exists, to facilitate WMWD's expanded use of local water supplies for the benefit of both WMWD and RPU customers.

RPU WATER RIGHTS

RPU's rights to extract and export groundwater from the Bunker Hill Basin in San Bernardino County are governed by the terms of a 1969 court decision and judgment in Western Municipal Water District v. East San Bernardino County Water District (Riverside County Superior Court No. 78426). Under the terms of that judgment, RPU has the annual right to extract and export from its wells approximately 55,000 AF annually. Any volume of water not produced and exported is forfeited at the end of a 5-year period. As such, RPU does not have the ability to store or bank under-produced water for future years. Since June 2015, when the State first mandated that RPU conserve water, RPU customers have stepped-up and have conserved close to 20% compared to the 2013 baseline period, which translate into about 12,000 AF per year of water use reduction, on average. RPU's customers have continued this high level of conservation even though the City self-certified that a 0% conservation level was warranted last July. This is due in part to demand hardening, which means that RPU customers have made changes that resulted in permanent reduction in water usage. Furthermore, with the State's new water use criteria as outlined in Executive Order B-37-16 "Making Water Conservation a California Way of Life", RPU staff projects that future customer demands will result in an under-production of RPU's total water rights by more than 5,000 acre feet per year over the next 10-years.

AGREEMENT TERMS

The Cooperative Agreement for long-term Wheeling and Surplus Water sales with WMWD is intended to amend and restate the terms of the 2009 Cooperative Agreement for Water Production and Conveyance. RPU and WMWD desire to enter into this agreement to expand the use of local water supplies for the benefit of all customers. The Agreement requires close coordination between both Operations' staff, yet allows for operational flexibility in meeting the annual commitments. The Agreement provides certain assurances to RPU, mainly that deliveries to WMWD are secondary to RPU's retail customers and any other existing obligation or commitment (i.e. Gage Exchange, etc.).

The Agreement provides for a new long-term commitment by RPU to produce, treat, and convey a firm annual volume, 5,408 AFY, of WMWD-acquired water for 20-years and the associated pricing structure. For each acre foot of water Wheeled, RPU will charge WMWD based on three cost components:

1. Actual energy costs associated with wells and booster stations,
2. Actual Operations and Maintenance costs associated with supply and transmission, and,
3. A capital recovery charge associated with the Waterman wells and supply transmission pipelines, distribution system, reservoirs, and booster stations.

For 2017-18 the anticipated Wheeling cost is estimated at $517 per AF. The exact cost will be based on the volume of water delivered and the actual costs incurred by RPU to deliver WMWD's water.

Furthermore, the Agreement provides for a new long-term commitment by RPU to produce, treat, and convey a firm annual volume, 2,000 AFY, of RPU's export right to WMWD for 10-years and the associated pricing structure. For each acre foot of Surplus Water sold, RPU will charge WMWD the Wheeling cost plus a commodity charge. The commodity price will be calculated

based on a "Shared Benefit Methodology". The Shared Benefit Methodology is intended to establish an all-inclusive price that equally splits the difference between RPU's rate to deliver WMWD Water, less WMWD's weighted average transmission cost to boost into their system, and Metropolitan Water District of Southern California (MWD) Tier 1 cost. The difference between the calculated all-inclusive price and RPU's rate to deliver WMWD Water will be deemed to be the Surplus Water price. The Surplus Water price calculation, presented as an equation is:

$$\frac{(Wheeled\ Water\ Cost - Western's\ Pumping\ Cost + MWD's\ Tier\ 1\ Cost)}{2} = Surplus\ Water\ Price$$

An example of the Surplus Water price calculation is:

$$\frac{(\$517/AF - \$60/AF + \$979/AF)}{2} = \$718\ per\ AF$$

In the example Surplus Water price calculation, RPU would be paid about $201 per AF for the use of its export rights above the Wheeling cost (i.e. commodity price) and WMWD would save about $201 per AF (e.g. $979 - $718 + $60) as compared to purchasing imported water from MWD. With this price structure, both RPU and WMWD equitably split the savings. The exact cost will be based on the volume of water delivered and the actual costs incurred by RPU to deliver Surplus Water.

FISCAL IMPACT:

RPU would receive approximately $2.8 million in 2017-18 from wheeling WMWD's water. RPU would receive about $1.44 million in 2017-18 from Surplus Water sales. Revenue from Wheeling and Surplus Water sales are anticipated to increase each subsequent year. Over the term of this agreement, revenue from Wheeling and Surplus Water sales may exceed $100 million dollars.

Prepared by:	Girish Balachandran, Public Utilities General Manager
Certified as to Availability of funds:	Scott G. Miller, Ph.D., Chief Financial Officer/City Treasurer
Approved by:	John A. Russo, City Manager
Approved as to form:	Gary G. Geuss, City Attorney

Attachments:

1. Policy Principles for Water Portfolio Management
2. 2017 Cooperative Agreement for Long-Term Wheeling and Surplus Water Sales
3. Board Minutes
4. Presentation

Execution Copy

2017 COOPERATIVE AGREEMENT
FOR LONG-TERM WHEELING AND SURPLUS WATER SALES

BETWEEN

CITY OF RIVERSIDE
AND
WESTERN MUNICIPAL WATER DISTRICT

RIVERSIDE – WESTERN
2017 COOPERATIVE AGREEMENT FOR
LONG-TERM WHEELING AND SURPLUS WATER SALES

TABLE OF CONTENTS

SECTION	PAGE
1. PARTIES	1
2. RECITALS	1
3. AGREEMENT	3
4. DEFINITIONS	3
5. EFFECTIVE DATE AND TERM	8
6. PRODUCTION AND CONVEYANCE SERVICES	8
7. MEASUREMENT OF WATER PRODUCED OR CONVEYED	12
8. [RESERVED]	13
9. CONTINUITY OF SERVICE	13
10. RATES AND CHARGES	14
11. BILLING AND PAYMENT	17
12. AUTHORIZED REPRESENTATIVES	18
13. LIABILITY AND INDEMNIFICATION	18
14. RELATIONSHIP OF THE PARTIES	20
15. UNCONTROLLABLE FORCES	20
16. AUDITS	21
17. THIRD PARTY BENEFICIARIES	21
18. DISPUTE RESOLUTION	21
19. ASSIGNMENT OF INTERESTS	22

20. NO DEDICATION OF FACILITIES 23
21. COMPLETE AGREEMENT 23
22. CONSTRUCTION OF AGREEMENT 23
23. NONDISCRIMINATION 23
24. EVENTS OF DEFAULT 23
25. AMENDMENTS 24
26. WAIVERS 24
27. SECTION HEADINGS 24
28. GOVERNING LAW 25
29. NOTICES 25
30. SIGNATURE CLAUSE 25

EXHIBIT A – EXAMPLE OF OPERATING PLAN
EXHIBIT B – ELECTRICITY, O&M AND CAPITAL RECOVERY COMPONENTS
EXHIBIT C – FLOW PATH SCHEMATIC
EXHIBIT D – WHEELING, SHARED SAVINGS AND SHARED BENEFIT METHODOLOGY

//
//
//
//
//
//
//
//

RIVERSIDE – WESTERN

2017 COOPERATIVE AGREEMENT FOR

LONG-TERM WHEELING AND SURPLUS WATER SALES

1. **PARTIES:** This Cooperative Agreement for Long-Term Wheeling and Surplus Water Sales ("Agreement") is made and entered into this _____ day of _____, 2017, by and between the **City of Riverside** ("Riverside"), a California charter city and municipal corporation, and the **Western Municipal Water District** ("Western"), a public agency. Both parties are organized and existing under the laws of the State of California and are hereinafter sometimes referred to jointly as the "Parties" or individually as a "Party."

2. **RECITALS:**

2.1 Riverside operates a municipal utility providing wholesale water and electric services to entities located within and outside of its service territory, and retail water and electric service to its customers located within its service territory.

2.2 Western operates a municipal water district providing wholesale and retail water and wastewater services to entities located within its service territory.

2.3 Each Party is subject to the terms of the judgment in *Western Municipal Water District v. East San Bernardino County Water District* (Riverside County Superior Court No. 78426) governing, among other things, the Parties' respective rights and obligations related to the beneficial use and maintenance of the Bunker Hill Basin, Rialto/Colton Basin, Riverside North Basin, and Riverside South Basin (collectively, the "Water Basins").

2.4 Pursuant to periodic agreement between Western and the Riverside Highland Water Company, Western has from time to time in the recent past secured the right to produce and export groundwater annually from the Bunker Hill Basin. Western is seeking to secure a long-term agreement and to make said supply available for the production, treatment, and conveyance services under this Agreement.

2.5 Pursuant to an August 23, 2001 "Reciprocal Use Agreement" between Western and the Elsinore Valley Municipal Water District, Western has the right to produce and export groundwater annually from the Bunker Hill Basin.

2.6 Western, from time to time, may have access to additional water which may or may not be stored or conserved groundwater in the Water Basins and would be subject to the production, treatment and/or conveyance services under this Agreement.

2.7 Riverside, from time to time, may have unused capacity in its groundwater production, treatment, water transmission, and/or water distribution facilities.

2.8 On March 30, 2009, the Parties entered into that certain Cooperative Agreement for Water Production and Conveyance ("2009 Agreement"), wherein Riverside agreed to operate its unused capacity in its groundwater production, treatment, water transmission, and/or water distribution facilities to produce and convey Western's annually allocated, stored, or conserved groundwater in the Water Basins to points of interconnection between the Parties' water utility systems. The Parties hereby agree that except for provisions in the 2009 Agreement, as amended, which apply to non-potable water, the balance of the provisions of the 2009 Agreement are amended and restated by this Agreement, meaning that the potable water provisions in the 2009 Agreement, as amended, shall be of no further force or effect.

2.9 Western, from time to time, may request that Riverside provide Production Services, Treatment Services and/or Conveyance Services, and Riverside shall provide such services using its water extraction, treatment and conveyance facilities to the extent that the provision of such services will not, in Riverside's sole judgment which shall not be unreasonably exercised, (i) adversely affect the quality, reliability or cost of service related to water deliveries by Riverside to its retail or wholesale customers and/or (ii) cause Riverside to violate the terms of any binding obligations existing as of the date of this Agreement with respect to the production, treatment or delivery of water.

2.10 The Parties desire to enter into this Agreement in order to: (a) provide for a new long-term wheeling agreement for the production, treatment and conveyance of a firm annual volume of Western-acquired water by Riverside (referred to herein as "wheeling"); (b) develop the pricing of Riverside's adjusted annual water right from the San Bernardino Basin Area ("SBBA") which is determined to be surplus to Riverside's retail needs (referred to herein as "Surplus Water Sales"); and (c) obtain system capacity to move local groundwater to Western customers.

2.11 The Parties agree to begin investigating ways to develop and deliver supplies from the Riverside Basin, as provided for in the 1969 Judgment, to maximize the benefit for users within Western while ensuring all provisions of the 1969 Judgment are up-held.

2.12 The Parties agree to meet and confer, in good faith, as to the provision of recycled water and non-potable water by Riverside to Western.

3. AGREEMENT: In consideration of the foregoing Recitals that are incorporated herein by this reference and the mutual terms and conditions herein, the Parties agree as follows:

4. DEFINITIONS: Terms used herein with initial capitalization, whether in singular or plural, shall have the following meanings:

4.1 1969 Judgment: The judgment rendered by the court in *Western Municipal Water District v. East San Bernardino County Water District* (Riverside County Superior Court No. 78426) and governing, among other things, the Parties' respective rights and obligations related to the beneficial use and maintenance of the Bunker Hill Basin, Rialto/Colton Basin, Riverside North Basin and Riverside South Basin.

4.2 AFY: Acre-feet per year.

4.3 Authorized Representative: The representative or their designee identified by each Party, in accordance with Section 12, to act on such Party's behalf with respect to those matters specified herein to be the functions of such Authorized Representative.

4.4 Bunker Hill Basin: The groundwater basin so defined and described in the 1969 Judgment.

4.5 Bunker Hill Export Allocation: Riverside's annual volumetric export right of groundwater from the Bunker Hill Basin as defined in the 1969 Judgment as amended from time to time.

4.6 Capital Recovery Component: The component of the Service Rate intended to recover Riverside's capital cost of providing Production, Treatment, and/or Conveyance Services along the flow path to Western.

4.7 Conveyance Services: Riverside's use of its water treatment, transmission and distribution systems to convey water from a Point of Receipt to a Point of Delivery.

4.8 Commodity Price: This term shall have the meaning set forth in Section 10.2.

4.9 Curtailment: Any shortage of water delivery relative to the Operating Plan as defined in Section 4.18. Curtailment is measured on a monthly basis and is assigned to Riverside (if unable to deliver water) or Western (if unable to receive water). The Curtailments for both Parties are summed at the end of the calendar year. Western's annual obligation to receive water is reduced by Riverside's Curtailment, and vice-versa. In any given month, where feasible and practical, Riverside may deliver more water and Western may receive more water than what is specified in the Operating Plan. These excesses are summed and will reduce any applicable Curtailment. If Riverside and Western agree to Make-Up water as defined in Section 4.38, any applicable Curtailment will be reduced by that amount.

4.10 Curtailment Payment: If Western has a Curtailment for any given year, Western shall make payment to Riverside as set forth in Sections 6.1.2 and 6.2.2.

4.11 Delivery Month: A month for which Western has requested Production, Treatment, Conveyance and/or Services in the Operating Plan.

4.12 Fiscal Year: The twelve (12) month period commencing each July 1 during the term of this Agreement and ending the following June 30.

4.13 Make-Up Water: By mutual consent of the Operating Committee, up to 500 AFY of Western Water and/or Riverside Water that is not delivered in the current calendar year may be eligible to be delivered the following calendar year. Make-up water is intended to be used during the following calendar year. Make-up water shall not be available in consecutive years unless approved by Riverside. Make-up water is not subject to Curtailment Payment. Non-delivered Western water shall be used for Make-Up Water before non-delivered Riverside Water, unless the Parties mutually agree otherwise for any given year.

4.14 MWD: The Metropolitan Water District of Southern California.

4.15 MWD Tier 1 cost: The published volumetric rate charged by MWD for full-service potable water supply. If MWD amends its rates such that the MWD Tier 1 cost is no longer applicable to the pricing under this Agreement, the parties agree to meet and confer and amend this Agreement to include an appropriate pricing reference.

4.16 Operation & Maintenance Component: The component of the Service Rate intended to recover Riverside's operating and maintenance cost of providing Production, Treatment, and/or Conveyance Services.

4.17 Operating Committee Meeting: The work group referenced in Section 6.4.

4.18 Operating Plan: The written plan, developed collaboratively by Western and Riverside, as set forth in Section 6.3. Attached hereto as Exhibit A and incorporated herein by reference is an example Operating Plan.

4.19 Point of Delivery: The Point of Interconnection where water is delivered to Western by Riverside in connection with Conveyance Services provided hereunder.

4.20 Point of Interconnection: A point where the water transmission and/or distribution systems of Riverside and Western interconnect.

4.21 Point of Receipt: The Point of Interconnection where water is delivered to Riverside by Western, or on Western's behalf, in connection with Conveyance Services provided hereunder. With respect to Riverside's simultaneous provision of both Production

Services and Conveyance Services, the well head discharge block valve shall be deemed to be the Point of Receipt.

4.22 Production Services: Riverside's extraction of groundwater for the benefit of Western using Riverside's water well(s) in the Water Basins.

4.23 Prudent Utility Practice: Any of the practices, methods, and acts which, in the exercise of reasonable judgment in light of the facts (including but not limited to the practices, methods, and acts engaged in or approved by a significant portion of the water utility industry prior thereto) known at the time the decision was made, which would have been expected to accomplish the desired result at the lowest reasonable cost consistent with good business practices, reliability, safety, and expedition, taking into account the fact that Prudent Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be a spectrum of possible practices, methods, or acts which could have been expected to accomplish the desired result. Prudent Utility Practice includes due regard for manufacturers' warranties and requirements of agencies of competent jurisdiction.

4.24 Rialto/Colton Basin: The groundwater basin so defined and described in the 1969 Judgment.

4.25 Riverside North Basin: The groundwater basin so defined and described in the 1969 Judgment.

4.26 Riverside South Basin: The groundwater basin so defined and described in the 1969 Judgment.

4.27 Riverside Water: The portion of Riverside's Bunker Hill Basin Export Allocation under the 1969 Judgment that in Riverside's sole judgment, which shall not be unreasonably exercised, is surplus to Riverside's retail and wholesale customer demand which is made available for purchase by Western.

4.28 SBBA: The groundwater basin defined and described in the 1969 Judgment.

4.29 Service Rate: The rate, expressed in dollars per acre-foot and rounded to nearest cent, to be paid by Western to Riverside in connection with Riverside's provision of Production, Treatment, and/or Conveyance Services.

4.30 Shared Benefit Methodology: This methodology shall have the meaning set forth in Exhibit D, attached hereto and incorporated by reference.

4.31 Storage Services: The retention and storage of water using Riverside's reservoir capability for later delivery of such water to Western.

4.32 Surplus Water Sales: This term shall have the meaning set forth in Section 2.12 herein.

4.33 Treatment Services: The use and operation of water treatment such as, but not limited to, ion exchange, granular activated carbon, membrane filtration, and/or blending to achieve compliance with State drinking water standards.

4.34 Uncontrollable Force: Any cause or event which is beyond the control of the Party affected, including, but not restricted to, failure of or threat of failure of facilities, flood, earthquake, storm, fire, lightning, epidemic, war, riot, civil disturbance or disobedience, labor dispute or strike, labor or material shortage, sabotage, restraint by court order or public authority and action or non-action by or failure to obtain the necessary authorizations or approvals from any governmental agency or authority which by exercise of due diligence such Party could not reasonably have been expected to avoid and which by exercise of due diligence it shall be unable to overcome.

4.35 Water Basins: This term shall have the meaning set forth in Section 2.3 herein.

4.36 Western Water: Any water secured by Western through separate agreement that is intended to be produced, treated and/or conveyed through Riverside's system.

4.37 Willful Misconduct: This term shall have the meaning set forth in Section 13.4 herein.

5. EFFECTIVE DATE AND TERM:

5.1 This Agreement shall be effective July 1, 2017. The terms of this Agreement pertaining to the production, treatment and/or conveyance of Western Water shall remain in effect until June 30, 2037, and the terms of this Agreement pertaining to Riverside Water shall remain in effect until June 30, 2027, unless earlier terminated as follows:

5.1.1 Upon advance written notice by either Party at least two (2) years prior to the specified date of termination; or

5.1.2 Upon ten (10) days advance written notice by the non-defaulting Party to the defaulting Party following a material breach of this Agreement.

5.2 Obligations incurred hereunder but not satisfied prior to termination of this Agreement shall survive such termination until fully discharged, including any payments due by one Party to the other Party hereunder.

5.3 Beginning upon expiration/termination of the terms of this Agreement pertaining to Riverside Water, Riverside shall make a reasonable good faith effort, subject to governing body approvals, to deliver up to 2,000 AFY of Riverside Water to Western in times of emergency shortage that may be caused by drought or infrastructure outage that negatively impacts Western's imported water supply. The price of this water will be based on the "Shared Benefit Methodology" described in this Agreement.

6. PRODUCTION, TREATMENT AND CONVEYANCE SERVICES:

6.1 Western Water:

6.1.1 Riverside shall utilize its water production, treatment and conveyance facilities during each Delivery Month as required to deliver Western Water to Western in accord with the duly approved Operating Plan established pursuant to Section 6.3. Riverside shall provide up to 5,408 AFY of Western Water over the next 20 years. For each acre-foot of Western Water so delivered by Riverside to Western, Western shall pay Riverside at the rate calculated in Section 10.

6.1.2 Western shall have the right to curtail delivery of the Western Water at any time and of the duration specified by Western by providing 30-days' notice for non-emergency curtailments and notice as soon as practically possible for emergency curtailments. However, Western agrees that if delivery is curtailed by Western, Western shall pay Riverside a Curtailment Payment equal to the Capital Recovery Component, as defined in 10.1.3, multiplied by the acre-feet of curtailed Western Water as compensation to Riverside for Riverside's commitment to annually provide to Western up to 5,408 AFY of production, treatment and conveyance capacity. Make-Up Water may be applied towards the amount of deliveries curtailed by Western in order to reduce or eliminate the amount of the Curtailment Payment. Should Riverside be unable to deliver any portion of the 5,408 AFY of Western Water during any year of this Agreement, Western shall not be obligated to such curtailment payment for that portion of the Western Water that Riverside is not able to deliver for that year.

6.1.3 Western is working to secure long-term arrangements for 5,408 AFY of Western Water. Should Western be unable to secure Western Water equal to 5,408 AFY for the term of this Agreement, Western agrees to notify Riverside in advance of an annual Operating Committee Meeting and the applicable Operating Plan shall reflect the actual volume of secured Western Water. Riverside agrees to modify the Curtailment Payment provision to match the actual volume of secured Western Water for the following calendar year and beyond.

6.1.4 In any calendar year, all Western Water shall be conveyed prior to any Riverside Water.

6.2 Riverside Water:

6.2.1 Riverside shall deliver a minimum of 2,000 AFY of Riverside Water to Western, over the next ten-years. If, in its sole judgment, Riverside has additional water in excess of the 2,000 AFY in a given year, Riverside will notify Western prior to the development of the Operating Plan. If Western is interested in purchasing some or all of the excess supplies and has the ability to receive it, those excess supplies will be incorporated

into the Operating Plan. The Western Water to be delivered to Western under this Agreement shall take delivery priority over Riverside Water, as set forth in the applicable Operating Plan. Supplies in excess of 2,000 AFY will not be subject to the curtailment payment set forth in Section 6.2.2. Delivery of Riverside Water in excess of 2,000 AFY will not require modification or amendment of this Agreement. For each acre-foot of Riverside Water extracted by Riverside on Western's behalf, Western shall pay Riverside the rate determined in accordance with Section 10.

6.2.2 Western shall have the right to curtail delivery of the Riverside Water at any time and of the duration specified by Western by providing 30-days' notice for non-emergency curtailments and notice as soon as practically possible for emergency curtailments. However, Western agrees that if delivery is curtailed, Curtailment Payment shall be equal to the Commodity Price, as defined in Section 10.2, multiplied by acre-feet of Curtailed Riverside Water, as compensation for Riverside's commitment to annually provide to Western a minimum of 2,000 AFY of production, treatment and conveyance capacity. Make-Up Water may be applied towards the amount of deliveries curtailed by Western in order to reduce or eliminate the amount of the Curtailment Payment. Should Riverside be unable to deliver any portion of the 2,000 AFY of Riverside Water during any year of this Agreement, Western shall not be obligated to such curtailment payment for that portion of the Western Water that Riverside is not able to deliver for that year.

6.2.3 Riverside Water shall not be subject to Curtailment Payment until January 1, 2018.

6.3 Operating Plan:

6.3.1 Western and Riverside will work collaboratively to develop a mutually agreeable Operating Plan, in the format of the example in Exhibit A. Two (2) original copies of the initial Operating Plan setting forth the services requested, signed by Western's Authorized Representative, shall be submitted to Riverside's Authorized Representative no

later than November 1 of each year for the following calendar year and shall specify the services requested by Western, including, but not limited to, the date(s) of service, the quantities of water involved, the origin of any water to be conveyed by Riverside, the groundwater basin of origin in the case of Production Services, and the Points of Receipt and Points of Delivery. The Operating Plan can be adjusted monthly by mutual agreement.

6.3.2 If Riverside's Authorized Representative reasonably determines that Western's initial proposed Operating Plan is feasible and consistent with Prudent Utility Practice and the operation of Riverside's water extraction, transmission, distribution and treatment systems, Riverside's Authorized Representative shall countersign both copies of the proposed Operating Plan and return one (1) fully executed copy to Western. Unless otherwise communicated in writing to Western, Riverside shall provide the Production, Treatment and Conveyance Services specified in the fully executed Operating Plan, subject to the terms of this Agreement. In the event Riverside reasonably determines that an Operating Plan is not feasible and/or is not consistent with Prudent Utility Practice, Riverside shall provide such notice to Western within 30 days and the Parties shall then engage in good faith negotiations to resolve said issues and to develop a mutually agreeable Operating Plan. The failure of Riverside to provide an executed copy of the Plan, or to provide notice within 30 days that a Plan is infeasible, shall constitute Riverside's approval of the Plan.

6.3.3 If an Operating Plan has not been countersigned by Riverside in accordance with Section 6.3.2, and Riverside has sent the notice in accordance with section 6.3.2, the General Managers from Western and Riverside will meet and confer to forge a compromise by January 1. Should the General Managers be unable to reach a resolution by January 1, both Parties agree to mediation and shall share the expense of mediation equally. Such mediation shall be completed by March 1, unless the Parties mutually agree to an extension.

6.3.4 Riverside shall provide Production, Treatment and Conveyance Services from October 1 through May 31 and shall make diligent good faith efforts to provide such services every month of the year.

6.4 Operating Committee Meetings: The Authorized Representatives shall annually conduct at least one coordination meeting during the term of this Agreement. It is anticipated that said meeting will take place in the fall of each year prior to November 1 and may include, for example and not by way of limitation, the following agenda items:

(a) Actual energy and Operations and Maintenance costs as well as reconciliation of payments for the previous year;

(b) Calculation of the Commodity Charge for Riverside Water;

(c) Operational challenges of the past year;

(d) Projected costs for the upcoming year;

(e) Operational planning for the upcoming year;

(f) A 5-year projection of capital improvements that may be necessary to fulfill deliveries to Western;

(f) Review components of and the cost calculation of the Capital Recovery Component; and

(g) Other items necessary to ensure successful fulfilment of the terms of this Agreement as determined in the discretion of each Party.

7. MEASUREMENT OF WATER PRODUCED OR CONVEYED:

7.1 Any metering devices used to measure the delivery of water under this Agreement at a Point of Interconnection shall be owned by Riverside and shall be installed, operated, calibrated, and maintained in accordance with Riverside's standard requirements. Any such metering devices shall be maintained directly by Riverside or by agents or subcontractors directly under Riverside's control.

7.2 Riverside shall inspect and test the metering devices at least once per calendar year, unless more frequent testing and inspection is appropriate as a result of repairs to or replacements of a metering device. Riverside shall provide reasonable advance notice to Western of any such testing or inspection in order to permit a representative of Western to witness such activities, and shall provide Western with copies of any periodic or special inspection or testing reports relating to the metering devices upon request by Western. Western, at its own expense, may request in writing that Riverside initiate additional testing and inspection of the metering devices, and Riverside shall comply with any such request as soon as practical after the request is made.

7.3 As part of this agreement, Riverside shall recalibrate or replace all existing metering devices prior to December 1, 2017.

8. [RESERVED]

9. <u>CONTINUITY OF SERVICE:</u>

9.1 Riverside reserves the right to curtail Production, Treatment and Conveyance Services hereunder; (i) upon reasonable advance notice to Western to make repairs, replacements, modifications, or to perform maintenance work, all for the purpose of maintaining continuity of Production, Treatment and Conveyance Services, or (ii) without notice to Western because of an existing or impending Uncontrollable Force, as determined in Riverside's sole judgment which shall not be unreasonably exercised.

9.2 Notwithstanding the provisions of Section 9.1, Riverside may interrupt or curta[redacted] Production, Treatment, and Conveyance Services to the extent that the continued provision of such services could, in Riverside's sole judgment which shall not be unreasonably exercised, [redacted] adversely affect the quality, reliability or cost of service related to water deliveries by Riversi[redacted] to its retail customers, (ii) cause Riverside to violate the terms of any rule, regulation, or binding obligation it may otherwise have with respect to the production, treatment or deliver[redacted] of water, (iii) Riverside experiences a significant loss of extraction capacity, export rights,

treatment capacity, and/or conveyance capacity in any portion of its water system, or (iv) in accordance with Prudent Utility Practice.

10. RATES AND CHARGES:

10.1 Western Water: For Western Water Production, Treatment and Conveyance Services rendered by Riverside to Western hereunder, Western shall pay the following rate(s) per acre-foot of water, or portion thereof, applicable to the service provided.

10.1.1 Energy Component: The Energy Component of the rates for Western Water Services shall be in accord with the pricing sheets referenced in Section 10.6 below. For fiscal year 2017-18, a single average energy unit cost of $115 per acre-foot will be used for the monthly energy costs. Prior to each November 1 of the Agreement term, the actual costs per Section 10 shall be reconciled against the prior invoiced costs and the difference shall be invoiced or credited in accordance with Section 10.4. Each subsequent year, the prior year's actual average unit costs for energy will be used in the monthly billing for the following 12-months until a new reconciliation occurs.

10.1.2 O&M Component: The O&M Component of the rates for Western Water shall be in accord with the pricing sheets referenced in Section 10.6 below. For fiscal year 2017-18, a single average O&M unit cost of $142 per acre foot will be used for the monthly O&M costs. Prior to each November 1 of the Agreement term, the actual costs per Section 10 shall be reconciled against the prior invoiced costs and the difference shall be invoiced or credited in accordance with Section 10.4. Each subsequent year, the prior year's actual average unit costs for O&M will be used in the monthly billing for the following 12-months until a new reconciliation occurs.

10.1.3 Capital Recovery Component: The Capital Recovery Component of the rates for Western Water shall be in accord with the pricing sheets referenced in Section 10.6 below. The Capital Recovery Component will be comprised of costs for the conveyance of Western Water, including but not limited to Riverside's Waterman Wells,

Waterman Supply Transmission Pipeline, Distribution System Transmission Lines, and Booster Stations, as further described and identified on the schematic illustration included in Exhibit C and incorporated herein by reference. For fiscal year 2017-18, an average blended rate of $260 per acre-foot will be used. The Capital Recovery Component shall be annually adjusted to reflect the percentage increase, if any, in the Consumer Price Index for all Urban Consumers for the Los Angeles-Anaheim-Riverside area published by the United States Department of Labor, Bureau of Labor Statistics (1982/84=100) ("CPI"). The Parties agree to annually review the cost elements and, if warranted by mutual consent of the Parties, reset the Capital Recovery Component to reflect then current costs. New or upgraded facilities that are constructed after the date of this agreement, which are clearly shown to benefit the Production, Treatment and Conveyance Services provided to Western, will be added to and incorporated into the Capital Recovery Component. Riverside shall only include costs for new or upgraded facilities which are used to convey water to Western.

10.2 Riverside Water: Western agrees to pay Riverside the Energy, O&M, and Capital Recovery Component charges, as described in Section 10.1, and a Commodity Price. Both Parties agree to use a "Shared Benefit Methodology" to calculate the Commodity Price of the Riverside Water and the savings to Western in relation to the MWD Tier 1 cost. The Shared Benefit Methodology is intended to establish an all-inclusive price that equally splits the difference between Riverside's rate to deliver Western Water, less Western's weighted average transmission and delivery costs at all current and future interconnections, and the MWD Tier 1 cost for that applicable year. The difference between the calculated all-inclusive price and Riverside's rate to deliver Western Water will be deemed to be the commodity price ("Commodity Price"). An example of said calculation and escalation is set forth below:

10.2.1 Example - If Riverside's cost to deliver Western Water is $517 per acre-foot, Western's pumping cost is $60 per acre-foot and the MWD Tier 1 cost is $979 per acre-foot, then the total cost to deliver Riverside Water to Western would be ($517 - $60 +

$979) / 2) = $718. MWD Tier 1 cost for the applicable year is _____.

10.2.2 The price would be set for fiscal year 2017-18 and calculated annually prior to November 1, through 2026 based on the cost structure described above.

10.2.3 Reconciliation: Prior to each November 1 of the Agreement term, the actual Commodity Price will be determined based on actual costs per Section 10.2 and the costs shall be reconciled against the prior invoiced costs and the difference shall be invoiced or credited in accordance, with Section 10.4. Each subsequent year, the prior year's actual average unit costs for energy and O&M, along with the Capital Recovery Component and the published MWD Tier 1 costs for the coming year will be used in the monthly billing for the following 12-months; or, until a new reconciliation occurs.

10.3 Basis of Billing: All costs shall be accrued based on the reading of Riverside's meter(s); all water produced and conveyed through Riverside's water system shall be billed based on the meter reading at the Point of Interconnection.

10.4 Invoicing and Reconciliation of Costs: For each monthly billing cycle, Riverside shall invoice Western in accordance with Section 11 of this Agreement for the costs detailed in this Section 10. Prior to each November 1 of the Agreement term, the actual costs per Section 10 shall be reconciled against the prior invoiced costs and the difference shall be invoiced or credited. Each subsequent year, the prior year's actual average unit costs for energy and O&M will be used in the monthly billing for the following 12-months; or, until a new reconciliation occurs.

10.5 Pricing Sheets: The pricing sheet for the Energy, Operations & Maintenance ("O&M") and Capital Recovery components to be charged by Riverside are set forth in Exhibit "B" attached hereto and incorporated herein by reference. The pricing sheet for the Western Water and the Riverside Water, including the Shared Benefit Methodology to be charged by Riverside, are set forth in Exhibit "D" attached hereto and incorporated herein by reference.

11. BILLING AND PAYMENT:

11.1 Riverside shall bill Western for charges due hereunder by the fifteenth (15^{th}) day of each month for services rendered during the prior month, including any required adjustments to bills previously paid by Western. Western shall pay such bills not later than the fifth (5^{th}) day of the month following the month in which bill is issued, or on the first business day thereafter if the fifth (5^{th}) day falls on a Saturday, Sunday, or holiday. Payments which are not made in full by said due dates shall thereafter accrue interest at the lesser of (i) one percent (1%) per month of the unpaid balance, or (ii) the maximum rate otherwise permitted by law applicable to this Agreement, prorated by days until payment is sent by Western.

11.2 In the event any portion of any bill is disputed, Western shall pay the bill, including the disputed amount, under protest when due. If the protested portion of the payment is found to be incorrect, Riverside shall promptly refund the protested portion, including interest at the lesser of (i) one percent (1%) per month, or (ii) the maximum rate otherwise permitted by law applicable to this Agreement, prorated by days from the date of payment by Western to the date the refund check is sent or the refund payment is otherwise made by Riverside.

11.3 If Western does not dispute in writing any billing within one hundred eighty (180) days after the bill was rendered by Riverside, Western shall be deemed to have waived any further or continuing right to dispute such bill.

11.4 Unless otherwise agreed by the Authorized Representatives, bills shall be rendered and remittances made by their submission to the following addresses:

Bills rendered by Riverside to Western:

Western Municipal Water District
14205 Meridian Parkway
Riverside, CA 92518

Payments made by Western to Riverside:

City of Riverside
Accounts Receivable
3900 Main Street
Riverside, CA 92522

11.5 If the Parties are each required to pay an amount to each other in the same calendar month under this Agreement, then such amounts with respect to each Party may be aggregated and the Parties may discharge their obligations to pay through netting of the respective amounts due, in which case the Party, if any, owing the greater aggregate amount may pay to the other Party the difference between the amounts owed.

11.6 The Parties shall conduct an audit at least once every five (5) years during the term of this Agreement in order to determine the accuracy of the calculations required to be performed for the costs and cost escalators under this Agreement. The Parties shall each pay one-half of the cost of said audits.

12. AUTHORIZED REPRESENTATIVES: The Parties warrant that their Authorized Representatives have the authority to bind the respective Party to all relevant commitments under this Agreement. Initially, the Parties' Authorized Representatives shall be the individuals holding the positions set forth in the notice provisions of Section 29. Any Party may at any time change the designation of its Authorized Representative by written notice to the Authorized Representatives of the other Party. Each Party's Authorized Representative is authorized to act on its behalf in the implementation of this Agreement and with respect to those matters contained herein which are the functions and responsibilities of the Authorized Representatives. Each Authorized Representative may delegate actual performance of such functions and responsibilities; provided, that any agreement of the Authorized Representatives required to be in writing shall be signed by the Authorized Representatives.

13. LIABILITY AND INDEMNIFICATION:

13.1 Limitation of Liability: Except as to the gross negligence or Willful

Misconduct of a Party, each Party shall release and hold harmless the other Party from and against any and all liability, loss, damage, and expense arising from, alleged to arise from, in connection with, or incident to the services rendered under this Agreement.

13.2 Limitation on Damages: No Party shall be liable for any consequential, incidental, punitive, special, or exemplary damages or lost opportunity costs, lost profit, or other business interruption damages, by statute or in tort or contract, under any provision of this Agreement.

13.3 Indemnification: Notwithstanding Section 13.1, each Party shall indemnify, defend, and hold harmless the other Party, its directors, members, officers, employees, and agents from and against any and all third-party claims, suits, or actions instituted on account of personal injuries or death of any person (including but not limited to workers and the public) or physical damage to property resulting from or arising out of the indemnitor's Willful Misconduct or grossly negligent act or omission while engaged in the performance of obligations or exercise of rights under this Agreement.

13.4 Definition of Willful Misconduct: For purposes of this Agreement, Willful Misconduct shall be defined as:

13.4.1 Action taken or not taken by a Party at the direction of its directors or other governing body, officers, or employees having management or administrative responsibility affecting its performance under this Agreement, which:

13.4.1.1 Is knowingly or intentionally taken or not taken with conscious indifference to the consequences thereof or with intent that injury or damage would result or would probably result therefrom;

13.4.1.2 Has been determined by final arbitration award or judgment or judicial decree to be a material default under this Agreement, and which action occurs or continues beyond the time specified in such arbitration award or judgment or judicial decree for curing such default, or, if no time to cure is specified therein, occurs or continues

thereafter beyond a reasonable time to cure such default; or

13.4.1.3 Is knowingly or intentionally taken or not taken with the knowledge that such action taken or not taken is a material default under this Agreement.

13.4.2 As used in this definition:

13.4.2.1 Willful Misconduct does not include any act or failure to act which is merely involuntary, accidental, or negligent.

13.4.2.2 The phrase "employees having management or administrative responsibility" means those employees of a Party who are responsible for one or more of the executive functions of planning, organizing, coordinating, directing, controlling, and supervising such Party's performance under this Agreement, with responsibility for results.

14. RELATIONSHIP OF THE PARTIES: The covenants, obligations, and liabilities of the Parties are intended to be several and not joint or collective, and nothing herein contained shall ever be construed to create an association, joint venture, trust, or partnership, or to impose a trust or partnership covenant, obligation, or liability on or with regard to any Party. Each Party shall be individually responsible for its own covenants, obligations, and liabilities as herein provided. No Party shall be under the control of or shall be deemed to control the other Party. Neither Party shall be the agent of or have a right or power to bind the other Party without such other Party's express written consent, except as provided in this Agreement.

15. UNCONTROLLABLE FORCES: If the existence of an Uncontrollable Force disables a Party from performing its obligations under this Agreement (except for such Party's obligations to make payments hereunder), such Party shall not be considered to be in default in the performance of any such obligations while such disability of performance exists. A Party rendered unable to fulfill any of its obligations under this Agreement by reason of an Uncontrollable Force shall exercise due diligence to remove such inability with all reasonable dispatch. Nothing contained herein shall be construed so as to require a Party

to settle any strike or labor dispute in which it may be involved.

16. **AUDITS:** Each Party shall have the right to audit any costs, payments, settlements, or other supporting information pertaining to this Agreement. Any such audit shall be undertaken by the requesting Party or its representative at reasonable times and in conformance with generally accepted auditing standards. The audited Party shall fully cooperate with any such audit, the cost of which shall be paid by the requesting Party. The right to audit a billing shall extend for a period of three (3) years following the rendering of the bill. Each Party shall retain all necessary records or documentation for the entire length of such three (3) year period and shall, to the extent permitted by law, take all steps reasonably available to assure the confidentiality of the audited Party's accounting records and supporting documents.

17. **THIRD PARTY BENEFICIARIES:** Unless otherwise specified in this Agreement, there are no third party beneficiaries to this Agreement. This Agreement shall not confer any right or remedy upon any person or entity other than the Parties and their respective successors and assigns permitted under Section 19. This Agreement shall not release or discharge any obligation or liability of any third party to any Party or give any third party any right of subrogation or action over or against any Party.

18. **DISPUTE RESOLUTION:**

18.1 The Parties' Authorized Representatives shall attempt to amicably and promptly resolve any dispute arising between the Parties under this Agreement. Nothing in this Agreement shall preclude either Party from taking any lawful action it deems appropriate to enforce its rights under this Agreement.

18.2 Any action at law or in equity brought by either of the parties hereto for the purpose of enforcing a right or rights provided for by this Agreement shall be tried in the Superior Court of the County of Riverside, State of California, and the parties hereby waive all provisions of law providing for a change of venue in such proceedings to any other

county. This agreement shall be governed, construed, and enforced in accordance with the laws of the State of California, without regard to its conflict of laws rules.

18.3 In the event either party hereto shall bring suit to enforce any term of this Agreement or to recover any damages for and on account of the breach of any term or condition of this Agreement, it is mutually agreed that each party will bear their own attorneys' fees and costs.

19. ASSIGNMENT OF INTERESTS:

19.1 Neither Party shall assign this Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. Western expressly understands and agrees that it shall not be unreasonable for Riverside to withhold or delay its consent to any proposed or purported assignment by Western to any person or entity ("Assignee") that has not demonstrated to Riverside's reasonable satisfaction that Riverside's interests as contemplated herein will not be adversely effected thereby.

19.2 Any assignment by a Party of its interest in this Agreement which is made without the prior written consent of the other Party shall not relieve the assigning Party from primary liability for any of its duties and obligations under this Agreement, and in the event of any such assignment, the assigning Party shall continue to remain primarily liable for payment of any and all money due the other Party as provided under this Agreement, and for the performance and observance of all covenants, duties, and obligations to be performed and observed under this Agreement by the Party to the same extent as though no assignment had been made.

19.3 Whenever an assignment of a Party's interest in this Agreement is made with the written consent of the other Party, the assigning Party's assignee shall expressly assume in writing the duties and obligations under this Agreement of the assigning Party and, within thirty (30) days after any such assignment and assumption of duties and obligations, the assigning Party shall furnish, or cause to be furnished, to the other Party a true and correct

copy of such assignment and assumption of duties and obligations. Upon the effective date of such assignment, the assigning Party shall be relieved of its obligations and duties under this Agreement.

19.4 Subject to the foregoing restrictions on assignment, this Agreement shall be binding upon, inure to the benefit of and be enforceable by the Parties and their respective successors and assigns.

20. NO DEDICATION OF FACILITIES: Any undertaking by a Party to the other Party under this Agreement shall not constitute the dedication of the system, or any portion thereof, of that Party to the public or to the other Party, nor affect the status of that Party as an independent system.

21. COMPLETE AGREEMENT: This Agreement contains the entire agreement and understanding between the Parties as to the subject matter of this Agreement and supersedes all prior commitments, representations, and discussions between the Parties.

22. CONSTRUCTION OF AGREEMENT: Ambiguities or uncertainties in the wording of this Agreement shall not be construed for or against either Party, but shall be construed in a manner that most accurately reflects the intent of the Parties when this Agreement was executed and is consistent with the nature of the rights and obligations of the Parties with respect to the matter being construed.

23. NONDISCRIMINATION: During the performance of this Agreement, neither Party shall deny the Agreement's benefits to any person, nor shall either Party discriminate unlawfully against any employee or applicant for employment, on the ground or because of race, color, creed, national origin, ancestry, age, sex, sexual orientation, marital status, or disability including the medical condition of Acquired Immune Deficiency Syndrome (AIDS) or any condition related thereto. Each Party shall insure that the evaluation and treatment of employees and applicants for employment are free of such discrimination.

24. EVENTS OF DEFAULT: In the event that a Party shall materially default in the

performance of its obligations under this Agreement, the Authorized Representative of the non-defaulting Party may give written notice of the default to the Authorized Representative of the defaulting Party. If within thirty (30) days after the non-defaulting Party's Authorized Representative shall have given such written notice to the defaulting Party's Authorized Representative, the defaulting Party shall have failed to cure the default in its performance of this Agreement, or if such default requires more than thirty (30) days to cure and the defaulting Party fails to commence such cure and diligently prosecute such cure to completion, in addition to any other remedies provided by law, the non-defaulting Party may terminate this Agreement by written notice of termination as provided for in Section 5.2.2. In addition to any other cause of default arising hereunder, a Party shall be in default if:

24.1 It becomes insolvent; or

24.2 It makes a general assignment of substantially all of its assets for the benefit of its creditors, files a petition for bankruptcy or reorganization or seeks other relief under any applicable insolvency laws; or

24.3 It has filed against it a petition for bankruptcy, reorganization or other relief under any applicable insolvency laws and such petition is not dismissed within sixty (60) days after it is filed.

25. AMENDMENTS: This Agreement may be modified, supplemented or amended only by a writing duly executed by the Parties.

26. WAIVERS: Any waiver at any time by any Party of its rights with respect to a default under this Agreement, or with respect to any other matter arising in connection with this Agreement, shall not be deemed a waiver with respect to any subsequent default or other matter arising in connection therewith. Any delay, short of the statutory period of limitation in asserting or enforcing any right, shall not be deemed a waiver of such right.

27. SECTION HEADINGS: All captions and headings appearing in this Agreement are inserted to facilitate reference and shall not govern, except where logically necessary, the

interpretations of the provisions hereof.

28. GOVERNING LAW: This Agreement shall be interpreted, governed by, and construed under the laws of the State of California or the laws of the United States as applicable, as if executed and to be performed wholly within the state of California.

29. NOTICES:

29.1 Any notice, demand or request provided for in this Agreement, or served, given or made in connection with it, shall be in writing and shall be deemed properly served, given or made if delivered in person or sent by United States mail, postage prepaid, to the persons specified below, unless otherwise provided for in this Agreement:

To City of Riverside:
City of Riverside
Public Utilities Department
3750 University Ave., 3rd floor
Riverside, CA 92501
Attn: General Manager

To Western:
Western Municipal Water District
14205 Meridian Parkway
Riverside, CA 92518

Attn: General Manager

29.2 Either Party may at any time, by written notice to the other Party, change the designation or address of the person so specified as the one to receive notices pursuant to this Agreement.

30. SIGNATURE CLAUSE: The signatories hereto represent that they have been appropriately authorized to enter into this Cooperative Agreement for Water Production and Conveyance on behalf of the Party for whom they sign.

(signatures on following page)

CITY OF RIVERSIDE,
A California Charter City and
Municipal Corporation

By: _____
John A. Russo
City Manager

Date: _____

WESTERN MUNICIPAL WATER DISTRICT

By: _____
John V. Rossi
General Manager

Date: _____

Attest:

By: _____
Colleen J. Nicol
City Clerk

Date: _____

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

BY _____
Deputy City Attorney

RIVERSIDE – WESTERN
2017 COOPERATIVE AGREEMENT FOR
LONG-TERM WHEELING AND SURPLUS WATER SALES

EXHIBIT A

EXAMPLE OPERATING PLAN

CALENDAR YEAR 2018 OPERATING PLAN

FOR

COOPERATIVE AGREEMENT FOR LONG-TERM WHEELING AND SURPLUS WATER SALES

BETWEEN THE CITY OF RIVERSIDE AND WESTERN MUNICIPAL WATER DISTRICT

The Operating Committee, comprised of representatives from the City of Riverside (Riverside) and Western Municipal Water District (Western) agree to the delivery schedule in Table 1 for Calendar Year 2018.

Table 1. Calendar Year 2018 Delivery Schedule (acre-feet)

Source Water	Jan	Feb	Mar	Apr	May	Jun*	Jul*	Aug*	Sep*	Oct	Nov	Dec	TOTAL
Western Water	925	925	925	925	925	*No guaranteed deliveries.				775	-	-	5400
Riverside Water	-	-	-	-	-	*If capacity exists, deliveries may occur.				150	925	925	2000
TOTAL	**925**	**925**	**925**	**925**	**925**					**925**	**925**	**925**	**7408**

Per the Cooperative Agreement, if the delivery schedule above is unattainable, the Operating Committee has the ability to, upon mutual agreement to adjust monthly delivery targets and/or make-up up to 500 acre-feet of deliveries in the next calendar year.

City of Riverside Authorized Designee

Signature: _____

Title: _____

Western Municipal Water District Authorized Designee

Signature: _____

Title: _____

RIVERSIDE – WESTERN
2017 COOPERATIVE AGREEMENT FOR
LONG-TERM WHEELING AND SURPLUS WATER SALES

EXHIBIT B

PRICING SHEETS FOR ELECTRICITY, O&M AND CAPITAL RECOVERY COMPONENTS

EXHIBIT 'B'

EXAMPLE PRICING SHEET FOR THE RIVERSIDE -WESTERN WHEELING & SURPLUS WATER SALES AGREEMENT

(Electricity, O&M, and Capital Recovery Components)

Not Part of the Agreement. For Example Only.

	Escalator	Mockingbird PS (Van Buren Highline)	Whitegates (Green Orchard BS)	Blended Rate
Electricity		$/AF	$/AF	$/AF
Average Electrical Pumping Cost Estimate[1]	Based on Actuals	$94	$157	$115
Operations & Maintenance (O&M)				
Supply Operations Cost[2]		$62	$62	$62
Distribution Operations Cost[3]	Based on Actuals	$42	$42	$42
Supply & Distribution Maintenance Cost[4]		$2	$2	$2
Average Capitalized Pump & Well Maintenance Cost[5]		$36	$36	$36
O&M Subtotal:		$142	$142	$142
Capital Recovery				
Waterman Wells[6]		$44	$44	$44
Waterman Supply Transmission Pipeline[7]		$105	$105	$105
Distribution System Transmission Lines[8]	ENR LA Metro CCI	$66	$133	$89
Reservoir Storage[9]		$0	$0	$0
Booster Stations[10]		$12	$42	$22
Capital Recovery Subtotal:		$227	$324	$260
Total ($/AF):		$463	$623	$517
AFY to Deliver:		4,908	2,500	

Notes: (Capital Recovery & Maintenance costs related only to RPU Water Facilities along hydraulic path to Western Delivery Points.)

1. Average annual electrical unit cost for water delivery to Mockingbird & Whitegates Western Delivery Points based on actual electrical billings in 2015. Used average electrical cost from Amendment 1 as presented in Energy Cost Sheet Electrical Charge, will be trued up at the end of each year. The previous years information will be used to establish a baseline for the coming year.
   At the end of each year, the costs will be trued-up based on actuals and a debit/credit will be issued.

2. Operations $/AF Unit Cost for Bunker Hill Basin (Waterman Supply Transmission Pipeline) Water Production. Calculated in Operations & Maint. Sheet, under Exhibit C.
   Water Fund Cost Center total spending proportional to share of power cost for water production of Waterman wells for FY 2013-2014.
   FY 2013-2014 Water Fund Cost Center 6200000 (Water Production & Operations) [41, 42, & 88 Only] Less Line Item Accounts:
   a. Settlement Reimbursements b. 422200 (Power Costs) c. 422923 (Capacity/Standby Charges) d. 447100 (Taxes and Assessments)
   The sum of the cost components divided by the total production of Waterman wells (including production associated with Western acquired supplies) will be the basis for the Supply Operations Cost.

3. Operations $/AF Unit Cost for Linden/Evans Reservoir (Potable Water System) Water Distribution. Calculated in Operations & Maint. Sheet, under Exhibit C.
   Water Fund Cost Center total spending proportional to share of power cost for water distribution for FY 2013-2014.
   FY 2013-2014 Water Fund Cost Center 6200000 (Water Production & Operations) [41, 42, & 88 Only] Less Line Item Accounts:
   a. 422200 (Power Costs) b. 422923 (Capacity/Standby Charges) c. 447100 (Taxes and Assessments)
   The sum of the cost components divided by the total potable water sales (including Western acquired supplies) will be the basis for the distribution Operations Cost.

4. Maintenance $/AF Unit Cost for Bunker Hill Basin (Waterman Supply Transmission Pipeline) Production and Linden/Evans Reservoir (Potable Water System) Distribution. Calculated in Operations & Maint. Sheet, under Exhibit C.
   Water Fund Cost Center total spending proportional to RPU retail water sales for FY 2013-2014.
   1a. Total capital replacement cost of Bunker Hill Basin (Waterman Supply Transmission Pipeline) production system divided by total water production from Waterman Wells (including Western acquired supplies)
   2a. Total capital replacement cost of Linden/Evans Reservoirs to 1200 Zone Mockingbird and 1700 Zone Whitegates Deliveries divided by total potable water sales (including Western acquired supplies)
   FY 2013-2014 Water Fund Cost Center 6205000 (PU Water Field Operations/Maintenance) divided by total RPU Water System capital replacement cost, equated to 0.58%
   1b. Resulting capital replacement cost ($/AF) multiplied by 0.58% for apportioned production system maintenance cost
   2b. Resulting capital replacement cost ($/AF) multiplied by 0.58% for apportioned distribution system maintenance cost
   Western's wheeled water flow weighted proportional unit cost obtained from resulting apportioned production & distribution system maintenance cos
   O&M, will be trued up at the end of each year. The previous years information will be used to establish a baseline for the coming year.
   At the end of each year, the costs will be trued-up based on actuals and a debit/credit will be issued.

5. Average Capitalized Maintenance Unit Cost for all RPU Pumps & Wells. Calculated in Operations & Maint. Sheet, under Exhibit C.
   FY 2013-2014 Water Fund Cost Center 6200000 (Facility Rehabilitation, 470803).
   Total Facility Rehab cost for FY 2013-2014 divided by the total potable water sales will be the basis for the Pump & Well Maintenance Cost.

6. $/AF Unit cost for replacement of existing RPU wells over 100 year life cycle at 5% interest. Calculated in Capital Recovery Sheets, under Waterman Wells.

7. $/AF Unit cost for replacement of existing RPU Waterman Supply Transmission Pipeline over 120 year life cycle at 5% interest. Calculated in Capital Recovery Sheets, under Waterman Supply Line.

8. $/AF unit cost for replacement of existing RPU Distribution System Transmission waterlines over 120 year life cycle at 5% interest. Calculated in Capital Recovery Sheets, under Distribution System Transmission Lines.

9. Reservoir usage not critical during non-firm deliveries. During high demands, reservoir capacity reserved for RPU Customers. During high demands, reservoir capacity reserved for RPU Customers.

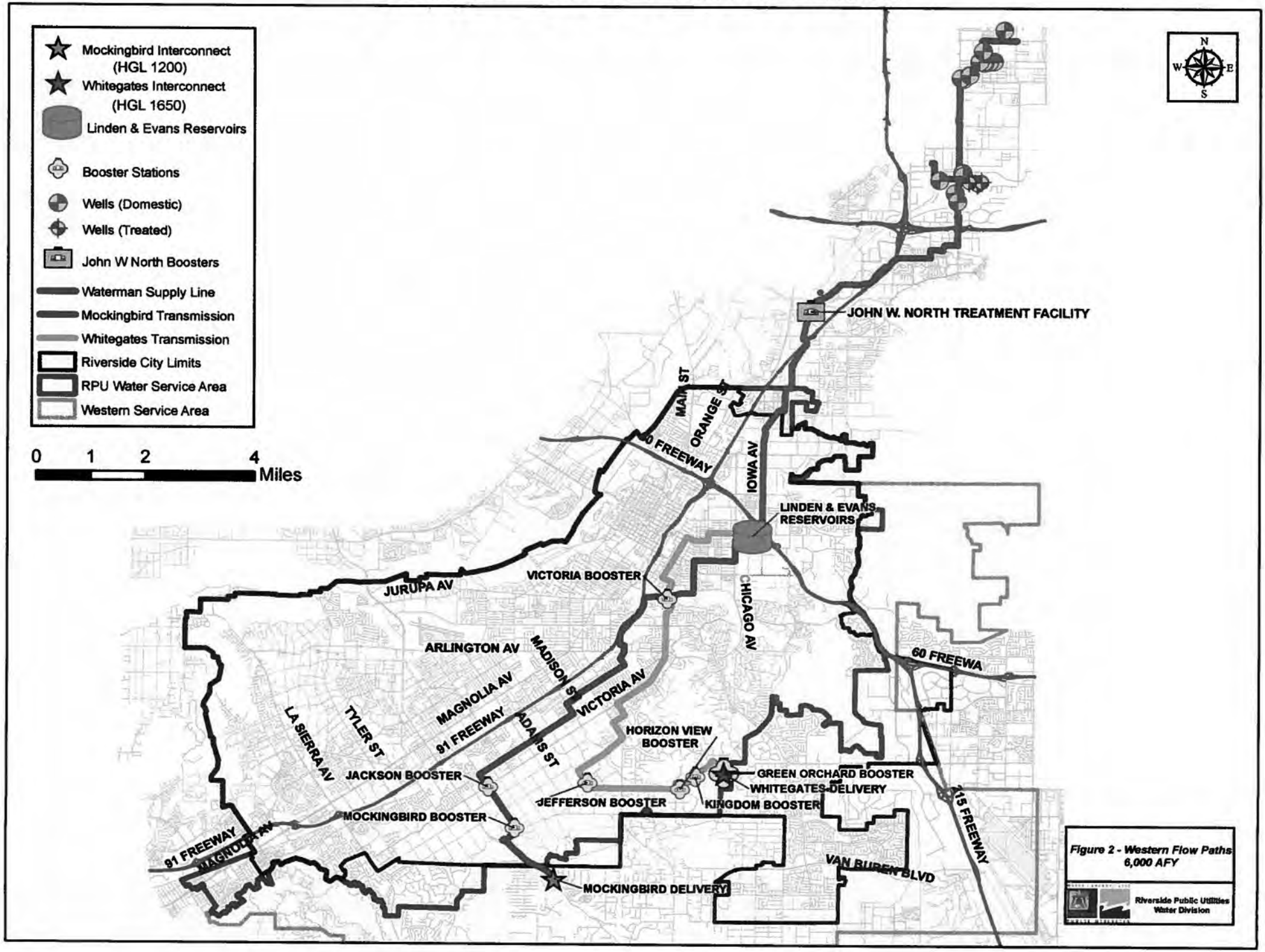
10. $/AF unit cost for replacement of existing RPU Booster Stations over 60 year life cycle at 5% interest. Calculated in Capital Recovery Sheets, under Pump Stations.

RIVERSIDE – WESTERN
2017 COOPERATIVE AGREEMENT FOR
WATER PRODUCTION AND CONVEYANCE

EXHIBIT C

FLOW PATH SCHEMATIC

Exhibit C – Flow Path Schematic



RIVERSIDE – WESTERN
2017 COOPERATIVE AGREEMENT FOR
WATER PRODUCTION AND CONVEYANCE

EXHIBIT D

WHEELING, SHARED SAVINGS AND SHARED BENEFIT METHODOLOGY

EXHIBIT 'D'

EXAMPLE PRICING SHEET FOR THE RIVERSIDE - WHEELING, SURPLUS WATER SALES, SHARED BENEFIT METHODOLOGY

Not Part of the Agreement. For Example Only.

	Year	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	
WHEELING PRICE												
Volume (AF):		5,408										
Assumed inflation:		4%										
A	RPU Capital Recovery	$ 259	$ 269	$ 280	$ 291	$ 303	$ 315	$ 328	$ 341	$ 354	$ 369	
B	Energy	$ 115	$ 120	$ 124	$ 129	$ 135	$ 140	$ 146	$ 151	$ 157	$ 164	
C	O&M	$ 142	$ 148	$ 154	$ 160	$ 166	$ 173	$ 180	$ 187	$ 194	$ 202	
D	Wheeling Unit Price	$ 516	$ 537	$ 558	$ 580	$ 604	$ 628	$ 653	$ 679	$ 706	$ 734	
E	**Wheeling Revenue**	$ 2,790,528	$ 2,902,149	$ 3,018,235	$ 3,138,964	$ 3,264,523	$ 3,395,104	$ 3,530,908	$ 3,672,144	$ 3,819,030	$ 3,971,791	

* Capital Recovery will be escalated at CPI. Energy and O&M charges are based on actual costs calculated annually.

		2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	
WHEELING PRICE - Continued												
A	RPU Capital Recovery	$ 383	$ 399	$ 415	$ 431	$ 449	$ 466	$ 485	$ 505	$ 525	$ 546	
B	Energy	$ 170	$ 177	$ 184	$ 191	$ 199	$ 207	$ 215	$ 224	$ 233	$ 242	
C	O&M	$ 210	$ 219	$ 227	$ 236	$ 246	$ 256	$ 266	$ 277	$ 288	$ 299	
D	Wheeling Unit Price	$ 764	$ 794	$ 826	$ 859	$ 894	$ 929	$ 966	$ 1,005	$ 1,045	$ 1,087	20-YR Revenue
E	**Wheeling Revenue**	$ 4,130,663	$ 4,295,890	$ 4,467,725	$ 4,646,434	$ 4,832,292	$ 5,025,583	$ 5,226,607	$ 5,435,671	$ 5,653,098	$ 5,879,222	$ 83,096,562

* Capital Recovery will be escalated at CPI. Energy and O&M charges are based on actual costs calculated annually.

SURPLUS WATER PRICE (SHARED SAVINGS)												
Volume (AF):		2,000										
Assumed inflation:		4%	In 2017, MWD has a published escalation rate of 4% over the next 10-yrs.									
F	MWD Projected Unit Price	$ 979	$ 1,015	$ 1,053	$ 1,092	$ 1,123	$ 1,164	$ 1,205	$ 1,249	$ 1,296	$ 1,344	
G	WMWD Additional Transmission Costs	$ 60	$ 62	$ 65	$ 67	$ 70	$ 73	$ 76	$ 79	$ 82	$ 85	
H	RPU Commodity Charge	$ 202	$ 208	$ 215	$ 222	$ 225	$ 232	$ 238	$ 246	$ 254	$ 262	
I	RPU Capital Recovery	$ 259	$ 269	$ 280	$ 291	$ 303	$ 315	$ 328	$ 341	$ 354	$ 369	
J	Energy	$ 115	$ 120	$ 124	$ 129	$ 135	$ 140	$ 146	$ 151	$ 157	$ 164	
K	O&M	$ 142	$ 148	$ 154	$ 160	$ 166	$ 173	$ 180	$ 187	$ 194	$ 202	
L	Surplus Water Sales Unit Price	$ 718	$ 745	$ 773	$ 802	$ 828	$ 859	$ 891	$ 925	$ 960	$ 997	10-YR Revenue
M	**Surplus Water Sales Revenue**	$ 1,435,000	$ 1,489,240	$ 1,546,210	$ 1,604,938	$ 1,656,456	$ 1,718,794	$ 1,781,985	$ 1,849,065	$ 1,920,067	$ 1,993,030	$ 16,994,785

* RPU Commodity Charge will be calculated annually based on splitting the difference between Riverside's wheeling cost (Capital Recovery, Energy, and O&M), less Western's weighted average transmission and delivery costs at all current and future interconnections, and MWD's Tier 1 costs.

SHARED BENEFIT METHODOLOGY												
N	**Western's Savings**	$ 403,000	$ 415,960	$ 429,998	$ 444,078	$ 449,161	$ 463,208	$ 476,176	$ 491,023	$ 507,704	$ 524,172	$ 4,604,482
O	**RPU Commodity**	$ 403,000	$ 415,960	$ 429,998	$ 444,078	$ 449,161	$ 463,208	$ 476,176	$ 491,023	$ 507,704	$ 524,172	$ 4,604,482

As approved by City Council
10/28/2014

Riverside Public Utilities

Policy Principles for Water Portfolio Management

Background

Riverside Public Utilities has invested significantly in water supply facilities to extract and convey local groundwater resources as well as in peaking, emergency, and redundant supply capacity from the Metropolitan Water District of Southern California. The diversity of local water supply facilities -- including 54 active groundwater wells overlying three groundwater basins -- coupled with three primary imported water connections creates a high level of redundancy and reliability for customers served by Riverside Public Utilities. RPU's goal of "Water Independence" will be defined and guided by the following policy principles.

Policy Principles

- Riverside recognizes its important role as stewards managing a publicly owned resource for the benefit of a diverse community of agricultural, commercial, institutional and residential stakeholders.

- Riverside will plan water supply projects to minimize its operational reliance on imported water and insulate the community from external pressures faced by other communities dependent on the Bay-Delta water conveyance facilities while appropriately advocating for a viable state water supply system.

- Riverside will strive to annually exercise its maximum allowable groundwater production and export rights under the 1969 Western Judgment.

    - In exercising its rights, Riverside will preferentially produce water at the lowest cost, while ensuring acceptable water quality, best practices for basin management, and compliance with agreements, judgments, and other restrictions.

- Riverside recognizes the critical role that conjunctive management of surface, recycled, and groundwater supplies play in the protection, reliability and sustainability of local, regional, and statewide water supplies for water users and the environment.

    - In recognizing such, Riverside will work cooperatively with regional and wholesale water agencies to purchase and "bank" imported water when economically and physically feasible.

    - Riverside will continually evaluate the economic feasibility of using imported water to extend recycled water supplies when used for groundwater recharge.

- Riverside will strive to appropriately monetize unused and potentially expiring local water production and export rights through pre-planned and pre-executed water sales agreements.

- Riverside will ensure water supply availability for its customers through appropriate and economically balanced local and imported water supplies, conservation and water use efficiency, and demand management measures.

DISCUSSION CALENDAR

9 2017 COOPERATIVE AGREEMENT FOR LONG-TERM WHEELING AND SURPLUS WATER SALES WITH WESTERN MUNICIPAL WATER DISTRICT THROUGH JUNE 30, 2037 FOR PRODUCTION, TREATMENT AND CONVEYANCE OF WESTERN WATER AND THROUGH JUNE 30, 2027 FOR RIVERSIDE WATER

Assistant General Manager/Water Todd Jorgenson gave a presentation of the background and economic impacts & benefits this cooperative agreement partnership with WMWD would bring to the City of Riverside.

WMWD representatives, Tim Barr (Director of Water Resources) and Michele McKinney (Director of Community Affairs) were in attendance and Mr. Barr informed the Board that the WMWD Board approved the agreement at their meeting on April 12, 2017.

Also noted was a typo in the title of the report that needed to be changed from "converyance" to "conveyance".

Following discussion, the Board of Public Utilities recommended that the City Council:

1. Approve the Cooperative Agreement for long-term Wheeling and Surplus Water sales with Western Municipal Water District of Riverside County; and

2. Authorize the City Manager or designee to execute the agreement.

Motion – Walcker. Second – Crohn.

Ayes: Austin, Crohn, Foust, Oceguera, Russo-Pereyra, Sanchez-Monville, and Walcker.

Absent: Jennifer O'Farrell.