

CITY OF YUBA CITY
STAFF REPORT

Date: May 17, 2022
To: Honorable Mayor & Members of the City Council
From: Public Works Department
Presentation By: Ben Moody, Public Works & Development Services Director

Summary

Subject: Barry Elementary School Waterline Extension Project (Plans & Specifications)

Recommendation: A. Adopt a Resolution approving the plans and specifications for the Barry Elementary School Waterline Extension Project (15-06) and authorizing advertisement for bids on the project

B. Adopt a Resolution designating and authorizing the Public Works Director to sign and enter into the Initial Drinking Water State Revolving Fund Construction Loan Funding Agreement, and any amendments made thereto, with the State Water Resource Control Board for construction of the Barry Elementary School Waterline Extension Project, subject to approval as to legal form by the City Attorney

C. Adopt a Resolution authorizing the City Manager to execute an Out of Agency Water Service Agreement with Yuba City Unified School District in accordance with Sutter County Local Agency Formation Commission (LAFCO) requirements and the terms of the State Funding Agreement, subject to review and approval as to legal form by the City Attorney

Fiscal Impact: Engineer's Estimate: \$3,923,000 – Account No. 1258 (Barry School Water Transmission Line)

Purpose:

To facilitate the construction of the Barry School Waterline Extension Project to provide water service to Barry Elementary School.

Council's Strategic Goal:

This project addresses City Council's Strategic Goals of improving the City's Infrastructure and operating our City government in a fiscally responsible manner.

Background:

Barry Elementary School is located at 1255 Barry Road in Yuba City, and it has a student population of approximately 700 students. In 2009, the California Department of Public Health issued a non-

compliance order to Barry Elementary School for non-compliance with a maximum contaminant level for arsenic. In coordination with the State Water Resources Control Board (State), the school prepared a Feasibility Study to determine viable options to provide clean drinking water to the school. Due to long term costs and operation requirements for onsite treatment, the study determined that the most viable option was to obtain water from the City.

On June 2, 2015, Council approved providing water service to Barry Elementary School and authorized staff to proceed with a state grant application to determine project eligibility and funding. On September 1, 2015, Council authorized the City Manager to sign a financial assistance application for a financing agreement with the State for the planning and design of the Barry Elementary School Waterline Extension Project. The project includes the construction of approximately 12,580 LF of new City waterlines to extend water services to Barry Elementary School (Attachment 5).

In August 2016, Council approved the project's Environmental Initial Study/Mitigated Negative Declaration. There has not been any substantial new information acquired nor changes to the project since it was evaluated, and no further evaluation for this portion of the project is required under CEQA. On January 16, 2018, Council approved an agreement for professional services to MHM, Inc. of Marysville for design of the project.

Since the City's initial application in 2015, the project review period, by the State, lapsed several fiscal years while funding was trying to be programmed and thus underwent multiple internal State processes for financial and technical evaluations. Staff submitted all required documents to the State in a timely fashion upon request. On March 15, 2022, the State concluded their final review of the City's financial application and released an Initial Draft Funding Agreement (Attachment 2a) providing for \$2,380,000 in principal forgiveness for all costs encumbered through planning, design, and construction.

Analysis:

Plans and Specifications:

The plans, specifications, and estimate for the Barry Elementary School Waterline Extension Project have been completed. Staff proposes to move forward with the project at the following anticipated schedule, with the supposition that Council approves the project and the State Funding Agreement is executed by both parties:

Advertise for Bid:	June - July 2022
Final Budget Approval Process:	August 2022 – October 2022
Award Contract:	November 2022
Start of Construction:	December 2022
Completion:	Winter 2023

The plans and specifications for the project are on file in the Public Works Department at City Hall and at <http://www.yubacity.net/publicworksplans> for review.

Funding Agreement:

The State has requested that the City give authority for designated staff to enter into the pending project Initial Funding Agreement. The Initial Funding Agreement will commit the State to provide full funding amounts, and for the City to construct the waterline project in accordance with the terms of the agreement. The State will submit the initial agreement for execution within a thirty (30) day time frame upon Council resolution designating and authorizing the Public Works Director to execute.

Due to the existing inflationary environment and extremely high construction material and labor costs,

staff believes the principal forgiveness funding amount of \$2,380,000 is insufficient. Staff presented the State with an updated estimate of \$3,923,000 based on cost comparisons and adjustments of similar items of work for the Bridge St. Widening Project and other similar state-funded projects within the last 6 months.

Upon review of the updated estimate submitted by the City and internal files for similarly funded projects bidding for over the original funding amount, the State acknowledges the existing principal forgiveness amount of \$2,380,000 is too low.

With assurances from State staff and due to State processes, staff recommends authorizing the Public Works Director to execute the Initial Funding Agreement to avoid further delays, with the assurance that a State Funding Amendment will need to be processed prior to award.

The State's Credit Department has approved the revised \$3,923,000 (Attachment 4) and the Division of Financial Assistance has provided reasonable assurances that the project will be 100% funded given the substantial increase in funding expected upon receiving bids, citing the school's water quality and profile, and assuming the City's financials will not change. Additionally, the DWSRF Intended Use Plan (IUP) stipulates Category A-C consolidation projects that serve small disadvantaged communities (DACs), small severely disadvantaged communities (SDACs), expanded small DACs/SDACs, medium DACs, or small non-DACs with median household income (MHIs) less than 150% of the statewide MHI, are eligible for 100% grant/principal forgiveness (PF) funding up to \$60,000 per connection. The number of connections for the project is calculated by taking the population of Barry Elementary School (650) and dividing it by 3.3 (per Drinking Water Standards) for 197 connections, so the revised cost of \$3,923,000 is well within program limits.

Upon bid review, staff will complete a Final Budget Approval Package (FBA Package) with actual costs based on bids. This package will be submitted to the State for review and approval prior to award of a construction contract. The State review period is expected to take 60-90 days. The bid specifications require bids to be valid for 120-days.

Water Service Agreement:

The State requires the City enter into an Out of Agency Water Service Agreement (Attachment 3a) to finalize conditions for State funding, and to implement the project in accordance with Sutter County Local Agency Formation Commission (LAFCO) requirements and terms established with Barry Elementary School as a new water customer outside the City limits and City sphere of influence.

On March 5, 2019, City Council adopted a policy allowing existing parcels within the Sphere of Influence, but outside the City limits, to connect to City water services if the owner enters into an Extraterritorial Water Service Agreement. The Out of Agency Water Service Agreement with Yuba City Unified, is a modified City Extra Territorial Water Service Agreement incorporating LAFCO requirements allowing the City to provide water service outside the City's sphere of influence. The general intent of the agreement is to highlight details of the City's intent to build a waterline and provide water services to Barry Elementary School, with funding from the state. Additionally, the State requires the City to maintain the 3-inch distribution waterline from the City water main to the point of connection at Barry Elementary School. The agreement requires Yuba City Unified to reimburse the City for the cost of maintaining this distribution waterline.

LAFCO approved the Out of Agency Water Service Agreement at their July 8, 2020 meeting. The agreement was also approved by Yuba City Unified School District at their May 6, 2020 Board meeting (Attachment 3b).

Staff has worked with the City Attorney, State, and Yuba City Unified School District to work out the

terms of the agreement that are acceptable to all parties.

Fiscal Impact:

The estimated total project cost is \$3,923,000 including design, contingency, construction management, and inspection costs. The project is anticipated to be 100% funded through the Drinking Water State Revolving Fund Drinking Water Construction Loan Grant and encumbered through CIP Account No. 1258 (Barry School Water Transmission Line).

Detailed fiscal impacts will be presented to Council at the award of the contract based on the actual bid amounts and revised FBA package approved by the State.

Prior to award, there will be an opportunity to terminate the Agreement if the State does not provide 100% funding through an anticipated amendment based on the actual bid amount.

Environmental:

A draft Initial Study/Mitigated Negative Declaration (IS/MND), was prepared and filed with the State Clearinghouse (SCH # 2016062026) on June 9, 2016 and the Sutter County Clerk on June 9, 2016. The draft IS/MND was circulated for public review from June 9, 2016 through July 11, 2016. No comments were received during the public review period. Council adopted the final version of the Mitigated Negative Declaration on August 16, 2016.

There has not been any substantial new information acquired nor changes to the project since it was evaluated, and no further evaluation for this portion of the project is required under CEQA.

Alternatives:

Provide staff with alternative direction related to the project and funding.

Recommendation:

- A. Adopt a Resolution approving the plans and specifications for the Barry Elementary School Waterline Extension Project (15-06) and authorizing advertisement for bids on the project.
- B. Adopt a Resolution designating and authorizing the Public Works Director to sign and enter into the Initial Drinking Water State Revolving Fund Construction Loan Funding Agreement, and any amendments made thereof, with the State Water Resource Control Board for construction of the Barry Elementary School Waterline Extension Project, subject to approval as to legal form by the City Attorney.
- C. Adopt a Resolution authorizing the City Manager to execute a Extraterritorial Water Service Agreement with Yuba City Unified School District in accordance with Sutter County Local Agency Formation Commission (LAFCO) requirements and the terms of the State Funding Agreement, subject to review and approval as to legal form by the City Attorney.

Attachments:

- 1. Resolution – Barry Elementary School Waterline Extension Project Approval of Plans and Specifications
- 2. Resolution – Barry Elementary School Waterline Extension Project Authorizing Agreement
- 3. Draft Initial Funding Agreement

4. Resolution – Barry Elementary School Waterline Extension Project Water Service Agreement
5. State Correspondence – Barry Elementary School Waterline Extension Project
6. Vicinity Map – Barry Elementary School Waterline Extension Project

Prepared By:

Nick Menezes
Assistant Engineer

Submitted By:

Diana Langley
City Manager

ATTACHMENT 1

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YUBA CITY
APPROVING THE PLANS AND SPECIFICATIONS FOR THE BARRY
SCHOOL WATERLINE EXTENSION PROJECT (PROJECT NO. 15-06)
AND AUTHORIZING ADVERTISEMENT FOR BIDS ON THE PROJECT**

WHEREAS, the Public Works Department intends to solicit bids for construction of the Barry School Waterline Extension Project (15-06) (Project).

NOW, THEREFORE, be it resolved and ordered by the City Council of Yuba City as follows:

1. The Council finds this project has been fully assessed for the purposes of the California Environmental Quality Act (CEQA). An initial study and Mitigated Negative Declaration were previously prepared and adopted by the City for the Project. This approval is to implement that project. An analysis has been performed pursuant CEQA Guidelines §15162 to determine whether subsequent environmental review is required for the approval of this agreement and associated construction. Based upon this analysis, no subsequent environmental review is required as i) no substantial changes are proposed in the project which will require major revisions of the previous Mitigated Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; ii) no substantial changes have occurred with respect to the circumstances under which the project is undertaken which will require major revisions of the previous negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; iii) there is no new information, which was not known and could not have been known at the time of the adoption of the previous Mitigated Negative Declaration that the project will have significant effect not discussed in the Mitigated Negative Declaration. Furthermore, since a Mitigated Negative Declaration was previously adopted for this project, the considerations set forth in CEQA Guidelines §15162(a)(3)(C) and (D), related to the adequacy and feasibility of previously adopted mitigation measures, are not applicable. Based upon these findings, it has been determined that no further environmental documentation is required for this project.
2. The plans and specifications for the Project are approved.
3. The Public Works Department is hereby authorized and directed to advertise for bids for the Project.

The foregoing Resolution was duly and regularly introduced, passed, and adopted by the City Council of the City of Yuba City at a regular meeting thereof held on the 17th day of May, 2022.

AYES:

NOES:

ABSENT:

Dave Shaw, Mayor

ATTEST:

Ciara Wakefield, Deputy City Clerk

APPROVED AS TO FORM
COUNSEL FOR YUBA CITY:

Shannon Chaffin, City Attorney
Aleshire & Wynder, LLP

ATTACHMENT 2

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YUBA CITY
DESIGNATING AND AUTHORIZING THE PUBLIC WORKS DIRECTOR TO EXECUTE THE
DRINKING WATER STATE REVOLVING FUND CONSTRUCTION FINANCIAL ASSISTANCE
AGREEMENT AND AMENDMENTS OR CHANGES THERETO AND CERTIFY FINANCING
AGREEMENT DISBURSEMENTS ON BEHALF OF THE CITY OF YUBA CITY FOR THE
IMPLEMENTATION OF THE BARRY ELEMENTARY SCHOOL WATERLINE EXTENSION
PROJECT**

WHEREAS, The City of Yuba City (City) has applied for funding with the State Water Resources Control Board (SWRCB) for the construction of Barry Elementary School Waterline Extension Project; and

WHEREAS, prior to SWRCB executing a Drinking Water Construction Loan Agreement (Agreement), the City is required to adopt a Resolution authorizing an officer to execute said Agreement and amendments, designating a person or persons to approve claims for reimbursement, designating a person or persons to sign the Budget and Expenditure Summary, designating a person or persons to sign Certification of Project Completion, designating a person to review and approve claim forms, and designating a person to sign the Final Release form.

NOW, THEREFORE, be it resolved and ordered by the City Council of Yuba City as follows:

1. The Public Works Director (the "Authorized Representative") is hereby authorized to sign the Initial Drinking Water State Revolving Fund Construction Loan Funding Agreement, and any amendments made thereof, from the SWRCB for the construction of the Barry Elementary School Waterline Extension Project (Project).
2. The Authorized Representative is designated to provide the assurances, certifications, and commitments required for the executing of the agreement from the SWRCB and any amendments or changes thereto.
3. The Authorized Representative, is designated to represent the City in carrying out the City's responsibilities under the agreement, including certifying disbursement requests on behalf of the City and compliance with applicable state and federal laws.

The foregoing Resolution was duly and regularly introduced, passed, and adopted by the City Council of the City of Yuba City at a regular meeting thereof held on the 17TH day of May, 2022.

AYES:

NOES:

ABSENT:

Dave Shaw, Mayor

Ciara Wakefield, Deputy City Clerk

APPROVED AS TO FORM
COUNSEL FOR YUBA CITY:

Shannon Chaffin, City Attorney
Aleshire & Wynder, LLP

Attachments:

Attachment B – Draft Agreement



DRINKING WATER CONSTRUCTION LOAN

AGREEMENT No. D2102019
by and between
CITY OF YUBA CITY ("Recipient")
AND
CALIFORNIA STATE WATER RESOURCES CONTROL BOARD ("State Water Board")

for the purpose of the

BARRY ELEMENTARY SCHOOL WATER LINE EXTENSION
PROJECT NO. 5110002-016C

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- Section 116760 et seq. of the Health and Safety Code and Resolution Nos. 2021-0022 and 2019-0065.

PROJECT FUNDING AMOUNT: \$2,380,000.00
PRINCIPAL FORGIVENESS COMPONENT: \$2,380,000.00

ESTIMATED REASONABLE PROJECT COST: \$2,380,000.00
ELIGIBLE WORK START DATE: DECEMBER 16, 2015
ELIGIBLE CONSTRUCTION START DATE: OCTOBER 26, 2021
CONSTRUCTION COMPLETION DATE: JUNE 1, 2025
FINAL REIMBURSEMENT REQUEST DATE: JANUARY 1, 2026
RECORDS RETENTION END DATE: JUNE 1, 2061

1. The State Water Board and the Recipient mutually promise, covenant, and agree to the terms, provisions, and conditions of this Agreement, including the following Exhibits, which are attached hereto or are incorporated by reference:
 - EXHIBIT A – SCOPE OF WORK AND SCHEDULE
 - EXHIBIT B – SPECIFIC FUNDING PROVISIONS
 - EXHIBIT C – GENERAL TERMS AND CONDITIONS 2019-NOV
 - EXHIBIT D – SPECIAL CONDITIONS

2. The following documents are also incorporated by reference:
 - the Final Plans & Specifications, which are the basis for the construction contract to be awarded by the Recipient;
 - the Drinking Water System Permit No. 5110002
 - Administrator Order No. 082108192
 - the Davis-Bacon requirements found at:

https://www.waterboards.ca.gov/water_issues/programs/grants_loans/srf/docs/davisbacon/2021_dwsrf_governmental_entities.pdf

3. Party Contacts during the term of this Agreement are:

State Water Board		City of Yuba City
Section:	Division of Financial Assistance	
Name:	Michael Ngai	Name: Dave Vaughn, City Manager
Address:	1001 I Street, 16th Floor	Address: 1201 Civic Center Blvd
City, State, Zip:	Sacramento, CA 95814	City, State, Zip: Yuba City, CA 95993
Phone:	(916) 319-9060	Phone: (530) 822-4602
Email:	Michael.Ngai@waterboards.ca.gov	Email: dvaughn@yubacity.net

Each party may change its contact upon written notice to the other party. While Party Contacts are contacts for day-to-day communications regarding Project work, the Recipient must provide official communications and notices to the Division’s Deputy Director.

4. Conditions precedent to this Agreement are set forth as follows:
 - (a) The Recipient must deliver to the Division a resolution authorizing this Agreement and identifying its authorized representative by title.
 - (b) The Recipient must deliver an opinion of general counsel satisfactory to the State Water Board’s counsel dated on or after the date that the Recipient signs this Agreement.

5. The Recipient represents, warrants, and commits to the following as of the Eligible Work Start Date and continuing thereafter for the term of this Agreement, which shall be at least until the Records Retention End Date:
 - (a) The Recipient agrees to comply with all terms, provisions, conditions, and commitments of this Agreement, including all incorporated documents.

 - (b) The execution and delivery of this Agreement, including all incorporated documents, has been duly authorized by the Recipient. Upon execution by both parties, this Agreement constitutes a valid and binding obligation of the Recipient, enforceable in accordance with its terms, except as such enforcement may be limited by law.

- (c) None of the transactions contemplated by this Agreement will be or have been made with an actual intent to hinder, delay, or defraud any present or future creditors of Recipient. The Recipient is solvent and will not be rendered insolvent by the transactions contemplated by this Agreement. The Recipient is able to pay its debts as they become due. The Recipient maintains sufficient insurance coverage considering the scope of this Agreement, including, for example but not necessarily limited to, general liability, automobile liability, workers compensation and employer liability, professional liability.
 - (d) The Recipient is in compliance with all State Water Board funding agreements to which it is a party.
6. This Agreement may be executed and delivered in any number of counterparts, each of which when delivered shall be deemed to be an original, but such counterparts shall together constitute one document. The parties may sign this Agreement either by an electronic signature using a method approved by the State Water Board or by a physical, handwritten signature. The parties mutually agree that an electronic signature using a method approved by with the State Water Board is the same as a physical, handwritten signature for the purposes of validity, enforceability, and admissibility.

DRAFT

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CITY OF YUBA CITY:

STATE WATER RESOURCES CONTROL BOARD:

By: _____
Name: Dave Vaughn
Title: City Manager

By: _____
Name: Joe Karkoski
Title: Deputy Director
Division of Financial Assistance

Date: _____

Date: _____

DRAFT

EXHIBIT A – SCOPE OF WORK AND SCHEDULE

A.1 PROJECT PURPOSE AND DESCRIPTION.

The Project is for the benefit of the Recipient and has a Useful Life of 30 years. The funding under this Agreement shall be used for the benefit of the Recipient and has a Useful Life of at least 30 years. The funding under this Agreement shall be used to connect two (2) major water mains and extend water services to Barry Elementary School (School) for connecting to the City of Yuba City's (City's) water system. This consolidation will address the School's arsenic maximum contaminant level (MCL) violation.

A.2 SCOPE OF WORK.

The Recipient agrees to do the following: This Project will construct an extension of the City's water system to the School to address the arsenic MCL violation. City water service will be provided through a 1.16 mile, 3-inch waterline that will run south along Railroad Avenue and west along Barry Road, where it will end in connection to the School. The point of connection for the 3-inch line will begin at the intersection of Railroad Ave (extension of a 14-inch waterline) and Stewart Road (extension of a 12-inch waterline) where both mains intersect to create a loop. Creating a loop will keep water flowing, prevent the degradation of water quality, and ensure that the School's students receive good quality water.

Upon Completion of Construction, the Recipient must expeditiously initiate Project operations.

A.3 SIGNAGE

The Recipient must place a professionally prepared sign at least four feet tall by eight feet wide made of ¾ inch thick exterior grade plywood or other approved material in a prominent location on the Project site and must maintain the sign in good condition for the duration of Project implementation. The sign may include another agency's required information and must include, prominently displayed, the following disclosure statement and color logos available from the Division.



Funding for this project has been provided in full or in part under the Drinking Water State Revolving Fund, which may include capitalization funding from the United States Environmental Protection Agency through an agreement with the State Water Resources Control Board.

A.4 SCHEDULE.

Failure to provide items by the due dates indicated in the table below may constitute a material violation of this Agreement. The Project Manager may adjust the dates in the "Estimated Due Date" column of this table, but Critical Due Date adjustments will require an amendment to this Agreement. The Recipient must complete and submit all work in time to be approved by the Division prior to Project Completion. As applicable for specific submittals, the Recipient must plan adequate time to solicit, receive, and address comments prior to submitting the final submittal. The Recipient must submit the final Reimbursement Request prior to the Final Reimbursement Request Date set forth on the Cover Page.

ITEM	DESCRIPTION OF SUBMITTAL	CRITICAL DUE DATE	ESTIMATED DUE DATE
SCOPE OF WORK			
1	Finalize bid document and advertise for bid	N/A	10/1/2022
2	Construction Begins	N/A	6/1/2023
3	Construction Completion	6/1/2025	N/A
REPORTING			
1	Progress Reports	N/A	Quarterly
2	Final Project Inspection and Certification	N/A	1/1/2026
3	Project Completion Report	N/A	1/1/2026
4	As Needed Information and Reports	N/A	As Requested by Division
BUDGET COSTS AND REIMBURSEMENT			
1	First Reimbursement Request	No later than 90 days from Agreement Execution Date	N/A
2	Final Budget Approval Package	N/A	2/1/2023
3	Reimbursement Requests	N/A	Quarterly
4	Final Reimbursement Request	1/1/2026	N/A

The Recipient must award the prime construction contract and begin construction timely. The Recipient must deliver any request for extension of the Completion of Construction Date no less than 90 days prior to the Completion of Construction Date.

The Division may require corrective work to be performed prior to Project Completion. The State Water Board is not obligated to reimburse corrective work under this Agreement.

A.5 PROGRESS REPORTS.

The Recipient must provide a progress report to the Division each quarter, beginning no later than 90 days after execution of this Agreement. The Recipient must provide a progress report with each Reimbursement Request. Failure to provide a complete and accurate progress report may result in the withholding of Project Funds, as set forth in Exhibit B. A progress report must contain the following information:

- 1) A summary of progress to date including a description of progress since the last report, percent construction complete, percent contractor invoiced, and percent schedule elapsed;
- 2) A description of compliance with environmental requirements;
- 3) A listing of change orders including amount, description of work, and change in contract amount and schedule; and
- 4) Any problems encountered, proposed resolution, schedule for resolution, and status of previous problem resolutions.

A.6 PROJECT COMPLETION REPORT.

(a) The Recipient must submit a Project Completion Report to the Division with a copy to the appropriate District Office on or before the due date established by the Division and the Recipient at the time of final project inspection. The Project Completion Report must include the following:

- i. Description of the Project,
- ii. Description of the water quality problem the Project sought to address,
- iii. Discussion of the Project's likelihood of successfully addressing that water quality problem in the future, and
- iv. Summary of compliance with applicable environmental conditions.

(b) If the Recipient fails to submit a timely Project Completion Report, the State Water Board may stop processing pending or future applications for new financial assistance, withhold reimbursements under this Agreement or other agreements, and begin administrative proceedings.

A.7 SPECIAL REPORTS.

The Recipient must report Disadvantaged Business Enterprise (DBE) utilization to the Division on the DBE Utilization Report, State Water Board Form DBE UR334. The Recipient must submit such reports to the Division annually within ten (10) calendar days following October 1 until such time as the "Notice of Completion" is issued. The Recipient must comply with 40 CFR § 33.301 and require its contractors and subcontractors on the Project to comply.

A.8 FINAL PROJECT INSPECTION AND CERTIFICATION.

Upon completion of the Project, the Recipient must provide for a final inspection and must certify that the Project has been completed in accordance with this Agreement, any final plans and specifications submitted to the State Water Board, and any amendments or modifications thereto. If the Project involves the planning, investigation, evaluation, design, or other work requiring interpretation and proper application of engineering, or other professionals, the final inspection and certification must be conducted by a California Registered Civil Engineer or other appropriate California registered professional. The results of the final inspection and certification must be submitted to the Project Manager.

EXHIBIT B – FUNDING AMOUNTS

B.1 ESTIMATED REASONABLE COST AND PROJECT FUNDS.

The estimated reasonable cost of the total Project is set forth on the Cover Page of this Agreement, and is greater than or equal to the funding anticipated to be provided by the State Water Board under this Agreement. Subject to the terms of this Agreement, the State Water Board agrees to provide Project Funds not to exceed the amount of the Project Funding Amount set forth on the Cover Page of this Agreement.

B.2 RECIPIENT CONTRIBUTIONS.

The Recipient must pay any and all costs connected with the Project including, without limitation, any and all Project Costs. If the Project Funds are not sufficient to pay the Project Costs in full, the Recipient must nonetheless complete the Project and pay that portion of the Project Costs in excess of available Project Funds, and shall not be entitled to any reimbursement therefor from the State Water Board.

The loan component of this Agreement is forgiven. The estimated amount of principal that will be due to the State Water Board from the Recipient under this Agreement is Zero dollars and no cents (\$0.00).

Only expenses that are otherwise eligible under the Guidelines will be counted towards the Match Contribution. Costs incurred prior to the adoption of do not count towards the Match Contribution. If, at Work Completion, the Recipient has contributed less than the full Match Contribution, the State Water Board may proportionately reduce the Project Funding Amount, upon approval of the Deputy Director of the Division.

B.3 VERIFIABLE DATA.

Upon request by the Division, the Recipient must submit verifiable data to support deliverables specified in the Scope of Work. The Recipient's failure to comply with this requirement may be construed as a material breach of this Agreement.

B.4 BUDGET COSTS

Estimated budget costs are contained in the Summary Project Cost Table below:

ITEM	DESCRIPTION	TOTAL ESTIMATED COST	PROJECT FUNDING AMOUNT
A	Construction Cost	\$1,808,100	\$1,808,100
B	Pre-Purchased Material/Equipment	\$0	\$0
C	Purchase of Land	\$0	\$0
D	Contingencies	\$180,810	\$180,810
E	Allowances	\$391,090	\$391,090
	Total	\$2,380,000	\$2,380,000

The Division's Final Budget Approval and related Form 259 and Form 260 will document a more detailed budget of eligible Project Costs and Project funding amounts.

Reasonable indirect costs may be allowable upon approval by the Division.

The Recipient is prohibited from requesting disbursement amounts that represent Recipient's mark-ups to costs invoiced or otherwise requested by consultants or contractors.

B.5 LINE ITEM ADJUSTMENTS.

Upon written request by the Recipient, the Division may adjust the line items of the Summary Project Cost Table at the time of Division's Final Budget Approval. Upon written request by the Recipient, the Division may also

adjust the line items of the Summary Project Cost Table as well as the detailed budget at the time of Recipient's submittal of its final claim. Any line item adjustments to the Summary Project Cost Table that are due to a change in scope of work will require an Agreement amendment. The sum of adjusted line items in both the Summary Project Cost Table and the detailed budget must not exceed the Project Funding Amount. The Division may also propose budget adjustments.

Under no circumstances may the sum of line items in the budget approved through the Final Budget Approval process exceed the Project Funding Amount. Any increase in the Project Funding Amount will require an Agreement amendment.

B.6 REIMBURSEMENT PROCEDURE.

Except as may be otherwise provided in this Agreement, reimbursements will be made as follows:

1. Upon execution and delivery of this Agreement by both parties, the Recipient may request immediate reimbursement of any eligible incurred planning and design allowance costs through submission to the State Water Board of the Reimbursement Request Form 260 and Form 261, or any amendment thereto, duly completed and executed.
2. The Recipient must submit a Reimbursement Request for costs incurred prior to the date this Agreement is executed by the State Water Board no later than ninety (90) days after this Agreement is executed by the State Water Board. Late Reimbursement Requests may not be honored.
3. Additional Project Funds will be promptly disbursed to the Recipient upon receipt of Reimbursement Request Form 260 and Form 261, or any amendment thereto, duly completed and executed by the Recipient for incurred costs consistent with this Agreement, along with receipt of progress reports due under this Agreement.
4. The Recipient must not request reimbursement for any Project Cost until such cost has been incurred and is currently due and payable by the Recipient, although the actual payment of such cost by the Recipient is not required as a condition of Reimbursement Request. Supporting documentation (e.g., receipts) must be submitted with each Reimbursement Request. The amount requested for Recipient's administration costs must include a calculation formula (i.e., hours or days worked times the hourly or daily rate = total amount claimed). Reimbursement of Project Funds will be made only after receipt of a complete, adequately supported, properly documented, and accurately addressed Reimbursement Request. Upon request by the Division, supporting documents for professional and administrative services must include the employees' names, classifications, labor rates, hours worked, and descriptions of the tasks performed. Reimbursement Requests submitted without supporting documents may be wholly or partially withheld at the discretion of the Division.
5. The Recipient must spend Project Funds within 30 days of receipt. If the Recipient earns interest earned on Project Funds, it must report that interest immediately to the State Water Board. The State Water Board may deduct earned interest from future reimbursements.
6. The Recipient must not request a reimbursement unless that Project Cost is allowable, reasonable, and allocable.
7. Notwithstanding any other provision of this Agreement, no reimbursement shall be required at any time or in any manner which is in violation of or in conflict with federal or state laws, policies, or regulations.

Notwithstanding any other provision of this Agreement, the Recipient agrees that the State Water Board may retain an amount equal to ten percent (10%) of the Project Funding Amount until Project Completion. Any retained amounts due to the Recipient will be promptly disbursed to the Recipient, without interest, upon Project Completion.

Except as follows, construction costs and disbursements are not available until after the Division has approved the final budget form submitted by the Recipient. The Deputy Director of the Division may authorize the disbursement of up to ten percent (10%) of Project Funds for the reimbursement of eligible construction costs and pre-purchased materials prior to Division approval of the final budget form submitted by the Recipient. All other construction costs are not eligible for reimbursement until after the Division has approved the final budget form submitted by the Recipient. Construction costs incurred prior to the Eligible Construction Start Date are not eligible for reimbursement.

B.7 REVERTING FUNDS AND DISENCUMBRANCE.

In the event the Recipient does not submit Reimbursement Requests for all funds encumbered under this Agreement timely, any remaining funds revert to the State. The State Water Board may notify the Recipient that

the project file is closed, and any remaining balance will be disencumbered and unavailable for further use under the Agreement.

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EXHIBIT C – GENERAL TERMS AND CONDITIONS 2019-NOV

GENERAL TERMS AND CONDITIONS 2019-NOV is incorporated by reference and is posted at https://www.waterboards.ca.gov/water_issues/programs/grants_loans/general_terms.html

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EXHIBIT D – SPECIAL CONDITIONS

D.1 DEFINITIONS

(a) Notwithstanding Exhibit C, the following terms have no meaning for the purposes of this Agreement:

- Work Completion
- Work Completion Date

Each capitalized term used in this Agreement has the following meaning:

- "Allowance" means an amount based on a percentage of the accepted bid for an eligible project to help defray the planning, design, and construction engineering and administration costs of the Project.
- "Authorized Representative" means the duly appointed representative of the Recipient as set forth in the certified original of the Recipient's authorizing resolution that designates the authorized representative by title.
- "Completion of Construction" means the date, as determined by the Division after consultation with the Recipient, that the work of building and erection of the Project is substantially complete, and is established on the Cover Page of this Agreement.
- "District Office" means District Office of the Division of Drinking Water of the State Water Board.
- "Division of Drinking Water" means the Division of Drinking Water of the State Water Board.
- "Eligible Construction Start Date" means the date set forth on the Cover Page of this Agreement, establishing the date on or after which construction costs may be incurred and eligible for reimbursement hereunder.
- "Eligible Work Start Date" means the date set forth on the Cover Page of this Agreement, establishing the date on or after which any non-construction costs may be incurred and eligible for reimbursement hereunder.
- "Enterprise Fund" means the enterprise fund of the Recipient in which Revenues are deposited.
- "Event of Default" means, in addition to the meanings set forth in Exhibit C, the occurrence of any of the following events:
 - a) A material adverse change in the condition of the Recipient, the Revenues, or the System, which the Division reasonably determines would materially impair the Recipient's ability to satisfy its obligations under this Agreement.
 - b) Failure to operate the System or the Project, unless the Division has given its approval for such non-operation;
 - c) The occurrence of a material breach or event of default under any Recipient obligation that results in the acceleration of principal or interest or otherwise requires immediate prepayment, repurchase or redemption;
 - d) The occurrence of a material breach or event of default under any of the following agreements, that the Division determines would materially impair the Recipient's ability to satisfy its obligations under this Agreement
- "Final Budget Approval (FBA)" means the Division-approved final budget for the Project, as set forth in Exhibit B.
- "Indirect Costs" means those costs that are incurred for a common or joint purpose benefiting more than one cost objective and are not readily assignable to the Project (i.e., costs that are not directly related to the Project). Examples of Indirect Costs include, but are not limited to: central service costs; general administration of the Recipient; non-project-specific accounting and

personnel services performed within the Recipient organization; depreciation or use allowances on buildings and equipment; the costs of operating and maintaining non-project-specific facilities; tuition and conference fees; generic overhead or markup; and taxes.

- "Initiation of Construction" means the date that notice to proceed with work is issued for the Project, or, if notice to proceed is not required, the date of commencement of building and erection of the Project.
- "Net Revenues" means, for any Fiscal Year, all Revenues received by the Recipient less the Operations and Maintenance Costs for such Fiscal Year.
- "Operations and Maintenance Costs" means the reasonable and necessary costs paid or incurred by the Recipient for maintaining and operating the System, determined in accordance with GAAP, including all reasonable expenses of management and repair and all other expenses necessary to maintain and preserve the System in good repair and working order, and including all reasonable and necessary administrative costs of the Recipient that are charged directly or apportioned to the operation of the System, such as salaries and wages of employees, overhead, taxes (if any), the cost of permits, licenses, and charges to operate the System and insurance premiums; but excluding, in all cases depreciation, replacement, and obsolescence charges or reserves therefor and amortization of intangibles.
- "Policy" means the State Water Board's "Policy for Implementing the Drinking Water State Revolving Fund," as amended from time to time, including the Intended Use Plan in effect as of the execution date of this Agreement.
- "Revenues" means, for each Fiscal Year, all gross income and revenue received or receivable by the Recipient from the ownership or operation of the System, determined in accordance with GAAP, including all rates, fees, and charges (including connection fees and charges) as received by the Recipient for the services of the System, and all other income and revenue howsoever derived by the Recipient from the ownership or operation of the System or arising from the System, including all income from the deposit or investment of any money in the Enterprise Fund or any rate stabilization fund of the Recipient or held on the Recipient's behalf, and any refundable deposits made to establish credit, and advances or contributions in aid of construction.
- "System" means all drinking water collection, transport, treatment, storage, and delivery facilities, including land and easements thereof, owned by the City of Yuba City, or its successor agency, and all other properties, structures, or works hereafter acquired and constructed by the Recipient and determined to be a part of the System, together with all additions, betterments, extensions, or improvements to such facilities, properties, structures, or works, or any part thereof hereafter acquired and constructed.
- "Useful Life" means the economically useful life of the Project beginning at Project Completion and is set forth in Exhibit A.

D.2 ADDITIONAL REPRESENTATIONS AND WARRANTIES.

Public Purpose. The Recipient represents and warrants that the Project has a clear and definite public purpose, and must benefit customers of the System, not the investors.

The Recipient has not made any untrue statement of a material fact in its application for this financial assistance or omitted to state in its application a material fact that makes the statements in its application not misleading.

The Recipient agrees to fulfill all assurances, declarations, representations, and commitments in its application, accompanying documents, and communications filed in support of its request for funding under this Agreement.

The execution, delivery, and performance by Recipient of this Agreement, including all incorporated documents, do not violate any provision of any law or regulation in effect as of the date set forth on the first page hereof, or result in any breach or default under any contract, obligation, indenture, or other instrument to which Recipient is a party or by which Recipient is bound as of the date set forth on the Cover Page.

Except as set forth in this paragraph, there are, as of the date of execution of this Agreement by the Recipient, no pending or, to Recipient's knowledge, threatened actions, claims, investigations, suits, or proceedings before any governmental authority, court, or administrative agency which materially affect the financial condition or operations of the Recipient, the Revenues, and/or the Project.

There are no proceedings, actions, or offers by a public entity to acquire by purchase or the power of eminent domain any of the real or personal property related to or necessary for the Project.

The Recipient is duly organized and existing and in good standing under the laws of the State of California. Recipient must at all times maintain its current legal existence and preserve and keep in full force and effect its legal rights and authority. Within the preceding ten years, the Recipient has not failed to demonstrate compliance with state or federal audit disallowances.

Any financial statements or other financial documentation of Recipient previously delivered to the State Water Board as of the date(s) set forth in such financial statements or other financial documentation: (a) are materially complete and correct; (b) present fairly the financial condition of the Recipient; and (c) have been prepared in accordance with GAAP. Since the date(s) of such financial statements or other financial documentation, there has been no material adverse change in the financial condition of the Recipient, nor have any assets or properties reflected on such financial statements or other financial documentation been sold, transferred, assigned, mortgaged, pledged or encumbered, except as previously disclosed in writing by Recipient and approved in writing by the State Water Board.

The Recipient is current in its continuing disclosure obligations associated with its material debt, if any.

The Recipient has no conflicting or Material Obligations, except as set forth in this paragraph.

The Recipient has sufficient real or personal property rights necessary for the purposes of this Agreement, not subject to third party revocation, which rights extend at least to the Records Retention End Date of this Agreement, except as disclosed to the State Water Board. The Recipient has disclosed to the State Water Board all proceedings, actions, or offers of which the Recipient has knowledge or belief that may in any way affect the Recipient's ability to access or legally possess all of the property necessary for the purpose of this Agreement, including any proceedings, actions, or offers to lease, purchase, or acquire by eminent domain any of the real or personal property related to or necessary for the Project.

The Recipient and its principals, contractors, and subcontractors, to the best of the Recipient's knowledge and belief, are not presently debarred, suspended, proposed for debarment, declared ineligible, or otherwise excluded from participation in any work overseen, directed, funded, or administered by the State Water Board program for which this funding is authorized; nor have they engaged or permitted the performance of services covered by this Agreement from parties that are debarred or suspended or otherwise excluded from or ineligible for participation in any work overseen, directed, funded, or administered by the State Water Board program for which this funding is authorized.

The Recipient possesses all water rights necessary for this Project.

D.3 ACKNOWLEDGEMENTS

The Recipient must include the following acknowledgement in any document, written report, or brochure to be shared with the general public prepared in whole or in part pursuant to this Agreement:

- "Funding for this project has been provided in full or in part under

- the Drinking Water State Revolving Fund, which may include capitalization funding from the United States Environmental Protection Agency

through an agreement with the State Water Resources Control Board. The contents of this document do not necessarily reflect the views and policies of the foregoing, nor does mention of trade names or commercial products constitute endorsement or recommendation for use.”

D.4 RATES, FEES, AND CHARGES

The Recipient must, to the extent permitted by law, fix, prescribe and collect rates, fees and charges for the System during each Fiscal Year which are reasonable, fair, and nondiscriminatory and which will be sufficient to generate Revenues in the amounts necessary to cover Operations and Maintenance Costs, and must ensure that Net Revenues are in an amount necessary to meet its obligations under this Agreement. The Recipient may make adjustments from time to time in such fees and charges and may make such classification thereof as it deems necessary, but shall not reduce the rates, fees and charges then in effect unless the Net Revenues from such reduced rates, fees, and charges will at all times be sufficient to meet the requirements of this section.

D.5 ENVIRONMENTAL SPECIAL CONDITIONS

- a. The Recipient shall implement mitigation measures “Mitigation Measure Biological – 1,” “Mitigation Measure Cultural – 1,” “Mitigation Measure Cultural – 2,” and “Mitigation Measure Cultural – 3” identified in the IS/MND titled City of Yuba City Barry School Water Line Extension Project Final Initial Study/Mitigated Negative Declaration, (SCH#2016062026) adopted on August 16, 2016 for the project.
- b. The Recipient shall notify the Division within 24 hours of any discovery of any potential tribal cultural resource and/or archeological or historical resource. Notice shall be addressed to the Deputy Director of the Division and contact via phone at (916) 327 – 9978 or email to CleanWaterSRF@waterboards.ca.gov and/or DrinkingWaterSRF@waterboards.ca.gov. Should a potential tribal cultural resource and/or archeological or historical resource be discovered during construction, the Recipient shall ensure that all work in the area of the find will cease until a qualified archeologist has evaluated the situation and made recommendations regarding preservation of the resource, and the Division has determined what actions should be taken to protect and preserve the resource. The Recipient shall implement appropriate actions as directed by the Division.

D.6 TECHNICAL SPECIAL CONDITIONS

- a. Recipient shall submit a copy of the Project’s final bid package to the Division for approval prior to bidding for construction.
- b. Recipient shall notify the Division of the start of the Project construction and subsequently at fifty percent (50%) and one hundred percent (100%) complete.

D.7 FUNDS RELATED TO CONTAMINATION

(a) As a condition precedent to this Agreement and prior to any disbursement, the Recipient shall (i) notify the Division of any demands made by the Recipient against third parties for monetary damages, reimbursement of costs, or other relief, including litigation, related to drinking water contamination, including but not limited to contamination by 1,2,3-trichloropropane (1,2,3-TCP); and (ii) unless waived by the Division, notify and provide to the Division copies of any agreements with third parties (e.g., settlement agreements, consent agreements, etc.) or court or administrative orders arising out of litigation or disputes related to contamination of the drinking water associated with the Project.

(b) After execution of this Agreement, the Recipient shall notify the Division promptly of the new occurrence of any matters requiring notice under paragraph (a), above. Upon request, the Recipient shall promptly provide information and copies of documents as requested by the Division.

(c) The Recipient shall place all funds received after the date of this Agreement under any order or agreement described in paragraphs (a)(ii) and (b), above, into a restricted account to be used either for a capital improvement project that addresses the contamination, or for operation and maintenance of treatment or remediation of the contamination. Alternatively, upon consent of the Division, the funds received after the date of this Agreement under any such order or agreement shall be used as match funding for the Project or held in a restricted reserve account to support the financial capacity of the System.

(d) The amount of this Agreement may be reduced, and/or disbursements withheld, to offset amounts received under any contamination-related order or agreement described in paragraphs (a)(ii) or (b), above, to avoid double recovery. Noncompliance with paragraphs (a), (b), or (c) above shall be an Event of Default.

D.8 APPOINTMENT OF RECEIVER OR CUSTODIAN

Upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of the State Water Board under this Agreement, the State Water Board may make application for the appointment of a receiver or custodian of the Revenues, pending such proceeding, with such power as the court making such appointment may confer.

D.9 RETURN OF FUNDS

Notwithstanding any other provision of this Agreement, if the Division determines that an Event of Default has occurred, the Recipient may be required, upon demand, to immediately return to the State Water Board any grant or principal forgiveness amounts received pursuant to this Agreement and pay interest at the highest legal rate on all of the foregoing.

D.10 OPERATION AND MAINTENANCE

The Recipient shall sufficiently and properly staff, operate, and maintain the facility and structures constructed or improved as part of the Project throughout the term of this Agreement, consistent with the purposes of this Agreement. The Recipient assumes all operations and maintenance costs of the facilities and structures; the State Water Board shall not be liable for any cost of such maintenance, management or operation.

D.11 INSURANCE

The Recipient will procure and maintain or cause to be maintained insurance on the System and Project with responsible insurers, or as part of a reasonable system of self-insurance, in such amounts and against such risks (including damage to or destruction of the System or Project) as are usually covered in connection with systems similar to the System and Project. Such insurance may be maintained by a self-insurance plan so long as such plan provides for (i) the establishment by the Recipient of a separate segregated self-insurance fund in an amount determined (initially and on at least an annual basis) by an independent insurance consultant experienced in the field of risk management employing accepted actuarial techniques and (ii) the establishment and maintenance of a claims processing and risk management program.

In the event of any damage to or destruction of the System or Project caused by the perils covered by such insurance, the net proceeds thereof shall be applied to the reconstruction, repair or replacement of the damaged or destroyed portion of the System and Project. The Recipient must begin such

reconstruction, repair or replacement as expeditiously as possible, and must pay out of such net proceeds all costs and expenses in connection with such reconstruction, repair or replacement so that the same must be completed and the System and Project must be free and clear of all claims and liens.

Recipient agrees that for any policy of insurance concerning or covering the construction of the Project, it will cause, and will require its contractors and subcontractors to cause, a certificate of insurance to be issued showing the State Water Board, its officers, agents, employees, and servants as additional insured; and must provide the Division with a copy of all such certificates prior to the commencement of construction of the Project.

D.12 CONTINUOUS USE OF PROJECT; NO LEASE, SALE, TRANSFER OF OWNERSHIP, OR DISPOSAL OF PROJECT.

The Recipient agrees that, except as provided in this Agreement, it will not abandon, substantially discontinue use of, lease, sell, transfer ownership of, or dispose of all or a significant part or portion of the Project during the Useful Life of the Project without prior written approval of the Division. Such approval may be conditioned as determined to be appropriate by the Division, including a condition requiring repayment of all disbursed Project Funds or all or any portion of all remaining funds covered by this Agreement together with accrued interest and any penalty assessments that may be due.

D.13 NOTICE

Upon the occurrence of any of the following events, the Recipient must notify the Division's Deputy Director and Party Contacts by phone and email within the time specified below:

- (a) Within 24 hours, the Recipient must notify the Party Contacts by phone and by email, and also notify the Division by phone at (916) 327-9978 and by email to DrinkingWaterSRF@waterboards.ca.gov of any discovery of any potential tribal cultural resource and/or archaeological or historical resource. Should a potential tribal cultural resource and/or archaeological or historical resource be discovered during construction or Project implementation, the Recipient must ensure that all work in the area of the find will cease until a qualified archaeologist has evaluated the situation and made recommendations regarding preservation of the resource, and the Division has determined what actions should be taken to protect and preserve the resource. The Recipient must implement appropriate actions as directed by the Division.
- (b) The Recipient must notify the Division and Party Contacts promptly of the occurrence of any of the following events:
 - i. Bankruptcy, insolvency, receivership or similar event of the Recipient, or actions taken in anticipation of any of the foregoing;
 - ii. Change of ownership of the Project (no change of ownership may occur without written consent of the Division);
 - iii. Loss, theft, damage, or impairment to Project;
 - iv. Events of Default, except as otherwise set forth in this section;
 - v. A proceeding or action by a public entity to acquire the Project by power of eminent domain.
 - vi. Any litigation pending or threatened with respect to the Project or the Recipient's technical, managerial or financial capacity or the Recipient's continued existence;
 - vii. Consideration of dissolution, or disincorporation;

- viii. Enforcement actions by or brought on behalf of the State Water Board or Regional Water Board.
- ix. The discovery of a false statement of fact or representation made in this Agreement or in the application to the Division for this funding, or in any certification, report, or request for reimbursement made pursuant to this Agreement, by the Recipient, its employees, agents, or contractors;
- x. Any substantial change in scope of the Project. The Recipient must undertake no substantial change in the scope of the Project until prompt written notice of the proposed change has been provided to the Division and the Division has given written approval for the change;
- xi. Any circumstance, combination of circumstances, or condition, which is expected to or does delay Completion of Construction for a period of ninety (90) days or more;
- xii. Cessation of all major construction work on the Project where such cessation of work is expected to or does extend for a period of thirty (30) days or more;
- xiii. The Recipient must promptly notify the Division and Party Contacts of the discovery of any unexpected endangered or threatened species, as defined in the federal Endangered Species Act. Should a federally protected species be unexpectedly encountered during implementation of the Project, the Recipient agrees to promptly notify the Division. This notification is in addition to the Recipient's obligations under the federal Endangered Species Act;
- xiv. Any Project monitoring, demonstration, or other implementation activities required in this Agreement;
- xv. Any public or media event publicizing the accomplishments and/or results of this Agreement and provide the opportunity for attendance and participation by state representatives with at least ten (10) working days' notice to the Division;
- xvi. Any event requiring notice to the Division pursuant to any other provision of this Agreement;
- xvii. The award of the prime construction contract for the Project; and the initiation of construction of the Project; and
- xviii. Completion of Construction, and Project Completion.

D.14 FRAUD, WASTE, AND ABUSE.

The Recipient shall prevent fraud, waste, and the abuse of Project Funds, and shall cooperate in any investigation of such activities that are suspected in connection with this Agreement. The Recipient understands that discovery of any evidence of misrepresentation or fraud related to Reimbursement Requests, invoices, proof of payment of invoices, or other supporting information, including but not limited to double or multiple billing for time, services, or any other eligible cost, may result in referral to the Attorney General's Office or the applicable District Attorney's Office for appropriate action. The Recipient further understands that any suspected occurrences of false claims, misrepresentation, fraud, forgery, theft or any other misuse of Project Funds may result in withholding of reimbursements and/or the termination of this Agreement requiring the immediate repayment of all funds disbursed hereunder.

D.15 DISPUTES.

The Recipient must continue with the responsibilities under this Agreement during any dispute. The Recipient may, in writing, appeal a staff decision within 30 days to the Deputy Director of the Division or designee, for a final Division decision. The Recipient may appeal a final Division decision to the State Water Board within 30 days. The Office of the Chief Counsel of the State Water Board will prepare a summary of the dispute and make recommendations relative to its final resolution, which will be provided to the State Water Board's Executive Director and each State Water Board Member. Upon the motion of any State Water Board Member, the State Water Board will review and resolve the dispute in the manner determined by the State Water Board. Should the State Water Board determine not to review the final Division decision, this decision will represent a final agency action on the dispute. This provision does not preclude consideration of legal questions, provided that nothing herein shall be construed to make final the decision of the State Water Board, or any official or representative thereof, on any question of law. This section relating to disputes does not establish an exclusive procedure for resolving claims within the meaning of Government Code sections 930 and 930.4.

D.16 STATE CROSS-CUTTERS

Recipient represents that, as applicable, it complies and covenants to maintain compliance with the following for the term of the Agreement:

- The California Environmental Quality Act (CEQA), as set forth in Public Resources Code 21000 et seq. and in the CEQA Guidelines at Title 14, Division 6, Chapter 3, Section 15000 et seq.
- Water Conservation requirements, including regulations in Division 3 of Title 23 of the California Code of Regulations.
- Monthly Water Diversion Reporting requirements, including requirements set forth in Water Code section 5103.
- Public Works Contractor Registration with Department of Industrial Relations requirements, including requirements set forth in Sections 1725.5 and 1771.1 of the Labor Code.
- Volumetric Pricing & Water Meters requirements, including the requirements of Water Code sections 526 and 527.
- Urban Water Management Plan requirements, including the Urban Water Management Planning Act (Water Code, § 10610 et seq.).
- Urban Water Demand Management requirements, including the requirements of Section 10608.56 of the Water Code.
- Delta Plan Consistency Findings requirements, including the requirements of Water Code section 85225 and California Code of Regulations, title 23, section 5002.
- Agricultural Water Management Plan Consistency requirements, including the requirements of Water Code section 10852.
- Charter City Project Labor Requirements, including the requirements of Labor Code section 1782 and Public Contract Code section 2503.
- The Recipient agrees that it will, at all times, comply with and require its contractors and subcontractors to comply with directives or orders issued pursuant to Division 7 of the Water Code.

D.17 DAMAGES FOR BREACH OF FEDERAL CONDITIONS

In the event that any breach of any of the provisions of this Agreement by the Recipient results in the failure of Project Funds to be used pursuant to the provisions of this Agreement, or if such breach results in an obligation on the part of the State or any subdivision or agency thereof to reimburse the federal government, the Recipient must immediately reimburse the State or any subdivision or agency thereof in an amount equal to any damages paid by or loss incurred by the State or any subdivision or agency thereof due to such breach.

D.18 ACCESS AND INSPECTION.

In addition to the obligations set forth in section 2 of the General Terms and Conditions incorporated in Exhibit C of this Agreement, the Recipient must ensure that the United States Environmental Protection Agency, the Office of Inspector General, any member of Congress, or any authorized representative of the foregoing, will have safe and suitable access to the Project site at all reasonable times during the term of the Agreement.

D.19 FINANCIAL MANAGEMENT SYSTEMS.

The Recipient must comply with federal standards for financial management systems. The Recipient agrees that, at a minimum, its fiscal control and accounting procedures will be sufficient to permit preparation of reports required by the federal government and tracking of Project funds to a level of expenditure adequate to establish that such funds have not been used in violation of federal or state law or the terms of this Agreement. To the extent applicable, the Recipient is bound by, and must comply with, the provisions and requirements of the federal Single Audit Act of 1984 and 2 CFR Part 200, subpart F, and updates or revisions, thereto.

D.20 FEDERAL CROSS-CUTTERS [Some of these may be waived if project is not equivalency, but some may not (super-cross-cutters).]

The Recipient acknowledges, warrants compliance with, and covenants to continuing compliance with the following federal terms and conditions for the Useful Life of the Project:

- i. Unless the Recipient has obtained a waiver from USEPA on file with the State Water Board or unless this Project is not a project for the construction, alteration, maintenance or repair of a public water system or treatment work, the Recipient shall not purchase "iron and steel products" produced outside of the United States on this Project. Unless the Recipient has obtained a waiver from USEPA on file with the State Water Board or unless this Project is not a project for the construction, alteration, maintenance or repair of a public water system or treatment work, the Recipient hereby certifies that all "iron and steel products" used in the Project were or will be produced in the United States. For purposes of this section, the term "iron and steel products" means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials. "Steel" means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.
- ii. The Recipient agrees to comply with the Davis-Bacon provisions incorporated by reference in this Agreement. The Recipient must include in full the Wage Rate Requirements (Davis-Bacon) language incorporated by reference in all construction contracts and subcontracts.
- iii. The Recipient shall notify the State Water Board and the USEPA contact of public or media events publicizing the accomplishment of significant events related to this Project and provide the opportunity for attendance and participation by federal representatives with at least ten (10) working days' notice.
- iv. The Recipient shall comply with applicable USEPA general terms and conditions found at <http://www.epa.gov/ogd>.

- v. No Recipient may receive funding under this Agreement unless it has provided its Unique Entity Identifier, assigned by the System for Award management, to the State Water Board.
- vi. The Recipient represents and warrants that it and its principals are not excluded or disqualified from participating in this transaction as such terms are defined in Parts 180 and 1532 of Title 2 of the Code of Federal Regulations (2 CFR). If the Recipient is excluded after execution of this Agreement, the Recipient shall notify the Division within ten (10) days and shall inform the Division of the Recipient's exclusion in any request for amendment of this Agreement. The Recipient shall comply with Subpart C of Part 180 of 2 CFR, as supplemented by Subpart C of Part 1532 of 2 CFR. Such compliance is a condition precedent to the State Water Board's performance of its obligations under this Agreement. When entering into a covered transaction as defined in Parts 180 and 1532 of 2 CFR, the Recipient shall require the other party to the covered transaction to comply with Subpart C of Part 180 of 2 CFR, as supplemented by Subpart C of Part 1532 of 2 CFR.
- vii. To the extent applicable, the Recipient shall disclose to the State Water Board any potential conflict of interest consistent with USEPA's Final Financial Assistance Conflict of Interest Policy at <https://www.epa.gov/grants/epas-final-financial-assistance-conflict-interest-policy>. A conflict of interest may result in disallowance of costs.
- viii. USEPA and the State Water Board have the right to reproduce, publish, use and authorize others to reproduce, publish and use copyrighted works or other data developed under this assistance agreement.
- ix. Where an invention is made with Project Funds, USEPA and the State Water Board retain the right to a worldwide, nonexclusive, nontransferable, irrevocable, paid-up license to practice the invention owned by the Recipient. The Recipient must utilize the Interagency Edison extramural invention reporting system at <http://Edison.gov> and shall notify the Division when an invention report, patent report, or utilization report is filed.
- x. The Recipient agrees that any reports, documents, publications or other materials developed for public distribution supported by this Agreement shall contain the Acknowledgment statement set forth in Exhibit D.
- xi. The Recipient acknowledges that it is encouraged to follow guidelines established under Section 508 of the Rehabilitation Act, codified at 36 CFR Part 1194, with respect to enabling individuals with disabilities to participate in its programs supported by this Project.
- xii. The Recipient, its employees, contractors and subcontractors and their employees warrants that it will not engage in severe forms of trafficking in persons, procure a commercial sex act during the term of this Agreement, or use forced labor in the performance of this Agreement. The Recipient must include this provision in its contracts and subcontracts under this Agreement. The Recipient must inform the State Water Board immediately of any information regarding a violation of the foregoing. The Recipient understands that failure to comply with this provision may subject the State Water Board to loss of federal funds. The Recipient agrees to compensate the State Water Board for any such funds lost due to its failure to comply with this condition, or the failure of its contractors or subcontractors to comply with this condition. The State Water Board may unilaterally terminate this Agreement if the Recipient that is a private entity is determined to have violated the foregoing.
- xiii. The Recipient certifies to the best of its knowledge and belief that:
 - a. No federal appropriated funds have been paid or will be paid, by or on behalf of the Recipient, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an

employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

- b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with this Agreement, the Recipient shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions, and notify the State Water Board.

The Recipient shall require this certification from all parties to any contract or agreement that the Recipient enters into and under which the Recipient incurs costs for which it seeks reimbursement under this Agreement.

xiv. The Recipient must comply with the following federal non-discrimination requirements:

- a. Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on race, color, and national origin, including limited English proficiency (LEP).
- b. Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against persons with disabilities.
- c. The Age Discrimination Act of 1975, which prohibits age discrimination.
- d. Section 13 of the Federal Water Pollution Control Act Amendments of 1972, which prohibits discrimination on the basis of sex.
- e. 40 CFR Part 7, as it relates to the foregoing.
- f. Executive Order 13798, including, to the greatest extent practicable and to the extent permitted by law, the requirement to respect and protect the freedom of persons and organizations to engage in political and religious speech.
- g. All applicable federal civil rights regulations, including statutory and national policy requirements (2 CFR section 200.300).

xv. Executive Order No. 11246. The Recipient shall include in its contracts and subcontracts related to the Project the following provisions:

"During the performance of this contract, the contractor agrees as follows:"(a) The contractor will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

"(b) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, or national origin.

"(c) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

"(d) The contractor will comply with all provisions of Executive Order No. 11246 of Sept. 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

"(e) The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

"(f) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of Sept 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

"(g) The contractor will include the provisions of Paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of Sept. 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, That in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States."

- xvi. The Recipient agrees to comply with the requirements of USEPA's Program for Utilization of Small, Minority and Women's Business Enterprises.
- xvii. Procurement Prohibitions under Section 306 of the Clean Air Act and Section 508 of the Clean Water Act, including Executive Order 11738, Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans; 42 USC § 7606; 33 USC § 1368. Except where the purpose of this Agreement is to remedy the cause of the violation, the Recipient may not procure goods, services, or materials from suppliers excluded under the federal System for Award Management: <http://www.sam.gov/> .
- xviii. Uniform Relocation and Real Property Acquisition Policies Act, Pub. L. 91-646, as amended; 42 USC §§4601-4655. The Recipient must comply with the Act's implementing regulations at 49 CFR 24.101 through 24.105.
- xix. The Recipient agrees that if its network or information system is connected to USEPA networks to transfer data using systems other than the Environmental Information Exchange Network or USEPA's Central Data Exchange, it will ensure that any connections are secure.
- xx. All geospatial data created pursuant to this Agreement that is submitted to the State Water Board for use by USEPA or that is submitted directly to USEPA must be consistent with Federal Geographic Data Committee endorsed standards. Information on these standards may be found at www.fgdc.gov.
- xxi. If the Recipient is a water system that serves 500 or fewer persons, the Recipient represents that it has considered publicly-owned wells as an alternative drinking water supply.

- xxii. The Recipient represents that it is not a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and it is not a corporation that was convicted of a felony criminal violation under a Federal law within the preceding 24 months.
- xxiii. The Recipient agrees to immediately notify the Project Manager in writing about any allegation of research misconduct involving research activities that are supported in whole or in part with USEPA funds under this Project, including fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results, or ordering, advising, or suggesting that subordinates engage in research misconduct.
- xxiv. The Recipient agrees to comply with, and require all contractors and subcontractors to comply with, USEPA's Scientific Integrity Policy, available at <https://www.epa.gov/osa/policy-epa-scientific-integrity>, when conducting, supervising, and communicating science and when using or applying the results of science. For purposes of this condition scientific activities include, but are not limited to, computer modelling, economic analysis, field sampling, laboratory experimentation, demonstrating new technology, statistical analysis, and writing a review article on a scientific issue.

The Recipient shall not suppress, alter, or otherwise impede the timely release of scientific findings or conclusions; intimidate or coerce scientists to alter scientific data, findings, or professional opinions or exert non-scientific influence on scientific advisory boards; knowingly misrepresent, exaggerate, or downplay areas of scientific uncertainty; or otherwise violate the USEPA's Scientific Integrity Policy. The Recipient must refrain from acts of research misconduct, including publication or reporting, as described in USEPA's Policy and Procedures for Addressing Research Misconduct, Section 9.C, and must ensure scientific findings are generated and disseminated in a timely and transparent manner, including scientific research performed by contractors and subcontractors.

- xxv. The Recipient agrees to comply with the Animal Welfare Act of 1966 (7 USC 2131-2156). Recipient also agrees to abide by the "U.S. Government Principles for the Utilization and Care of Vertebrate Animals used in Testing, Research, and Training," available at <http://grants.nih.gov/grants/olaw/references/phspol.htm#USGovPrinciples>.
- xxvi. The Recipient certifies that no Project Funds will be used on:
- a. Video surveillance or telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities), telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);
 - b. Telecommunications or video surveillance services produced by such entities;
 - c. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country; or
 - d. Other telecommunications or video surveillance services or equipment in violation of [2 CFR 200.216](#).

ATTACHMENT 3

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YUBA CITY
AUTHORIZING EXECUTION OF AN OUT OF AGENCY WATER SERVICE AGREEMENT
WITH YUBA CITY UNIFIED SCHOOL DISTRICT FOR THE BARRY ELEMENTARY SCHOOL
WATERLINE EXTENSION PROJECT**

WHEREAS, the City of Yuba City (City) has applied for funding with the State Water Resources Control Board (SWRCB) for the construction of Barry Elementary School Waterline Extension Project; and

WHEREAS, the SWRCB requires the City to enter into an Out of Agency Water Service Agreement to finalize conditions for funding; and,

WHEREAS, City policy established at the March 5, 2019 City Council meeting allows existing parcels within the Sphere of Influence, but outside the City limits, to connect to City water services if the owner enters into an Extraterritorial Water Service Agreement; and,

WHEREAS, the City made an application to the Sutter Local Agency Formation Commission (LAFCO) to provide safe and reliable domestic water service to Barry Elementary School, located outside City limits and sphere of influence; and,

WHEREAS, a jurisdictional change to the City is not required since LAFCO authorized the City to provide new or extended services outside its jurisdictional boundary and its sphere of influence.

NOW, THEREFORE, be it resolved and ordered by the City Council of Yuba City as follows:

The City Council approves the Extraterritorial Water Service Agreement, attached hereto, with Yuba City Unified School District, and authorizes the City Manager to execute the same on behalf of the City of Yuba City.

The foregoing Resolution was duly and regularly introduced, passed, and adopted by the City Council of the City of Yuba City at a regular meeting thereof held on the 17TH day of May, 2022.

AYES:

NOES:

ABSENT:

Dave Shaw, Mayor

Ciara Wakefield, Deputy City Clerk

APPROVED AS TO FORM
COUNSEL FOR YUBA CITY:

Shannon Chaffin, City Attorney

Attachments:

Attachment A – LAFCO Order

Attachment B – Extraterritorial Water Service Agreement

ATTACHMENT A

SUTTER LAFCO

ORDER APPROVING OUT OF AGENCY SERVICE AGREEMENT FOR MUNICIPAL WATER SERVICES FOR THE BARRY ELEMENTARY SCHOOL CONSISTING OF 9.58 ACRES

REFERENCE:

LAFCO File No. 2020 OASA-0001, the CITY OF YUBA CITY has made an application to the Sutter Local Agency Formation Commission to provide safe and reliable domestic water service to the 9.58-acre Barry Elementary School (School) Property located 1.3 miles from Yuba City at 1255 Barry Road, Yuba City CA and shown in Exhibit A; and

WHEREAS, The School, beneficiary owners of that certain property located at 1255 Barry Road, Yuba City, CA, provide domestic water services to the 9.58-acre School facility. Well No. 2 serves the School, which is the only source of potable water for its water system. Since 2006 quarterly water samples were collected from Well No 2 and were analyzed by a state-certified laboratory for Arsenic. The results demonstrated that average arsenic concentration exceeds the maximum contaminant arsenic levels (MCL) of 0.010mg/l, which began during the third calendar quarter of 2006.

The State Department of Drinking Water issued a Compliance Order to the School in 2009, which requires the School to provide bottled water to users. The Compliance Order was reissued in 2010 for continuing high arsenic levels.

As a result, the School continues to provide bottled water; and

WHEREAS, The purpose of this Out of Agency Service Agreement (OASA) is to provide safe and reliable domestic water service from the City of Yuba City's (City) water system to the school; and

WHEREAS, a jurisdictional change to the City is not required since the Sutter Local Agency Formation Commission may authorize a city to provide new or extended services outside its jurisdictional boundary and its sphere of influence to respond to an existing or impending threat to the health or safety of the public or the residents of the affected territory, provided two requirements are met:

- a. LAFCo has been provided with satisfactory documentation of a threat to the health and safety of the public or the affected residents (Compliance Order CDPH Order 01-21.09(O)51007A1)
- b. There are no alternate service providers available to provide domestic water service.

WHEREAS, This OASA between the City and the School is exempt from CEQA as provided for in guideline sections 15301(b) and 15303(d) – pursuant to the Existing Facilities and the New Construction or Conversion of Small Structures exemptions; and

WHEREAS, Based on the uses contemplated for the 9.58-acre more or less site, there is an existing need for safe and reliable domestic water to be provided by the City to the School; and

WHEREAS, the City passed Resolution 15-050 on September 1st, 2015 authorizing an extension of a waterline to provide the School with City domestic water and filing of a financial agreement with the State Water Resources Control Board.

WHEREAS, Relevant provisions of the Government Code give Local Agency Formation Commissions the power to authorize a city or a special district to provide new or extended services outside an agency's Sphere of Influence to respond to a health and safety issue; and

WHEREAS, The Executive Officer, duly designated by the Sutter Local Agency Formation Commission, has been designated the authority to review and approve OASA's pursuant to Government Code § 56133; and

WHEREAS, The City has filed a Sutter LAFCo Application for an Out of Agency Service Agreement approval and has provided evidence the City is willing and able to serve and provide domestic water services to the 9.58-acre school site with potable domestic water; and

WHEREAS, LAFCo has received the appropriate fee deposit with the application and documentation sufficient to review the proposed service obligations.


NOW, THEREFORE, the Sutter Local Agency Formation Commission does hereby make determinations and orders on the application as follows:

1. That the Executive Officer has been given the authority to review this proposal for services per Government Code Section 56133 and LAFCo's adopted Policies, Standards and Procedures, as well as other relevant parts of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.
2. That the extension of service is categorically exempt based on 15378(b)(5) Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment and CEQA guidelines sections 15301(b) and 15303(d) – pursuant to the Existing Facilities, the New Construction or Conversion of Small Structures and General Rule exemptions and that the provision of City domestic water services will provide a benefit to the present health and safety needs of the School.
3. That the City is equipped with a modern water treatment plant manned by licensed operators and has sufficient administrative and technical staff to maintain the operation of the water system. The City has the capacity in its overall system to provide domestic water services to this area outside its jurisdiction and sphere of influence without negatively impacting the ability of the City to provide such services to the present constituent users within its own jurisdiction. That the Executive Officer has reviewed the information provided and finds no objection to the extension of services sought in this agreement by the parties thereto.
4. That the City is the logical provider of domestic water delivery into the area sought by the parties in that it has the ability with state funding assistance to provide the infrastructure for the service.
5. That the City will extend services through new infrastructure.
6. That the approval of this OASA will enhance the public welfare and safety through the construction of a domestic water delivery to serve the school property.
7. Approval of this OASA by LAFCo is conditioned upon the applicant's (the parties) obligation to defend, indemnify, and hold harmless the Sutter Local Agency Formation Commission and its agents, officers and employees from any claim, action or proceeding against the Commission or its agents, officers, and employees; including all costs, attorney's fees, expenses and liabilities incurred in the defense of such claim, action, or proceeding to attack, set aside, or void the approval or determinations of this Commission concerning this annexation. The Sutter Local Agency Formation Commission shall promptly notify the applicant of any such claim, action, or proceeding and be entitled to representation by counsel of its choosing.
8. That this OASA is approved as proposed subject to the following terms, conditions and caveats:

- a. The City is hereby authorized to provide domestic water services to serve the 9.58-acre School property as shown in Exhibit A.
- b. No further action by LAFCo is required since this OASA is to mitigate a health and safety water quality issue outside the City's Sphere of Influence for the users of the School.
- c. The Parties shall comply with the terms and conditions of the "Extraterritorial Water Service Agreement" for domestic water service" (Exhibit "B") as fully executed and delivered by the City to LAFCo. Said agreement being effective upon approval of LAFCo with a specific note the territory is outside the City's adopted Sphere of Influence and no annexation will be required.
- d. The City shall provide a fully executed "Extraterritorial Water Service Agreement" to LAFCo and a fully Executed "Out of Agency Service Agreement Order".

THIS OUT OF AGENCY SERVICE AGREEMENT ORDER IS APPROVED BY THE SUTTER LOCAL AGENCY FORMATION COMMISSION, this _____ day of June 2020 at YUBA CITY, California.

Due to a Health and Safety Concern the LAFCo Executive Officer is hereby authorized to sign this approval page on behalf of SUTTER LAFCo.



John Benoit, LAFCo Executive Officer
SUTTER Local Agency Formation Commission

SEE NEXT PAGE
 FOR SCHOOL
 SIGNATURE

Acknowledgement of Terms, Conditions and Caveats:



YUBA CITY, CITY MANAGER

Authorized Representative of the Yuba City Unified School District

- a. The City is hereby authorized to provide domestic water services to serve the 9.58-acre School property as shown in Exhibit A.
- b. No further action by LAFCo is required since this OASA is to mitigate a health and safety water quality issue outside the City's Sphere of Influence for the users of the School.
- c. The Parties shall comply with the terms and conditions of the "Extraterritorial Water Service Agreement" for domestic water service" (Exhibit "B") as fully executed and delivered by the City to LAFCo. Said agreement being effective upon approval of LAFCo with a specific note the territory is outside the City's adopted Sphere of Influence and no annexation will be required.
- d. The City shall provide a fully executed "Extraterritorial Water Service Agreement" to LAFCo and a fully Executed "Out of Agency Service Agreement Order".

THIS OUT OF AGENCY SERVICE AGREEMENT ORDER IS APPROVED BY THE SUTTER LOCAL AGENCY FORMATION COMMISSION, this _____ day of June 2020 at YUBA CITY, California.

Due to a Health and Safety Concern the LAFCo Executive Officer is hereby authorized to sign this approval page on behalf of SUTTER LAFCo.

**John Benoit, LAFCo Executive Officer
SUTTER Local Agency Formation Commission**

Acknowledgement of Terms, Conditions and Caveats:

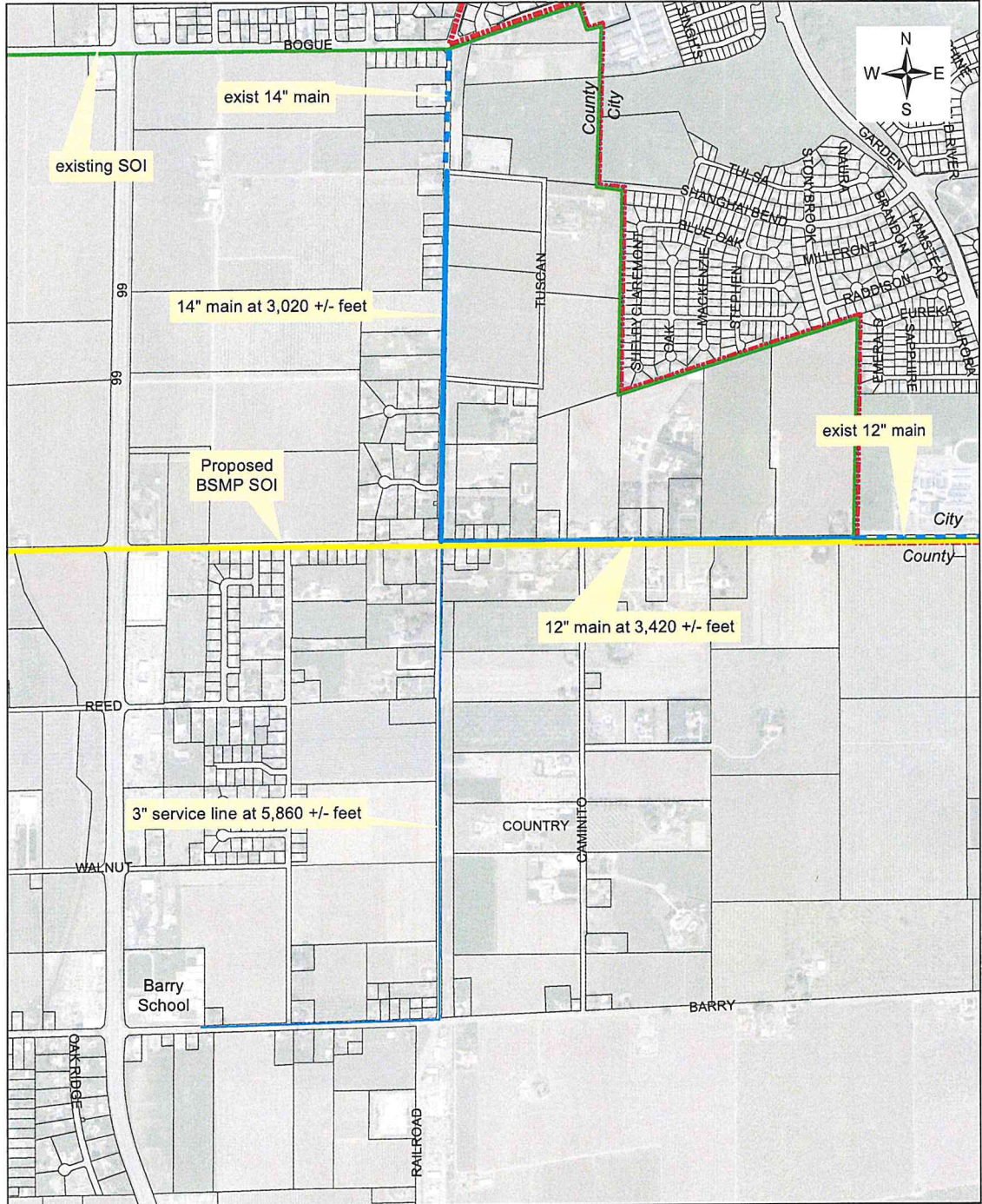
YUBA CITY, CITY MANAGER

Robert Shermwell Deputy Superintendent

Authorized Representative of the Yuba City Unified School District

Exhibit A

LOCATION MAP



ATTACHMENT B

Recording Requested by and
When Recorded Return to:

City Clerk
City of Yuba City
1201 Civic Center Blvd
Yuba City, CA 95993

NO FEE-Government Code §6103

(Space Above This Line for Recorder's Office Use Only)

EXTRATERRITORIAL WATER SERVICE AGREEMENT

This **EXTRATERRITORIAL WATER SERVICE AGREEMENT** ("Agreement") is made and entered into this _____ day of _____, 2020 (the "Commencement Date"), by and between **YUBA CITY UNIFIED SCHOOL DISTRICT**, ("Owner"), and the **CITY OF YUBA CITY**, a California municipal corporation ("City").

RECITALS

A. Owner represents it has acquired lawful title to property identified by Sutter County Assessor's Parcel Number 23-064-002, located at 1255 Barry Road, Sutter County, CA, (the "Property"), as more particularly described in **Exhibit "A."**

B. The Property is located outside of the incorporated boundaries of City within Sutter County, and neither Sutter County nor any other public agency currently provides water service to the Property. The Property is located within the City's sphere of influence, but outside the City's existing boundaries.

C. California Government Code § 56133(b) permits a City to provide new or extended services by agreement outside its jurisdictional boundaries but within its sphere of influence, and with written approval from Sutter Local Agency Formation Commission ("LAFCO"), which approval is a condition to the effectiveness of this Agreement.

D. The City and Owner both agree it is not necessary for the Property to be annexed into the City at this time.

E. City currently owns and operates a water distribution system which conveys potable water originating in its service area through the City's transmission system. This water distribution system includes a 14-inch waterline traveling south on Railroad Avenue from Bogue Road. In response to a request by the State Water Board Division of Drinking Water regarding water quality and subsequent grant to provide City water to Barry Elementary School, the City

will expand its water distribution system and install new distribution lines to service Barry Elementary School, which is located at the Property. The City's water distribution system, including the proposed new distribution lines to service the Property, is collectively referred to herein as "Distribution System." The Owner's water service line is referred to herein as "New Water Service Line."

F. Owner has agreed to make payments described herein with respect to the water service for the Property in accordance with the fees and rates set by the City for its users, and to comply with City's Municipal Code as may be amended from time to time, as more fully set forth herein.

G. This Agreement is intended to comply with LAFCO requirements for an extra-territorial water service agreement with City.

H. The City has identified options to provide water supply to the Owner to accommodate the Owner's water demands at the Property, provided the Owner meet certain conditions as set forth below.

I. The California Department of Public Health has determined that the water provided by the District to its students and staff does not comply with certain water health standards; and

J. In order to promote and protect the health and safety of the District, its students and staff, the City has submitted an application for a grant with the State Water Resources Control Board for State Revolving Fund Grant; and

K. If the State Revolving Fund Grant is approved, the City would receive funds to construct the necessary infrastructure along Railroad Ave, Stewart Road, and Barry Road, including a new water mains, service line, water meter, valves, and all other improvements necessary to connect the City's water system to the Property; and

L. The City's application for the State Revolving Fund Grant and connection of the City's water system to the Property requires an agreement between the City and the District that identifies the responsibilities and obligations of the Parties regarding the use of the State Revolving Fund Grant funds for the construction of the Project and transfer to the City's water system; and

M. The Parties desire to enter into such agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants set forth herein and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties hereto, agree as follows:

ARTICLE I. RIGHTS AND OBLIGATIONS

1. Recitals Incorporated. The recitals set forth above are true and correct and are hereby incorporated into and made a part of this Agreement.

2. Term, Ownership, and Effectiveness of Agreement: This Agreement shall become effective when executed by both parties hereto, subject to City receiving the State Revolving Fund Grant and further subject to compliance with Section 11 below. The Agreement shall continue in perpetuity or until such time as the Property is annexed into the corporate boundaries of City. At such time, the Owner shall have such rights, privileges, and duties, including fees and rates, as all other City citizens for the then current water service classification. The City and Owner agree that should the City ultimately annex the Property in the future into the City, the Owner will not contest annexation. Owner intends that this Agreement shall constitute its written consent to the annexation of the lands described herein and shall bind its heirs, successors, grantees and/or assigns, and all persons having or acquiring any interest subsequent hereto in said lands, and shall constitute by this Agreement a covenant running with the land and binding upon said successors, grantees and/or assigns that they in fact consent to the annexation of said lands to City and shall execute whatever documentation as may be necessary and do all things required of them to effectuate the annexation at such time as City deems annexation to be in its best interest.

3. Required System Facility Improvements. The parties shall provide the following improvements to accomplish the provision of water service to the Property, which improvements shall be commenced within one-hundred twenty (120) days of the effectiveness of this Agreement, as defined in Section 2 above:

- a. Distribution System. The City shall furnish and install a 14-inch waterline originating at the intersection of Railroad Avenue and Shanghai Bend traveling south on Railroad Avenue to the intersection of Stewart Road and Railroad Ave. A 12-inch water line will be installed on Stewart Road traveling east to Riverbend Elementary.
- b. New Water Service Line. Subject to the City's receipt of sufficient funding from the State Revolving Fund Grant, City shall install the New Water Service Line comprising of a 3-inch water service line from the intersection of Railroad Avenue and Stewart Road running south on Railroad Avenue then west on Barry Road to its final connection point at Barry Elementary School at the Property. The cost for the materials and installation of the New Water Service Line shall be charged to the Grant.
- c. Downstream Water Line. Owner, at its sole expense and without reimbursement from the City, shall be required to provide a downstream water line ("Downstream Water Line") as necessary to connect to the New Water Service Line from the Property downstream from the Connection Point, as such term is defined in Section 3.d below. Owner shall represent, warrant, and covenant to the City that Owner completed all necessary construction/installation from the Property to the Connection Point after receiving all respective County of Sutter

and City permits and that the New Water Service Line was constructed in accordance with all respective laws.

- d. Location for Connection. The Connection Point is defined as the location where the New Water Service Line from the City's Distribution System is connected to the owner's Downstream Water Line. The City shall connect the Downstream Water Line to the 3-inch Water Service Line. The Connection Point is located at the south-eastern property boundary adjacent to the County's right-of-way on Barry Road. This shall be the only connection point authorized to connect to the City's Distribution System for services to the Property.
- e. Metered Service Connection. The City will install a meter on the 3-inch Water Service Line at the intersection of Stewart Road and Railroad Ave.

4. System Facilities Operations and Maintenance. City shall be responsible, at Owner's sole cost, for the operation, maintenance and repair of all components of the New Water Service Line downstream from the City's Distribution System located at the Intersection of Railroad Avenue and Stewart Road, including the obligation to comply with Underground Service Alert (USA) North 811. Owner shall reimburse City for such costs, at City's then-applicable billing rates, within thirty (30) days of Owner's receipt of any invoice by City describing the costs incurred by City for such operation, maintenance and repair and the applicable costs therefor. Owners shall be responsible for the operation, maintenance and repair of all components of the Downstream Water Line. Owner shall further be responsible for handling flushing and discharging of the Water Service Line to be performed as needed, but no less than once per year; provided Owner first provide City sufficient prior notice to allow City to coordinate such activities with Owner. The flushing of the Water Service Line shall be at or near the Connection Point and as approved by City. . Any other water system installed by Owner on the Property connected to a well or other source of water not from the City's Water Distribution System is not part of the New Water Service Line, and shall be private ("Private Water System"). It is the sole responsibility of Owner to repair, maintain, and replace all Private Water System, and City shall have no responsibility or liability for these Private Water System. Owner shall obtain all necessary permits or other approvals necessary for constructing and connecting Owner's Private Water System.

5. Disconnecting of Existing On-Site Private Water System(s). Owner shall disconnect all existing on-site Private Water System(s) on the Property per County standards, and any Private Water System shall be fully separated from and not connected to the City's Water Distribution System and New Water Service Line effective as soon as the City extends the New Water Service Line from the Intersection of Railroad Avenue and Stewart Road to the Connection Point. A backflow regulator shall be installed by City to ensure no future connections can contaminate the City's Water Distribution System. Owner will be required to comply with City's Municipal Code as may be amended from time to time, including abandonment of onsite wells in compliance with State Of California Well Standards, with sixty (60) days written notice. Owner shall not apply any water obtained from onsite wells to the City's Water System.

6. No Representation Regarding Water Service, Pressure, or Volume For Any Private Water System. The Owner agrees that there is no guarantee, warranty, or other representation regarding water service, pressure, volume, or quality from the City or associated with water service from the City. This would include no guarantee, warranty or representation that the Owner or any other users on the Property will not have allergic or other reactions to the City's water. The City specifically disclaims any kind of representation, warranty, or guaranty, of any private water system.

7. City to Provide Water Services. Upon Owner's full and complete performance of all of Owner's obligations and responsibilities under this Agreement and completion of construction of the City's expansion of Distribution System and New Water Service Line to the Connection Point, City agrees to provide the Property with water services from City's Water Distribution System and Water Treatment Plant. City's obligation to provide the Property with water services from City's Water Distribution System is conditioned upon City and Owner obtaining the consent of all applicable governmental agencies. As a condition to providing water service, City shall have the right of access to water meters, including any required irrigation meter(s), whether located on City-owned real property, New Water Service Line, or the Property. Owner shall promptly notify the City of any repairs or replacement of damaged water meters. The City shall respond to such notifications in a reasonable amount of time. Water Services are being provided based on water flow requirements of Barry Elementary School.

8. Obligations and Responsibilities of Owner to Pay for Municipal Utility Services Provided by City. Owner agrees to apply to City for a municipal utility water account, maintain its water municipal utility water service account with City in a current status and comply with – and be subject to – City's Municipal Code, as subsequently updated or amended. Owner acknowledges and agrees that if the water bill is not paid on or before the 45th day after the bill was sent, service may be discontinued. A delinquency charge will be made and collected prior to renewing service following the discontinuance. Payments must be made prior to 8:30 a.m. on the scheduled discontinuance day. A payment drop box is available at the entrance of City Hall.

9. Inspection. City shall have the right to inspect and examine the Water Distribution System at any time, including during construction and operation of any portion of the New Water Service Line, and the right to access all water meters.

10. Indemnification of City: To the greatest extent allowed by law, Owner shall indemnify, hold harmless and defend City and each of its officers, officials, employees, agents and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs, and damages (whether in contract, tort, or strict liability, including but not limited to personal injury, death at any time, and property damage) incurred by City, Owner or any other person, and from any and all claims, demands, liabilities, damages, and actions in law or equity (including attorney's fees and litigation expenses incurred by City or held to be the liability of the City, including plaintiff's attorneys' fees if awarded), arising or alleged to have arisen directly or indirectly out of (a) the making of this Agreement; (b) the performance of this Agreement; (c) the performance of any or all work to be done in and upon the street rights-of-way, upon the Property or premises adjacent thereto pursuant to this Agreement; (d) arising or alleged to have arisen directly or

indirectly in any way related to the design, construction, installation, maintenance and operation of City Water Distribution System or New Water Line by anyone occupying any portion of the Property, including, without limitation, any such claims, causes of action, damages, liabilities, fees, costs, expenses, and attorney fees arising from inadequate flow, blockage, backflow, water quality, etc. Owner' obligations under the preceding sentence shall apply regardless of whether Owner or any of its officers, officials, employees, agents, or volunteers are passively negligent, but shall not apply to any loss, liability, fines, penalties, forfeitures, costs, or damages caused by the active or sole negligence, or the willful misconduct, of City or any of its officers, officials, employees, agents, or volunteers. This section shall survive termination or expiration of this Agreement.

11. Local Agency Formation Commission (LAFCO). The law states that the City cannot provide new or extended services by contract outside its jurisdictional boundaries until a request is submitted and approvals are received from LAFCO in the affected county. The effectiveness of this Agreement is therefore contingent on LAFCO's approval of the proposed services under this Agreement.

12. Covenants Running with the Land. Owner acknowledges and agrees all of Owner' covenants, agreements, promises, representations, and warranties as set forth in this Agreement are covenants running with Owner' Property as defined in the applicable provisions of Sections 1457 et seq. of the California Civil Code, shall be in favor of and for the benefit of City and shall be enforceable by City. Owner' covenants, agreements, promises, representations and warranties as contained in this Agreement, shall run with the Property and shall be binding on Owner and Owner' successors, assigns, lessees and all parties and persons claiming under them. Owner consents to this Agreement being recorded as covenant running with the Property.

13. Successors and Assigns. The covenants and agreements contained in this Agreement shall be binding upon and shall insure to the benefit of the heirs, successors and assigns of the parties hereto. Owner may not assign its rights and/or obligations under this Agreement without the prior written consent of City, which consent shall not be unreasonably withheld. Any such consent by City shall not, in any way, relieve Owner of its obligations and responsibilities under this Agreement.

14. Notices. Any notice required or intended to be given to either party under the terms of this Agreement shall be in writing and shall be deemed to be duly given if delivered personally, transmitted by facsimile followed by telephone confirmation of receipt, or sent by United States registered or certified mail, with postage prepaid, return receipt requested, addressed to the party to which notice is to be given at the party's address set forth on the signature page of this Agreement, or at such other address as the parties may from time to time designate by written notice. Notices served by United States mail in the manner above described shall be deemed sufficiently served or given at the time of the mailing thereof. All notices regarding any new or increased fee or rate increases affecting the applicable fees and rates in this Agreement, shall be provided in the same manner provided to all customers subject to the new or increased fees and charges.

15. Binding. Once this Agreement is signed by all parties, it shall be binding upon, and shall inure to the benefit of, both parties.

16. Compliance with the Law. In providing the services required under this Agreement, Owner shall at all times comply with all applicable laws of the United States, the State of California, and City, and with all applicable regulations promulgated by federal, state, regional, or local administrative and regulatory agencies, now in force and as they may be enacted, issued, or amended during the term of this Agreement. Owner, not City, is responsible for determining applicability of and compliance with all local, State and federal laws including, without limitation, the California Labor Code, Public Contract Code, Public Resources Code, Health & Safety Code, and Government Code; and the Yuba City Municipal Code. City makes no representations regarding the applicability of any such laws to this Agreement, the project, or the parties' respective rights or obligations hereunder including, without limitation, payment of prevailing wages, competitive bidding, subcontractor listing, or other matters. City shall not be liable or responsible, in law or equity, to any person for Owner' failure to comply with any such laws, whether City knew or should have known of the need for Owner to comply, or whether City failed to notify Owner of the need to comply.

17. Waiver. The waiver by either party of a breach by the other of any provision of this Agreement shall not constitute a continuing waiver or a waiver of any subsequent breach of either the same or a different provision of this Agreement. No provisions of this Agreement may be waived unless in writing and signed by all parties to this Agreement. Waiver of any one provision herein shall not be deemed to be a waiver of any other provision herein.

18. Public Health, Safety and Welfare. Nothing contained in this Agreement shall limit City's authority to exercise its police powers, governmental authority, or take other appropriate actions to address issues of public health, safety, and welfare as deemed appropriate by City in its sole determination and discretion.

19. Governing Law and Venue. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of California, excluding, however, any conflict of laws rule which would apply the law of another jurisdiction. Venue for purposes of the filing of any action regarding the enforcement or interpretation of this Agreement and any rights and duties hereunder shall be Sutter County, California.

20. Headings. The section headings in this Agreement are for convenience and reference only and shall not be construed or held in any way to explain, modify, or add to the interpretation or meaning of the provisions of this Agreement.

21. Severability. The provisions of this Agreement are severable. The invalidity or unenforceability of any one provision in this Agreement shall not affect the other provisions.

22. Interpretation. The parties acknowledge that this Agreement in its final form is the result of the combined efforts of the parties and that, should any provision of this Agreement be found to be ambiguous in any way, such ambiguity shall not be resolved by construing this

Agreement in favor of or against either party, but rather by construing the terms in accordance with their generally accepted meaning.

23. Attorney's Fees. If either party is required to commence any proceeding or legal action to enforce or interpret any term, covenant or condition of this Agreement, the prevailing party in such proceeding or action shall be entitled to recover from the other party its reasonable attorney's fees, costs and legal expenses.

24. Exhibits. Each exhibit and attachment referenced in this Agreement is, by the reference, incorporated into and made a part of this Agreement.

25. Precedence of Documents. In the event of any conflict between the body of this Agreement and any exhibit or attachment hereto, the terms and conditions of the body of this Agreement shall control and take precedence over the terms and conditions expressed within the exhibit or attachment. Furthermore, any terms or conditions contained within any exhibit or attachment hereto, which purport to modify the allocation of risk between the parties, provided for within the body of this Agreement shall be null and void.

26. Time of Essence. Time is of the essence in the fulfillment by the parties hereto of their obligations under this Agreement.

27. Amendment, Etc. No amendment or waiver of any provisions of this Agreement, or consent to any departure from its terms, shall be effective unless the same shall be in writing and signed by the parties hereto.

28. Cumulative Remedies. No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity, except Owner (i) cannot seek money damages or pursue an action in law; and (ii) is instead limited to bringing a proceeding in the nature of specific performance, injunctive relief or mandamus, or any other action in equity to require good-faith compliance with this Agreement, such as an action to provide Owner's Property with sewer services from City's Water Distribution System.

29. No Third Party Beneficiaries. The rights, interests, duties, and obligations defined within this Agreement are intended for the specific parties hereto as identified in the preamble of this Agreement. Notwithstanding anything stated to the contrary in this Agreement, it is not intended that any rights or interests in this Agreement benefit or flow to the interest of any third parties.

30. Extent of Agreement. Each party acknowledges that they have read and fully understand the contents of this Agreement. This Agreement represents the entire and integrated agreement between the parties with respect to the subject matter hereof and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be modified only by written instrument duly authorized and executed by both City and Owner.

31. Third Party Approvals. The Parties acknowledge that there are approvals from third parties (such as those involving public utilities, railroad right-of-way, etc.) that are required to allow the City providing Owner's Property with water services from the City's Water Distribution System. The approvals are conditions precedent to performance, and the City shall seek said third-party approvals in good faith.

32. Execution in Counterparts. This Agreement may be executed in counterparts, all of which taken together shall constitute an original hereof.

IN WITNESS WHEREOF, the parties have executed this Agreement at Fresno, California, the day and year first above written.

CITY:

CITY OF YUBA CITY,
a California municipal corporation

By: _____
~~Shon Harris~~, Mayor
Dave Shaw

ATTEST:

By: _____
~~Patricia Buckland~~, City Clerk
Ciara Wakefield, Deputy City Clerk

APPROVED AS TO FORM:

By: _____
Shannon L. Chaffin
City Attorney

******SIGNATURES CONTINUE ON NEXT PAGE ******

“OWNER”:

“OWNER”:
BARRY ELEMENTARY SCHOOL

By: 
Signature Notarized

Address: 1255 Barry Road,
Sutter County, CA

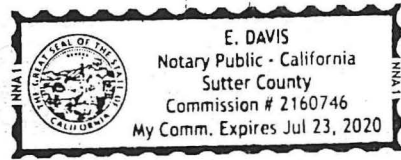
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Sutter)

On May 6, 2020, before me, E. Davis, a Notary Public, personally appeared Doreen Osumi, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature 

BARRY ELEMENTARY SCHOOL

By: *[Signature]*
Signature Notarized

Address: 1255 Barry Road,
Sutter County, CA

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Sutter)

On May 6, 2020, before me, E. Davis, a Notary Public, personally appeared Doreen Osumi, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature *E. Davis*

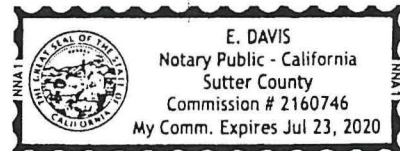


EXHIBIT "A"
LEGAL DESCRIPTION OF PROPERTY

TOGETHER with an undesignated the instrument, beneficiaries and appropriares thereunto belonging or in respect thereto, and the revenues and emoluments, residuals and royalties, rents, issues and profits thereof.

TO HAVE AND TO HOLD all and singular the said premises together with appurtenances unto the said party of the second part and to his heirs and assigns forever.

IN WITNESS WHEREOF, he said party of the first part hath hereunto set his hand and seal, the day and first then written.

Witness my hand and delivered in the presence of

STATE OF CALIFORNIA,
County of Butte
On this 14th day of February 1912
before me,
Notary Public
personally appeared
known to me to be the person whose name is subscribed to the within instrument, and who acknowledged to me that he executed the same.

In and for the County of Butte, State of California.
State of California, County of Butte
On this 15 day of January, 1912, before me, E. J. McWhrey, a Notary Public in and for said Butte County, personally appeared Lewis Biber, known to me to be the person whose name is subscribed to the within instrument and she acknowledged to me that she executed the same.

Witness my hand and seal in and for the County of Butte, State of California.
E. J. McWhrey

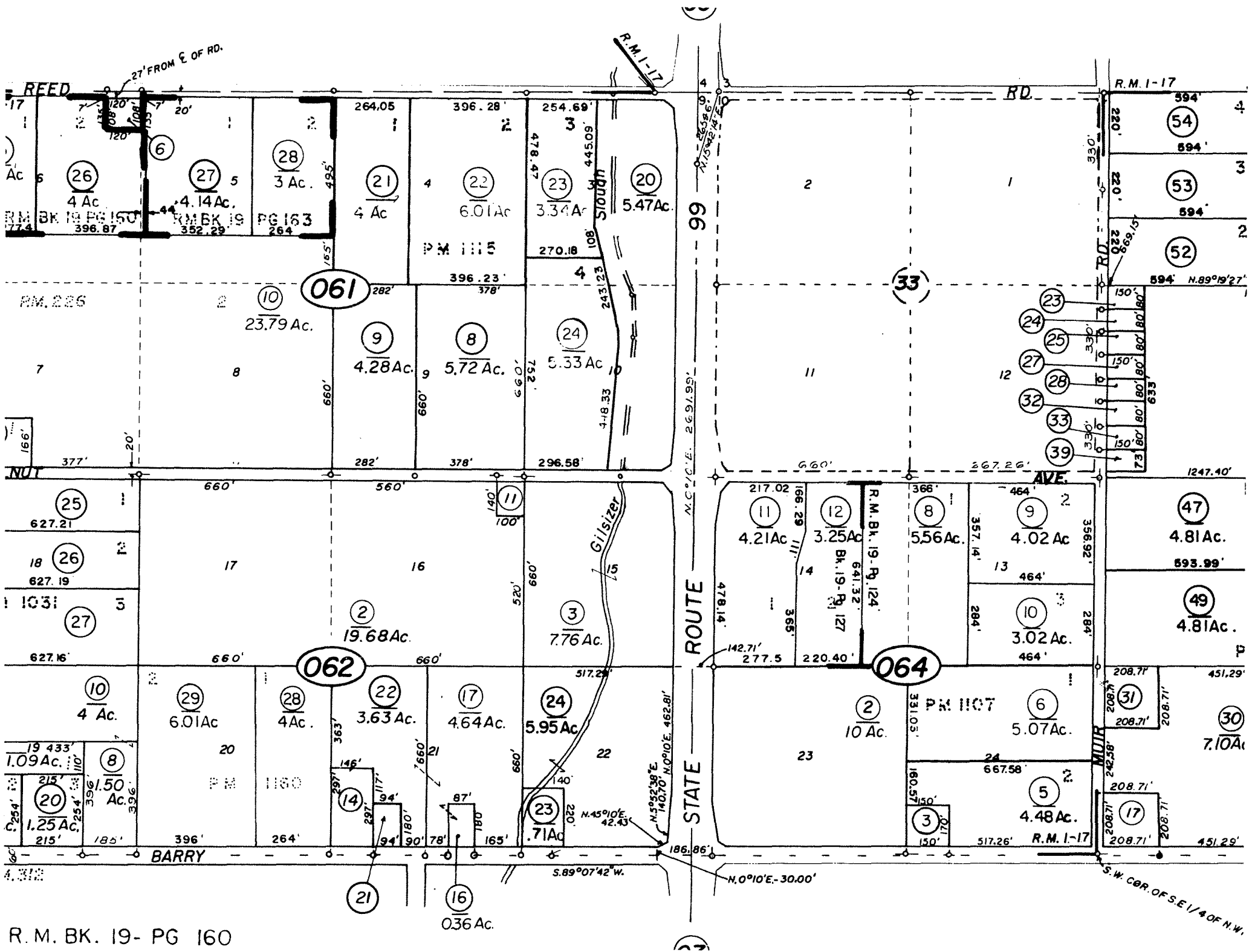
(90-60) Rev. Stamp cancelled
City Architecture, Made this 15th day of January in the year of our Lord One Thousand Nine Hundred and Twenty-two

BEFORE ME, the undersigned authority, on this day personally appeared the party of the second part, and acknowledged to me that he executed the foregoing instrument, and the contents thereof.

WITNESSETH That the said parties to the foregoing instrument, in and for the County of Butte, State of California, do hereby certify that the within instrument, and the contents thereof, are true and correct, and that the same have been duly recorded in the public records of said County, in Book 10, page 119, of the records of said County, in the year of our Lord One Thousand Nine Hundred and Twenty-two.

Myself (subscribe) as said list is laid down and numbered as a Public Record (1) of Maps at page ninety, on June 2nd, 1909, Records of Butte County, containing 6.16 acres.

Notary Public



R.M. BK. 19- PG 160

S.W. COR. OF S.E. 1/4 OF N.W.

ATTACHMENT 5

Nicholas Menezes

From: Ngai, Michael@Waterboards <Michael.Ngai@waterboards.ca.gov>
Sent: Wednesday, April 13, 2022 7:57 AM
To: Nicholas Menezes
Cc: Rowe, Paul@Waterboards; Uppal, Parmdeep@Waterboards
Subject: RE: Yuba - Barry consolidation project Authorizing Resolution

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good morning Nicholas,

Checking in to see if the Construction Resolution and the Service Agreement are executed or not? If not, could you still send me a final draft for the Service Agreement with the requested modification from our Counsel? We have seen your draft Resolution already but not the Service Agreement as you mentioned you haven't had time to update it previously.

I just got the approval yesterday afternoon to increase the estimated project cost to your newly submitted cost of \$3,923,000. I believe we are ready to move with the initial Agreement with the updated info, so I want to see how your side is doing? Please let me know the status to the two documents in questions, so we can decide what to do with the initial agreement as we have to have it issued before May otherwise there might be further delays.

Please let me know if you have any other questions, thank you.

Michael Ngai
Sanitary Engineer

State Water Resource Control Board – Division of Financial Assistance
1001 I Street, 16th Floor, Sacramento, CA 95814
E-mail: Michael.Ngai@waterboards.ca.gov

From: Ngai, Michael@Waterboards
Sent: Wednesday, April 6, 2022 1:19 PM
To: Nicholas Menezes <nmenezes@yubacity.net>
Cc: Rowe, Paul@Waterboards <Paul.Rowe@waterboards.ca.gov>
Subject: RE: Yuba - Barry consolidation project Authorizing Resolution

Hi Nicholas,

I have forwarded your document and asked to see if there are any alternatives we can do, currently waiting for reply.

I have also gotten another reply from our Counsel again about your service agreement, she also recommend below modification **in addition** to her previous comment -

- Article 3(b) cannot be contingent on receiving grant funding as it contradicts DWSRF requirements
- The agreement should demonstrate the school agrees to surrender its drinking water permit upon consolidation (unless they've demonstrated that in a different document)
 - Should also include "Procedures and timing for consolidating water system's surrender of domestic water supply permits"

Nicholas Menezes

From: Ngai, Michael@Waterboards <Michael.Ngai@waterboards.ca.gov>
Sent: Wednesday, April 20, 2022 1:49 PM
To: Nicholas Menezes
Cc: Rowe, Paul@Waterboards; Uppal, Parmdeep@Waterboards
Subject: RE: Yuba - Barry consolidation project Authorizing Resolution

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Nicholas,

After we have talked to various units for all the updates, we have come to a conclusion for the situation that we face, we are offering two choices:

1, We can issue the Agreement very shortly with the estimated amount of \$2.38M to the City and we are going to deal with all the increase during the Final Budget Approval process. **It was already cleared by our Credit Unit for the \$3.923M amount**, but increasing it again should not be a problem within reasons, especially due to consolidation with a School. Also, our counsel reminded that the Agreement can only be signed by the Authorized Representative ***after*** the Construction Authorizing Resolution is executed by City Council.

2, If the City would still prefer to receive the \$3.923M estimated amount on the Agreement, then we will need to push the issuance of the Agreement back a few months. Due to the time needed to go through various units to update to the new number, and we might have to do it again during our Final Budget Approval process. Especially we are going into our fiscal year end preparation, our Accounting unit is busy and might delay even further. I suggest against this.

Please let me know how the City would like to proceed so I can reply to our counsel, thank you.

Michael Ngai
Sanitary Engineer

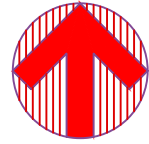
State Water Resource Control Board – Division of Financial Assistance
1001 I Street, 16th Floor, Sacramento, CA 95814
E-mail: Michael.Ngai@waterboards.ca.gov

From: Nicholas Menezes <nmenezes@yubacity.net>
Sent: Wednesday, April 13, 2022 11:20 AM
To: Ngai, Michael@Waterboards <Michael.Ngai@waterboards.ca.gov>
Cc: Rowe, Paul@Waterboards <Paul.Rowe@waterboards.ca.gov>; Uppal, Parmdeep@Waterboards <Parmdeep.Uppal@Waterboards.ca.gov>
Subject: RE: Yuba - Barry consolidation project Authorizing Resolution

EXTERNAL:

Thanks Michael,

ATTACHMENT 6



SCALE: 1" = 2000'

BARRY SCHOOL WATERLINE EXTENSION PROJECT

