

RESOLUTION NO. 2015-125

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROHNERT PARK AUTHORIZING AND APPROVING THE PRODUCER/DISTRIBUTOR AGREEMENT FOR TRANSFER OF THE ROHNERT PARK REUSE SYSTEM AND SUPPLY OF RECYCLED WATER BETWEEN THE CITY OF SANTA ROSA AND THE CITY OF ROHNERT PARK AND FINDING THIS ACTION EXEMPT UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

WHEREAS, the City of Santa Rosa (Santa Rosa) and the City of Rohnert Park (Rohnert Park), together with the cities of Cotati and Sebastopol and the South Park Sanitation District, are partners in the Santa Rosa Subregional Water Recycling System (Subregional System); and

WHEREAS, Santa Rosa, in its role as managing partner for the Subregional System, owns and operates the existing Rohnert Park Reuse System and in that capacity administers various user agreements with customers that use recycled water produced by the Subregional System including customers in and adjacent to Rohnert Park; and

WHEREAS, Santa Rosa, in its role as managing partner for the Subregional System has adopted policies which encourage the Subregional System to transition from a retail purveyor of recycled water to customers into a wholesale purveyor of recycled water to local water utilities; and

WHEREAS, the wholesaler-retailer relationship between the Subregional System and a local water utility has been successfully developed for the Santa Rosa Urban Reuse System; and

WHEREAS, the wholesaler-retailer relationship maximizes the strengths of both the Subregional System and the local water utility which benefits both water and sewer ratepayers including sewer ratepayers in Rohnert Park; and

WHEREAS, Santa Rosa, acting in its role as managing partner for the Subregional System and Rohnert Park, have negotiated a producer-distributor agreement that will allow a wholesale-retail relationship to be developed between the Subregional System and Rohnert Park, for the benefit of both parties and their ratepayers;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Rohnert Park that it makes the following determinations with regard to the Producer/Distributor Agreement for Transfer of the Rohnert Park Reuse System and Supply of Recycled Water between the City of Santa Rosa and the City of Rohnert Park:

Section 1. The foregoing recitals are true and correct and material to this Resolution;

Section 2. The City Council finds and determines that entry into the Producer/Distributor Agreement for Transfer of the Rohnert Park Reuse System and Supply of Recycled Water

between the City of Santa Rosa and the City of Rohnert Park will continue the use of an existing, operating recycled water system that is permitted to operate and serve recycled water. Entering into the Producer/Distributor Agreement for Transfer of the Rohnert Park Reuse System and Supply of Recycled Water between the City of Santa Rosa and the City of Rohnert Park is exempt from the California Environmental Quality Act (CEQA) under California Code of Regulations, Title 14, Division 6, Chapter 3 (CEQA Guidelines) Section 15301 (b) because the agreement covers the operation, repair, maintenance, and permitting of a publicly-owned utility. The City Manager is authorized and directed to file a Notice of Exemption pursuant to the CEQA guidelines.

Section 3. The City Council does hereby authorize and approve the Producer/Distributor Agreement for Transfer of the Rohnert Park Reuse System and Supply of Recycled Water between the City of Santa Rosa and the City of Rohnert Park.

Section 4. The City Manager is hereby authorized and directed to take all actions to effectuate this agreement for and on behalf of the City of Rohnert Park, including execution, if necessary, in substantially similar form to the agreement attached hereto as Exhibit "A," subject to minor modifications by the City Manager or City Attorney.

DULY AND REGULARLY ADOPTED this 14th day of July, 2015.

CITY OF ROHNERT PARK



Amy O. Ahanotu, Mayor

ATTEST:


JoAnne M. Buergler, City Clerk

CALLINAN: Aye MACKENZIE: Absent STAFFORD: Aye BELFORTE: Aye AHANOTU: Aye
AYES: (4) NOES: (0) ABSENT: (1) ABSTAIN: (0)

EXHIBIT A TO RESOLUTION

PRODUCER/DISTRIBUTOR AGREEMENT FOR TRANSFER OF THE ROHNERT PARK
URBAN REUSE SYSTEM

AND SUPPLY OF RECYCLED WATER

BETWEEN THE CITY OF SANTA ROSA AND THE CITY OF ROHNERT PARK

This Producer/Distributor Agreement for the Transfer of the Rohnert Park Urban Reuse System and Supply of Recycled Water (“**Agreement**”) is made and entered into this ____ day of _____, 2015, by and between the City of Santa Rosa, a charter city (“**Santa Rosa**”) and the City of Rohnert Park, a general law city (“**Rohnert Park**”). Santa Rosa and Rohnert Park may be referred to herein individually as a “**Party**” or collectively as the “**Parties**.” This Agreement is predicated on the following facts and intentions:

RECITALS

- A. Santa Rosa and Rohnert Park are parties to the following agreements regarding the use of the Santa Rosa Subregional Sewage System and/or the use of recycled water:
- Agreement Between the City of Santa Rosa and City of Rohnert Park, City of Sebastopol, South Park County Sanitation District for the Use of Santa Rosa Subregional Sewage System, dated April 3, 1975, and as has been subsequently amended on September 1, 1987, October 20, 1987, December 1, 1994, July 1, 2002, and November 19, 2008 (collectively referred to herein as “**Master Agreement**”);
 - User Agreement, dated May 17, 1988 and subsequently amended on May 16, 2011 and July 1, 2015 , for the use of recycled water for irrigation at Mountain Shadows Golf Course (currently known as the Foxtail Golf Course);
 - User Agreement, dated March 28, 1995, as subsequently amended on May 28, 1996, March 10, 2015 and June 9 2015 for the use of recycled water from Santa Rosa on property owned by Rohnert Park, specifically: Dorotea Park, Eagle Park, Sunrise Park, Community and Recreation Center, Rainbow Park, Colegio Vista Park, Alicia Park, Benicia Park, Magnolia Park, Public Safety Yard, Rohnert Park Stadium, Rohnert Park Wastewater Lift Station, Robert’s Lake Park and Rohnert Park City Hall; and
 - Agreement for Interim Transfer of Capacity dated September 25, 2001, as subsequently amended on June 10, 2003.
- B. Pursuant to the terms and conditions of the Master Agreement, Santa Rosa owns and operates the Santa Rosa Subregional Sewage System, which includes the Laguna Treatment Plant. Santa Rosa treats and disposes of all sewerage received from the parties to the Master Agreement.
- C. Sewerage (also referred to as wastewater) is treated at the Laguna Treatment Plant to tertiary standards. The tertiary treated wastewater (also referred to as effluent, reclaimed water, or recycled water) is then pumped to storage ponds for disposal by one of three methods: (1) irrigation/reuse, (2) use in the Geysers Recharge Project, or (3) discharge to the Laguna de Santa Rosa. Santa Rosa manages these three disposal methods in order to remain in regulatory compliance independent of weather conditions.

D. As part of its irrigation/reuse method, Santa Rosa constructed the Rohnert Park Urban Reuse System, defined in Section 1.23 below, which consists of a series of pumps and piping that conveys Recycled Water to Customers, defined in Section 1.2 below, pursuant to individual user agreements (“**User Agreements**”).

E. As noted above, Rohnert Park is an Existing Customer, defined in Section 1.3 below, of the Rohnert Park Urban Reuse System pursuant to several User Agreements for use of Recycled Water on various city sites. Other Existing Customers of the Rohnert Park Urban Reuse System include a number of other public and private entities, that each have their own User Agreements with Santa Rosa. The Rohnert Park Urban Reuse System currently supplies irrigation water to its Existing Customers and provides between 340 and 400 million gallons of Recycled Water per year for irrigation, depending on the hydrologic characteristics and irrigation demands in any given year. The Rohnert Park Urban Reuse System can currently meet a peak irrigation demand of up to 4,000 gallons per minute.

F. Currently, Santa Rosa owns, operates and maintains the Rohnert Park Urban Reuse System, contracts directly with Existing Customers for the use of Recycled Water, and bills them based on their volume of use.

G The State Water Resources Control Board adopted Resolution 2009-0011 Adoption of a Policy for Water Quality Control for Recycled Water (“**Recycled Water Policy**”) promoting the use of Recycled Water to achieve sustainable local supplies. Per the Recycled Water Policy the State Water Resources Control Board found that when used in compliance with the Recycled Water Policy, Title 22 and all applicable laws, Recycled Water is safe for approved uses and strongly supports Recycled Water as a safe alternative to raw and potable water supplies for approved uses.

H. The Parties agree that Recycled Water is a feasible alternative water supply source to supplement potable and non-potable water demands. California Water Code section 13550 mandates the use of Recycled Water for non-potable uses if feasible and available and the Parties each use Recycled Water for non-potable purposes within their respective service areas as part of their water supply portfolio.

I. The Parties agree to cooperate in communication about the value and safety of the non-potable Recycled Water supply produced by the Subregional System and distributed within each of their service areas.

J. Rohnert Park is willing to own, operate, maintain and replace the Rohnert Park Urban Reuse System; to acquire Recycled Water at wholesale rates from Santa Rosa; and to retail Recycled Water to Customers.

K. Santa Rosa is willing to transfer the Rohnert Park Urban Reuse System to Rohnert Park and supply Recycled Water at wholesale rates to Rohnert Park, subject to the terms and conditions of this Agreement.

Now, therefore, for valuable consideration, the sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

AGREEMENT

1. DEFINITIONS.

1.1 “City Managed Sites” means those real properties that receive Recycled Water from the Rohnert Park Urban Reuse System which are owned and/or controlled by Rohnert Park. For the purposes of this Agreement, City Managed Sites includes, but is not limited to, Dorotea Park, Eagle Park, Sunrise Park, Community and Recreation Center, Rainbow Park, Colegio Vista Park, Alicia Park, Benicia Park, Magnolia Park, the Public Safety Yard, Rohnert Park Stadium, Rohnert Park’s Wastewater Lift Station, and City Hall. City Managed Sites shall not include Roberts Lake Park or Foxtail Golf Course.

1.2 “Customer(s)” means any person, group, firm, partnership, corporation, association property owner or agency, that currently or at any time in the future lawfully receives and accepts Recycled Water service from the Rohnert Park Urban Reuse System.

1.3 “Existing Customers” means those Customers receiving Recycled Water from the Rohnert Park Urban Reuse System as of the Effective Date of this Agreement.

1.4 “Force Majure Event” means an act of God, war, fire, earthquake, windstorm, flood or other natural catastrophe, civil disturbance or disobedience, labor disputes, vandalism, sabotage, terrorism, restraint by order of a court or administrative agency with jurisdiction, which Santa Rosa could not reasonably have been expected to avoid and which by exercise of due diligence has been unable to overcome

1.5 “Foxtail Golf Course” means that property located in Rohnert Park that is currently operated as two 18-hole golf courses, which is more particularly described in Exhibit A hereto, which is incorporated by this reference.

1.6 “General Permit” means the State Water Resources Control Board Order WQ2014-0090-DWQ General Waste Discharge Requirements for Recycled Water Use adopted on June 3, 2014 as it exists now or may be amended or revised during the term of this Agreement.

1.7 “Incidental Runoff” shall have that meaning provided for in the NPDES permit, as may be amended from time to time, and which is currently defined to mean unintended small amounts (volume) of runoff from Recycled Water use areas where agronomic rates and appropriate best management practices are being implemented. Water leaving a Recycled Water use area is not considered incidental if it is due to negligent maintenance or poor design of the facility infrastructure, if it is due to excessive application, if it is due to intentional overflow or application, or if it is due to negligence. Incidental runoff events are typically infrequent, low volume, accidental, not due to a pattern of neglect or lack of oversight, and are promptly addressed.

1.8 “Interruptible Service” means service of Recycled Water to those sites that have on-site Recycled Water storage, can use this storage to pressurize their on-site Recycled Water system, and therefore may have service of Recycled Water that is subject to reduction or interruption without prior notice.

1.9 “Maximum Annual Flow” means the maximum metered flow which Santa Rosa may deliver into the Rohnert Park Urban Reuse System in any one calendar year, which is more particularly described in Section 3.3.3.

1.10 “Maximum Daily Flow” means the maximum amount of flow which Santa Rosa may deliver into the Rohnert Park Reuse System through all Points of Delivery in one day, which is more particularly described in Section 3.3.2.

1.11 “Maximum Peak Flow” means the maximum instantaneous flow that can be pumped to the Rohnert Park Urban Reuse System through all Points of Delivery, which is more particularly described in Section 3.3.1.

1.12 “New Customers” means those Customers, excluding Existing Customers, receiving Recycled Water from the Rohnert Park Urban Reuse System after the Effective Date of this Agreement.

1.13 “New Facilities” means that infrastructure (e.g. pumps, valves, air release valves, pressure reducing valves, pipelines, flow meters and associated flow devices, power supply equipment, control equipment, and other appurtenances) attached to the Rohnert Park Urban Reuse System after the Effective Date.

1.14 “Non-City Managed Sites” means those real properties utilizing Recycled Water from the Rohnert Park Urban Reuse System which are not otherwise identified as City Managed Sites, Foxtail Golf Course, Robert’s Lake Park, and/or Sonoma State University.

1.15 “Non-Interruptible Service” means service of Recycled Water that is not defined as Interruptible Service and is not subject to reduction or interruption except under the terms of this Agreement or Applicable Law, or by act of Rohnert Park or Santa Rosa during a shortage situation.

1.16 “NPDES” means the National Pollutant Discharge Elimination System.

1.17 “NPDES Permit” means the NPDES Waste Discharge Requirements and Master Reclamation Permit for the City of Santa Rosa Subregional Water Reclamation System issued by the North Coast RWQCB, as it exists now or may be amended or revised during the term of this Agreement.

1.18 “Points of Delivery” means the locations at which point Santa Rosa delivers Recycled Water into the Rohnert Park Urban Reuse System. These locations are depicted on Exhibit B, which is attached hereto and incorporated by this reference.

1.19 “PSI” means pounds per square inch, which is the most common unit of pressure measurement.

1.20 “Recycled Water” as defined in Title 22, Division 4 of the California Administrative Code, is water that, as a result of treatment of wastewater, is suitable for direct beneficial use or a controlled use that otherwise would not occur.

1.21 “Retailer” means the City of Rohnert Park acting in its role as purchaser of Recycled Water at wholesale rates and seller of Recycled Water to Customers at retail rates.

1.22 “Roberts Lake Park” means that property located in Rohnert Park that is currently operated as a public park and fishing pier located west of Roberts Lake Road, which is more particularly described in Exhibit C hereto, which is incorporated by this reference.

1.23 “Rohnert Park Urban Reuse System” means that series of pumps, valves, air release valves, pressure reducing valves, pipelines, flow meters and associated flow devices, power supply equipment, control equipment, and other appurtenances which transmit and distribute Recycled Water to Customers beginning from the Points of Delivery and continuing into Rohnert Park, which system is more particularly identified in Exhibit B, which is attached hereto and incorporated by this reference.

1.24 “Rohnert Park Service Area” means the area within the Rohnert Park City Limits and Rohnert Park Sphere of Influence and Sonoma State University where recycled water may be served, which is more particularly described in Exhibit B hereto, which is incorporated by this reference.

1.25 “RWQCB” means the Regional Water Quality Control Board.

1.26 “Runoff” means Recycled Water that is allowed to drain outside the approved use area that does not meet the definition of Incidental Runoff as defined above.

1.27 “Santa Rosa Subregional Sewage System” or “Subregional System” means the Santa Rosa subregional water reclamation system which is a publicly owned treatment work as defined by section 212 of the Clean Water Act, 33 USC 1251 *et seq.*, as may be amended. This system is the producer of the recycled water delivered to the Rohnert Park Urban Reuse System.

1.28 “Santa Rosa Subregional Wholesale System” means that series of pumps, valves, air release valves, pressure reducing valves, pipelines, flow meters and associated flow devices, power supply equipment, control equipment, pump stations, and other appurtenances which transmit and distribute Recycled Water to Rohnert Park Urban Reuse System.

1.29 “Sonoma State University” means that public university that occupies approximately 269 acres which is generally located south of Rohnert Park Expressway, west of Petaluma Hill Road, north of East Cotati Avenue and west of Snyder Lane, which is more particularly described in Exhibit D hereto, which is incorporated by this reference.

1.30 “Wholesale Recycled Water Rate – Interruptible Service” means the rate per acre-foot that Santa Rosa charges Rohnert Park for Interruptible Service pursuant to the terms of this Agreement.

1.31 “Wholesale Recycled Water Rate – Non-Interruptible Service” means the rate per acre-foot that Santa Rosa charges Rohnert Park for Non-Interruptible Service pursuant to the terms of this Agreement.

2. EFFECT ON OTHER AGREEMENTS.

2.1 **Master Agreement.** The terms of this Agreement shall be subject to those terms of the Master Agreement which specifically relate to Recycled Water.

2.2 **Agreements between the Parties.** Except as provided for in Section 2.1, effective August 1, 2015, the terms of this Agreement shall supersede the User Agreements between Santa Rosa and Rohnert Park referenced in the Recitals and originally dated May 17, 1988, and March 28 1995 and March 10, 2015, as these may have been amended.

2.3 **User Agreements.** The effect of this Agreement on the User Agreements that Santa Rosa has with Customers other than Rohnert Park, is specified in Section 5.4.1 of this Agreement.

3. DELIVERY AND ACCEPTANCE.

3.1 **Recycled Water Delivery.** Santa Rosa agrees to and shall deliver Recycled Water to the Rohnert Park Urban Reuse System in the quantity and at the quality and pressure set forth by the terms and conditions of this Agreement. Rohnert Park agrees to and shall operate and maintain the Rohnert Park Urban Reuse System in the manner set forth by the terms and conditions of this Agreement.

3.2 **Recycled Water Quality.**

3.2.1 **Treatment Standard.** Santa Rosa shall treat the Recycled Water to be delivered to the Rohnert Park Urban Reuse System in conformance with the criteria specified by Current and Anticipated Applicable Laws defined in Sections 4.1 and 4.2, as may be amended from time to time.

3.2.2 **Non-Compliant Water Quality.** Should it be determined by either Party or any applicable regulatory agency that the Recycled Water is out of compliance, the Party shall immediately: (a) notify the other Party of such determination, and (b) Santa Rosa shall cease delivery of Recycled Water to the Rohnert Park Urban Reuse System until the Recycled Water is deemed to be in compliance with applicable regulations by the Party that made the non-compliance determination. The Party shall provide such notice of non-compliance verbally to the other Party by telephone as soon as possible but no later than 24 hours from becoming aware of the circumstance and shall provide a follow-up written confirmation by email on the same day verbal notice is given.

3.2.3 **Resumption of Services.** In the event that delivery ceases pursuant to Section 3.2.2, Santa Rosa shall use its best efforts to reestablish the delivery of Recycled Water of a conforming nature to the Rohnert Park Urban Reuse System as soon as possible. At such time, Santa Rosa shall notify Rohnert Park of the availability of Recycled Water verbally by

telephone, with a follow-up written confirmation by email on the same day verbal notice is given. Upon receiving written authorization from Rohnert Park, Santa Rosa shall, as soon as possible, reestablish the delivery of Recycled Water to the Rohnert Park Urban Reuse System.

3.3 Quantity to be Delivered.

3.3.1 **Maximum Peak Flow.** Santa Rosa shall deliver Recycled Water to the Rohnert Park Urban Reuse System at a Maximum Peak Flow of: (a) three thousand eight hundred (3,800) gallons per minute from the twenty-four inch (24") pipeline located along the Laguna de Santa Rosa river, and, (b) two thousand five hundred (2,500) gallons per minute from the eighteen inch (18") pipeline located in Wilfred Avenue, which pipelines are more particularly depicted on Exhibit B. The aforementioned Maximum Peak Flow establishes limits for Rohnert Park's retail distribution of Recycled Water only and does not apply to Recycled Water in the Rohnert Park Urban Reuse System for Santa Rosa's Wheeling purposes as provided for in Section 3.6.

3.3.2 **Maximum Daily Flow.** Santa Rosa shall deliver Recycled Water to the Rohnert Park Urban Reuse System at a Maximum Daily Flow of three and eight tenths (3.8) million gallons a day (MGD). The aforementioned Maximum Daily Flow establishes limits for Rohnert Park's retail distribution of Recycled Water only and does not apply to Recycled Water in the Rohnert Park Urban Reuse System for Santa Rosa's Wheeling purposes as provided for in Section 3.6.

3.3.3 **Current Maximum Annual Flow.** Santa Rosa shall deliver to the Rohnert Park Urban Reuse System a Maximum Annual Flow of four hundred and fifty million 450,000,000 gallons of Recycled Water. The aforementioned Maximum Annual Flow establishes limits for Rohnert Park's retail distribution of Recycled Water only and does not apply to Recycled Water in the Rohnert Park Urban Reuse System for Santa Rosa's Wheeling purposes as provided for in Section 3.6.

3.3.4 **Future Maximum Annual Flow.** The Parties acknowledge that Rohnert Park's General Plan anticipates growth in residential and non-residential population and that this growth will result in more flows to the Subregional System and more recycled water production. Parties acknowledge that Rohnert Park desires to have a portion of this increased recycled water production delivered to Rohnert Park and made available as a water supply for new development. As such, Parties agree that within 12 months of the Effective Date of this Agreement, they will meet to discuss the development of a mutually acceptable methodology for accounting for the increased recycled water production and increasing the Maximum Annual Flow to the Rohnert Park Urban Reuse System.

3.3.5 **Pressure.** Subject to Maximum Peak Flow and Maximum Daily Flow, Santa Rosa shall deliver Recycled Water to the pump station located at the intersection of Rohnert Park Expressway and Stony Point Road, as depicted on Exhibit B, at a pressure ranging from 75 to 125 PSI, with a minimum pressure of no less than 75 PSI. Santa Rosa shall deliver Recycled Water to E Station located across from the Laguna Treatment Plant, as depicted on Exhibit B, at a pressure ranging from 8 to 15 PSI, with a minimum of no less than 8 PSI.

3.3.6 Non-Compliant Water Pressure. If either Party determines that Santa Rosa failed to deliver Recycled Water in the pressure ranges specified in Section 3.3.5 above, then upon such determination the Party shall, immediately notify the other Party of such determination. Such notice of non-compliance shall be made verbally to the other Party by telephone and in writing by email on the same day verbal notice is given. The Parties shall mutually work together to determine the cause of the non-compliant pressure.

3.4 Flow Limitations.

3.4.1 Upon the occurrence of a Force Majure Event which causes a reduction in the Recycled Water available for distribution to the Rohnert Park Urban Reuse System, Santa Rosa shall: (a) as soon as possible, but in any event not later than two (2) days after a Force Majure Event, notify Rohnert Park of any flow limitations verbally by telephone, with a follow-up written confirmation by email on the same day verbal notice is given, and (b) use its best efforts to restore the availability of Recycled Water to normal operations as soon as possible.

3.4.2 Whenever Santa Rosa is planning for system maintenance or improvement of the Laguna Treatment Plant or other appurtenances that will affect delivery to the Rohnert Park Urban Reuse System ("Maintenance Activity"), Santa Rosa shall: (a) as soon as possible, but in any event not less than one (1) week prior to the Maintenance Activity, notify Rohnert Park of the date, duration, and nature of the Maintenance Activity verbally by telephone, with a follow-up written confirmation by email on the same day verbal notice is given, (b) use its best efforts to schedule said Maintenance Activity at times where demand for Recycled Water is minimized, such as during non-irrigation seasons, and (c) use its best efforts to limit the duration of said activities to less than seventy-two (72) hour periods and to restore the availability of Recycled Water to normal operations as soon as possible upon completion of the Maintenance Activity.

3.5 Terms of Acceptance. Under this Agreement, Rohnert Park shall not be required to purchase any set amount of Recycled Water. Without limiting the foregoing, Rohnert Park shall not be required to purchase Recycled Water if, the quality or pressure of the Recycled Water is determined not to be compliant as specified in Sections 3.2.2 3.3.5, and/or 3.3.6 hereof or in the event of flow limitations described in Section 3.4, and Rohnert Park shall not be obligated to pay for that amount of Recycled Water that is delivered that is not in conformance with said criteria.

3.6 Wheeling. During the term of this Agreement, Santa Rosa may transmit Recycled Water from the Laguna Treatment Plant through the Rohnert Park Urban Reuse System to properties within the cities of Santa Rosa and Cotati, and within unincorporated areas of Sonoma County, which transmission shall be referred to in this agreement as "**Wheel**" or "**Wheeling**," subject to the requirements of this Agreement. Santa Rosa may Wheel that amount of Recycled Water which the Rohnert Park Urban Reuse System capacity may reasonably be expected to accommodate based on the system design criteria, provided that such amount will be considered to be in addition to the Maximum Peak Flow, Maximum Daily Flow and the Current or Future Maximum Annual Flow specified in Section 3.3. During the term of this Agreement, Rohnert Park shall not charge Santa Rosa for Wheeling.

4. REGULATORY COMPLIANCE.

4.1 Current Applicable Laws. The Parties acknowledge and agree that currently the disposal and use of Recycled Water within the area served by the Rohnert Park Reuse System is subject to the requirements of the Federal Clean Water Act, the NPDES Permit issued to Santa Rosa by the North Coast RWQCB, the Water Reclamation Requirements and Provisions for Recycled Water Use established by the NPDES Permit, the Porter-Cologne Water Quality Act, regulations issued by the State Water Resources Control Board Division of Drinking Water, Titles 17 and 22 of the California Code of Regulations, the California Environmental Quality Act, regulations issued by the Sonoma County Department of Environmental Health, and all other federal, state and local recycled water rules, regulations and permits as they exist now or may be amended or revised during the term of this Agreement (“**Current Applicable Laws**”).

4.2 Anticipated Applicable Laws. The Parties acknowledge that they are seeking and expect to receive termination of coverage under the NPDES permit and immediate subsequent coverage under the General Permit. At such time that coverage under the General Permit is obtained, the Parties acknowledge and agree that use of Recycled Water within the area served by the Rohnert Park Reuse System will be subject to the requirements of the Porter-Cologne Water Quality Act, the General Permit, regulations issued by the California State Water Resources Control Board Division of Drinking Water, Titles 17 and 22 of the California Code of Regulations, the California Environmental Quality Act, regulations issued by the Sonoma County Department of Environmental Health, and all other federal, state and local recycled water rules, regulations and permits as they exist now or may be amended or revised during the term of this Agreement (“**Anticipated Applicable Laws**”).

The Parties acknowledge and agree that at such time Rohnert Park and Santa Rosa receive coverage under the General Permit, Rohnert Park shall have no responsibility for any compliance, reporting or other attendant requirement of the NPDES Permit.

4.3 Obligations.

4.3.1 **Santa Rosa’s Obligations.** Santa Rosa shall be responsible for compliance with all Current Applicable Laws, including all NPDES Permit requirements, except as to those requirements expressly transferred to Rohnert Park by this Agreement, until such time as both Parties are enrolled and regulated by the General Permit. At the time both Parties are enrolled and regulated by the by the General Permit, Santa Rosa, in its role as Producer, shall be responsible for delivering Recycled Water that meets the water quality criteria for “tertiary treated recycled water” as specified by Current Applicable Laws or Anticipated Applicable Laws, as applicable, and as defined in Sections 4.1 and 4.2.

4.3.2 **Rohnert Park’s Obligations.** Until such time as Rohnert Park is enrolled and regulated by the General Permit, Rohnert Park shall be responsible for compliance with all Current Applicable Laws, including NPDES Permit requirements, that are imposed upon Rohnert Park by this Agreement pursuant to Sections 4.1, 4.4, 5.1, 5.2.2, 5.3, and 5.4.2. Once Rohnert Park is enrolled and regulated under the General Permit, Rohnert Park shall only be responsible for its own regulatory compliance with all Anticipated Applicable Laws.

4.4 Rohnert Park's Regulations.

4.4.1 **Establishment.** Until such time as Rohnert Park is enrolled and regulated by the General Permit issued by the State Water Resources Control Board, Rohnert Park shall require that Customers comply with Santa Rosa rules and regulations relating to: (1) the installation, construction, modification or expansion of the Rohnert Park Urban Reuse System, (2) the connection to the Rohnert Park Urban Reuse System, and (3) the use of Recycled Water. Once Rohnert Park is enrolled and regulated by the General Permit, Rohnert Park may adopt its own rules and regulations that are consistent with all Anticipated Applicable Laws. This may be accomplished by reference or modified reference to the rules and regulations of Santa Rosa.

4.4.2 **Enforcement.** Until such time as Rohnert Park is enrolled and regulated by the General Permit issued by the State Water Resources Control Board and except as provided for in Section 5.1.2(a), Rohnert Park shall conduct or coordinate the construction, inspection and periodic site inspection of its Customers, including New Customers, to ensure compliance with Santa Rosa rules and regulations and Current Applicable Laws. In the event Rohnert Park discovers a violation of Current Applicable Laws (except local laws), Rohnert Park shall report the violation verbally within twenty-four (24) hours and in writing within seventy-two (72) hours to the RWQCB and notify Santa Rosa of the same. On a quarterly basis, Rohnert Park shall furnish copies of reports regarding any Incidental Runoff to Santa Rosa by the 10th of January, April, July, and October of each calendar year. The reports of Incidental Runoff shall include the date, location and amount of Incidental Runoff occurring during the prior quarter of the calendar year as well as corrective actions taken and shall be in a report format provided by Santa Rosa. Upon request, Rohnert Park shall furnish copies of site inspection reports to Santa Rosa. Santa Rosa shall be responsible for preparing and submitting all reports to regulatory agencies as required by the NPDES Permit and other Current Applicable Laws. Once enrolled and regulated by the General Permit, Rohnert Park shall undertake enforcement consistent with the General Permit, its adopted rules and regulations and the Anticipated Applicable Laws.

5. TRANSFER OF ROHNERT PARK URBAN REUSE SYSTEM - FACILITIES OWNERSHIP, OPERATION AND MAINTENANCE, AND CUSTOMERS

5.1 Facilities.

5.1.1 **Grant, Transfer and Conveyance / Records.**

(a) By execution of this Agreement, Santa Rosa, on behalf of itself and its heirs, successors and assigns, hereby agrees to grant, transfer and convey to Rohnert Park, effective August 1, 2015, of all of its right, title and interest in the public improvements and other appurtenances of the Rohnert Park Urban Reuse System. By execution of this Agreement, Rohnert Park, on behalf of itself and its heirs, successors and assigns, hereby agrees to assume ownership of the Rohnert Park Urban Reuse System effective August 1, 2015. The Parties expressly agree that the terms and conditions of this Agreement constitute good and valuable consideration for this conveyance. The Parties further agree to execute such other documents and perform such other acts as may be necessary or desirable to carry out this conveyance.

(b) As of the Effective Date of this Agreement, Santa Rosa shall make all of its records relating to the Rohnert Park Urban Reuse System available to Rohnert Park. Such records shall include, but not be limited to system maps and drawings; maintenance records and site inspections and other reports; real property records including deeds, easements, and licenses; Customer information including User Agreements and billing records, and any other related records.

5.1.2 New Facilities.

(a) Until Rohnert Park is enrolled and regulated under the General Permit issued by the State Water Resources Control Board and except as otherwise provided for in Section 5.1.2 (b), upon the Effective Date, and consistent with Section 4.1, Rohnert Park may install, construct, modify or expand the Rohnert Park Urban Reuse System with New Facilities, subject to Current Applicable Laws, the City of Santa Rosa Recycled Water Standards Adopted by the Santa Rosa City Council by Resolution No. 26962 and as they may be revised or amended during the term of this Agreement, and the prior written approval by the Director of Santa Rosa Water of the plans and specifications for said New Facilities. The Director of Santa Rosa Water's written approval shall not be unreasonably withheld and shall be issued promptly upon a determination that the New Facilities are consistent with Current Applicable Laws and the City of Santa Rosa Recycled Water Standards Adopted by the Santa Rosa City Council by Resolution No. 26962, and as revised or amended. The cost of the New Facilities shall be borne by Rohnert Park. Upon the completion of the New Facilities by Rohnert Park, Santa Rosa shall have the right to inspect all New Facilities constructed by Rohnert Park to assure it meets the City of Santa Rosa Recycled Water Standards Adopted by the Santa Rosa City Council by Resolution No. 26962. Rohnert Park shall promptly comply with any orders by the Director of Santa Rosa Water to correct the New Facilities constructed by Rohnert Park so that they meet Current Applicable Laws and the City of Santa Rosa Recycled Water Standards Adopted by the Santa Rosa City Council by Resolution No. 26962, and as revised or amended. In no event shall the addition of said New Facilities require Santa Rosa to provide Recycled Water in amounts that exceed the quantities established in Section 3.3 of this Agreement except as may be agreed to through the process outlined in Section 3.3.4 of this Agreement. Upon completion, Rohnert Park shall operate, maintain, repair and replace these New Facilities consistent with the terms of this Agreement.

(b) Upon the Effective Date and until such time as Rohnert Park is enrolled and regulated under the General Permit, Santa Rosa may install, construct, modify or expand the Rohnert Park Urban Reuse System with New Facilities, subject to the Current Applicable Laws and prior written approval by Rohnert Park's City Engineer of the plans and specifications for said New Facilities. Rohnert Park's City Engineer written approval shall not be unreasonably withheld and shall be issued promptly upon a determination that the New Facilities are consistent with Current Applicable Laws and the City of Santa Rosa Recycled Water Standards Adopted by the Santa Rosa City Council by Resolution No. 26962, and as they may be revised or amended during the term of this Agreement, and design and construction criteria established by Rohnert Park. Upon the completion of the New Facilities by Santa Rosa, Rohnert Park shall have the right to inspect all New Facilities constructed by Santa Rosa to assure it meets design and construction criteria established by Rohnert Park. Santa Rosa shall promptly comply with any orders by Rohnert Park's City Engineer to correct

the New Facilities constructed by Santa Rosa so that they meet Current Applicable Laws and Rohnert Park design and construction criteria. For New Facilities completed by Santa Rosa on or after August 1, 2015, Santa Rosa shall grant, transfer and convey the New Facilities to Rohnert Park by execution of an agreement. The cost of the New Facilities shall be apportioned pursuant to the Master Agreement.

(c) Once Rohnert Park is enrolled and regulated under the General Permit, it may undertake planning, design, construction, operation, and maintenance of the Rohnert Park Urban Reuse System consistent only with the General Permit, its adopted rules and regulations, and other Anticipated Applicable Laws. The provisions of Sections 5.1.2(a) and 5.1.2(b) limiting the City's authority, and providing Santa Rosa with authority, to install, construct, modify, or expand the Rohnert Park Urban Reuse System shall be inapplicable.

5.2 Operations and Maintenance of the System.

5.2.1 Santa Rosa's Obligation. Upon request by Rohnert Park, Santa Rosa shall provide training to Rohnert Park on the procedures and methods used to operate and maintain the Rohnert Park Urban Reuse System, including the valves at the Points of Delivery and all other improvements. The training provided to Rohnert Park employees shall be the equivalent of the training provided to Santa Rosa employees in a counterpart position(s).

5.2.2 Rohnert Park's Obligations. As per Section 4.1, on the Effective Date of this Agreement, Rohnert Park shall assume the responsibility for: (1) the operation, maintenance, repair and replacement of the Rohnert Park Urban Reuse System, including New Facilities constructed pursuant to Section 5.1.2, in accordance with Current Applicable Laws. Until enrolled and regulated under the General Permit, Rohnert Park shall comply with all monitoring and reporting provisions in the NPDES permit and monitor and report quarterly to Santa Rosa by the 10th of the month following the end of each quarter (April, July, October, and January) any incidental runoff from Customer sites irrigated with Recycled Water. Once Rohnert Park is enrolled and regulated under the General Permit, Rohnert Park shall operate, maintain, repair, replace, monitor and report consistent with the General Permit, its adopted rules and regulations and other Anticipated Applicable Laws.

5.2.3 Should Rohnert Park not be successful at enrolling under the General Permit, at any time on or after July 1, 2017, and not more than once every two (2) years thereafter, if Santa Rosa in its sole discretion determines that Rohnert Park may need to provide further or additional maintenance of the Rohnert Park Urban Reuse System, Santa Rosa may, at Santa Rosa's expense, cause the System or any portion thereof to be inspected. Prior to any inspection, Santa Rosa shall first confer with Rohnert Park with regard to the extent and scheduling of the inspection, and the need for any encroachment permits from Rohnert Park to complete the work, the approval and conditions of which will not be unreasonably withheld by Rohnert Park. If further or additional maintenance needs are identified as a result of the inspection, the parties agree to immediately meet and confer about the maintenance needs identified, the remedial work to be done, the apportionment of costs for the remedial work, the party which shall be responsible for performing the remedial work, and the time in which the remedial work shall be completed. If, within 90 days of the date of the inspection, the parties are unable to agree upon the maintenance needs, the remedial work to be done, the apportionment of

costs for the remedial work, the party which shall be responsible for performing the remedial work, and/or the time in which the remedial work shall be completed, the parties agree that, in addition to all other remedies, Santa Rosa may in its sole discretion undertake whatever measures it deems necessary for the further or additional maintenance of the Rohnert Park Urban Reuse System, except that any work within Rohnert Park's property, streets, or rights-of-way shall be completed in accordance with an encroachment permit from Rohnert Park, the approval and conditions of which will not be unreasonably withheld by Rohnert Park. Once Rohnert Park is enrolled and regulated under the General Permit, Section 5.2.3 no longer applies.

5.3 Meter Reading. On the Effective Date of the Agreement, and for the remainder of the term of this Agreement, Rohnert Park shall read the flow meters on the Rohnert Park Urban Reuse System on a monthly basis. Rohnert Park shall provide the total acre-feet of Recycled Water used by Customers to Santa Rosa in writing. This information shall be used by Santa Rosa to calculate the wholesale billing described in Section 6.3 of this Agreement.

5.4 Customers.

5.4.1 Existing Customers. The Parties agree that upon the Effective Date of the Agreement, Rohnert Park shall be the successor and assignee of Santa Rosa consistent with the terms of the User Agreements. On or about July 1, 2015, Santa Rosa shall notify Existing Customers other than Rohnert Park in writing, of: (a) the transfer of the Rohnert Park Urban Reuse System to Rohnert Park as the new operator of the system, (b) the assignment of said Existing Customer's User Agreement to Rohnert Park, effective August 1, 2015, and (c) the availability of this Agreement. Santa Rosa shall copy the Rohnert Park City Engineer on each of these notifications. Rohnert Park shall assume the User Agreements effective August 1, 2015 and shall authorize Existing Customers of the Rohnert Park Urban Reuse System to use Recycled Water in a manner consistent with the regulations provided for in Section 4.4.

5.4.2 New Customers. Upon the Effective Date of this Agreement, and until Rohnert Park is enrolled and regulated by the General Permit, Rohnert Park may connect New Customers to the Rohnert Park Urban Reuse System and shall authorize the use of Recycled Water in a manner consistent with the regulations provided for in Section 4.1 and 4.4 and Current Applicable Laws. In no event shall the addition of said New Customers require Santa Rosa to provide Recycled Water in amounts that exceed the quantities established in Section 3.3 of this Agreement, except as may be agreed to through the process outlined in Section 3.3.4. Upon notification by Rohnert Park, Santa Rosa shall promptly take all actions necessary to effectuate the provision of Recycled Water to New Customers, including but not limited to any of the following, as may be necessary: review and submission of engineer's reports, the addition of the New Customer's site to the list of application sites, and/or the amendment of NPDES permits or Waste Discharge Requirements. In issuing any approvals to effectuate the provision of Recycled Water to New Customers, Santa Rosa's approval shall not be unreasonably withheld and shall be issued promptly. Santa Rosa shall promptly notify the City of Rohnert Park upon completion of said actions. Once enrolled and regulated under the General Permit, Rohnert Park may add New Customers consistent with its adopted policies, rules, regulations and all other

Anticipated Applicable Laws, provided that in no event shall the addition of said New Customers require Santa Rosa to provide Recycled Water in amounts that exceed the quantities established in Section 3.3 of this Agreement, except as may be agreed to through the process outlined in Section 3.3.4.

6. RECYCLED WATER PRICING AND PAYMENT.

6.1 Wholesale Pricing. The Parties agree that the rates charged by Santa Rosa to Rohnert Park (and by Rohnert Park to its Customers) should provide an economic incentive to use Recycled Water.

6.1.1 **Wholesale Rate.**

(a) Non-Interruptible Service. Santa Rosa has established the Wholesale Recycled Water Rate - Non-Interruptible Service, based upon the Santa Rosa Subregional System 2013 Recycled Water Pricing Policy, to be two hundred forty two dollars (\$242) per acre-foot in 2013 dollars, adjusted annually consistent with the changes in Consumer Price Index-Urban for the San Francisco-Oakland-San Jose, California area. Since the Santa Rosa Subregional System 2013 Recycled Water Pricing Policy was adopted, annual adjustments consistent with the changes in Consumer Price Index-Urban for the San Francisco-Oakland-San Jose, California area have resulted in a Wholesale Recycled Water Rate - Non-Interruptible Service of two hundred fifty four dollars and twenty five cents (\$254.25) per acre-foot in 2015 dollars. A copy of the Policy is attached hereto as Exhibit E and incorporated by this reference. It is understood that Santa Rosa may amend the Policy from time to time, which amendments shall become effective upon written notice by Santa Rosa to Rohnert Park.

(b) Interruptible Service. Santa Rosa has established the Wholesale Recycled Water Rate - Interruptible Service, based upon Santa Rosa Subregional System 2013 Recycled Water Pricing Policy, to be one hundred thirty dollars (\$130) per acre-foot. It is understood that Santa Rosa may amend the Policy from time to time, which amendments shall become effective upon written notice by Santa Rosa to Rohnert Park.

6.1.2 **Customer Rates**. The Parties agree that Santa Rosa currently charges Existing Customers different rates based on their individual User Agreements, pricing policies, and nature of the use. In recognition of those distinctions, the Parties agree that the Customers' rates shall be as follows:

(a) Non-City Managed Sites. For Existing Customers and New Customers using Recycled Water on Non-City Managed Sites on and after the Effective Date of this Agreement, Santa Rosa shall charge Rohnert Park one hundred percent (100%) of the Wholesale Recycled Water Rate based on the type of service (Interruptible Service or Non-Interruptible Service).

(b) City Managed Sites. For the term of this Agreement, the service to City Managed Sites shall be characterized as Non-Interruptible Service. Santa Rosa

shall charge one hundred percent (100%) of the Wholesale Recycled Water Rate - Non-Interruptible Service on and after August 1, 2015.

(c) Roberts Lake and Foxtail Golf Course Sites. The Parties agree that in recognition of User Agreements that provide Recycled Water to Roberts Lake and Foxtail Golf Course at no or low cost, and the fact that these sites are of a large size, are serviced by a lower pressure system at off-peak times, which relieves pressure on the distribution system, and have onsite storage, an adjustment from the full wholesale cost of Recycled Water is appropriate. Accordingly, for the term of this Agreement, the service to Roberts Lake and Foxtail Golf Course shall be characterized as Interruptible Service. Santa Rosa shall charge one hundred percent (100%) of the Wholesale Recycled Water Rate - Interruptible Service on and after August 1, 2015.

(d) Sonoma State University: The Parties agree that in recognition of User Agreements that provide Recycled Water to Sonoma State University at low cost, and the fact that this site is of a large size, has on-site storage, and has the ability to be interrupted at any time which relieves pressure on the distribution system, an adjustment from the full wholesale cost of Recycled Water is appropriate. Accordingly, for the term of this Agreement, the service to Sonoma State shall be characterized as Interruptible Service. Santa Rosa shall charge one hundred percent (100%) of the Wholesale Recycled Water Rate - Interruptible Service on and after August 1, 2015.

6.2 Terms of Billing and Collection of Customers. On the Effective Date of the Agreement, Rohnert Park shall be responsible for the billing of and collection from Existing Customers and New Customers. Rohnert Park shall fix, prescribe, revise, and collect rates, fees, or charges for the provision of Recycled Water services and facilities sufficient to allow Rohnert Park to remit Wholesale Rate payments due to Santa Rosa under this Agreement.

6.3 Terms of Wholesale Billing and Payments from Rohnert Park.

6.3.1 **Santa Rosa's Wholesale Billing.** On the Effective Date, Santa Rosa shall be responsible for the wholesale billing and collection from Rohnert Park as Retailer for all Customers.

6.3.2 **Manner of Wholesale Billing.** When Santa Rosa is processing wholesale billing as provided for in Section 6.3.1, Santa Rosa shall monthly invoice in arrears Rohnert Park for Recycled Water delivered to Customers of Rohnert Park Urban Reuse System and accepted by Rohnert Park. The amount billed shall be based on the volume (total acre-feet of Recycled Water recorded at the Customer flow meter(s) located on the Rohnert Park Urban Reuse System) and the rate (Wholesale Recycled Water Rate – Interruptible Service or Wholesale Recycled Water Rate – Non-Interruptible Service) provided for in this Agreement.

6.3.3 **Rohnert Park's Wholesale Payments.** Upon receipt of an invoice from Santa Rosa, Rohnert Park shall remit wholesale bill payments which are not disputed to Santa Rosa within thirty (30) days following of mailing of the invoice.

6.3.4 **Billing Disputes.** If Rohnert Park disputes any of Santa Rosa's charges, Rohnert Park shall give written notice to Santa Rosa within ten (10) days of mailing of the invoice. Within ten (10) days, Santa Rosa shall render a written decision regarding the dispute, based on reasonable evidence and any applicable legal requirements. Any amount found to be due shall be paid within five (5) days after receipt of notice of the written decision.

7. TERM AND TERMINATION.

7.1 Term. The term of this Agreement commences on the last date this Agreement is adopted and approved by the governing bodies of the Parties ("Effective Date") and shall remain in effect until terminated in a manner provided for in this Agreement.

7.2 Termination.

7.2.1 Santa Rosa may terminate this Agreement immediately if:

(a) Santa Rosa is ordered to cease delivery of Recycled Water to the Rohnert Park Urban Reuse System by a governmental authority.

(b) Rohnert Park fails to pay Santa Rosa pursuant to Section 6.3 of this Agreement and such failure continues for a period of ninety (90) days following written notice of said failure to pay is sent to Rohnert Park by Santa Rosa.

7.2.2 Santa Rosa may terminate this Agreement on thirty (30) days written notice to Rohnert Park if Santa Rosa, in Santa Rosa's sole discretion, determines it:

(a) is, or will be, unable to deliver properly and adequately treated Recycled Water to Rohnert Park for a period greater than 30 days as a result of a regulatory order made pursuant to Current Applicable Law or Anticipated Applicable Law, as applicable; or

(b) cannot reasonably meet the laws, regulations, or permit requirements related to Santa Rosa's provision of Recycled Water under the terms of this Agreement.

7.2.3 Rohnert Park may terminate this Agreement on ninety (90) days written notice to Santa Rosa if, in Rohnert Park's sole discretion, the demand for Recycled Water from Santa Rosa ceases to exist.

7.2.4 If this Agreement is terminated by either Party, then any restoration of alternative service to Rohnert Park's City Managed Sites and to Robert's Lake Park and/or Foxtail Golf Course shall be the responsibility of Rohnert Park and shall be at no cost to Santa Rosa.

7.2.5 In the event this Agreement is terminated subject to Section 7.2.1 and 7.2.3, Santa Rosa shall have the option to resume ownership, operation, maintenance and repair of all or portions of the system, subject to the limitations detailed below ("Option") and at no cost to Santa Rosa. Within one hundred eighty (180) days of a termination subject to Section 7.2.1 and 7.2.3, Santa Rosa shall provide Rohnert Park with written notice of its intent to exercise its

Option. If the Agreement is terminated subject to Section 7.2.1(b), the notice of intent to exercise the option may be coincident with the notice of failure to pay. After giving written notice, the Parties shall meet and confer regarding the terms of a new agreement (“**Resumption of Ownership Agreement**”) relating to Santa Rosa’s resumption of ownership and the terms and conditions upon which Santa Rosa may operate the system within Rohnert Park’s right-of-way after termination of this Agreement. The Resumption of Ownership Agreement shall, among other things: (a) identify that portion of the Rohnert Park Urban Reuse System which Santa Rosa will continue to operate, (b) include provisions for abandonment of any and all portions of the system that Santa Rosa will not operate, (c) set forth the Parties’ relative responsibility for accomplishing the abandonment, and (d) set forth the terms and conditions under which Santa Rosa may improve, modify or repair those portions of the Rohnert Park Urban Reuse System within Rohnert Park’s right-of-way. Provided that written notice has been provided and a Resumption of Ownership Agreement has been fully executed as provided for in this Agreement, Santa Rosa may exercise its Option to resume ownership of all or part of the Rohnert Park Urban Reuse System. In the event the Parties do not execute the Resumption of Ownership Agreement within 180 days of the date Santa Rosa gives written notice to Rohnert Park of its intent to exercise Option, Santa Rosa may exercise its option to resume ownership, operation, maintenance and repair of all or portions of the system upon written notice to Rohnert Park.

8. GENERAL PROVISIONS.

8.1 Incorporation of Attachments and Exhibits. The following attachments and exhibits are intended to, and shall, be incorporated and made part of this Agreement, subject to terms and provisions herein contained:

Exhibit A: Foxtail Golf Course

Exhibit B: Rohnert Park Urban Reuse System and Points of Delivery

Exhibit C: Roberts Lake Park

Exhibit D: Sonoma State University

Exhibit E: Santa Rosa Subregional System 2013 Recycled Water Pricing Policy

8.2 Further Assurances. The Parties will execute all further and additional documents as shall be reasonable, convenient, necessary or desirable to carry out the intent and provisions of this Agreement.

8.3 Captions. Captions are included herein for ease of reference only. The captions are not intended to affect the meaning of the contents or scope of this Agreement.

8.4 Entire Agreement. This Agreement contains the entire agreement between the Parties. Any and all verbal or written agreements regarding the subject matter of this Agreement, with the exception of the Master Agreement and the User Agreements discussed above, made prior to the date of this Agreement are superseded by this Agreement and shall have no further effect.

8.5 Modification. No modification or change to the terms of this Agreement will be binding on a Party unless in writing and signed by an authorized representative of that Party.

8.6 Compliance with Laws. The Parties will comply with all applicable federal, state and local laws, rules, regulations, and ordinances.

8.7 Governing Law; Venue. This Agreement shall be construed, and its performance enforced, under the laws of the State of California without regard to its choice of law rules. Jurisdiction and venue of litigation arising from this agreement shall be in the County of Sonoma.

8.8 Written Waiver. No failure on the part of either Party to exercise any right or remedy hereunder shall operate as a waiver of any other right or remedy that Party may have hereunder. A waiver of any Party's right to enforce any provision of this Agreement shall not be effective unless such a waiver is made expressly in writing. An express waiver of any one breach shall not be deemed a waiver of any other breach of the same or any other provision of this Agreement.

8.9 Notices. Except as otherwise specifically provided in this Agreement, any notice, submittal or communication required or permitted to be served on a party, shall be in writing and may be served by personal delivery to the person or the office of the person identified below. Service may also be made by mail, by placing first-class postage, and addressed as indicated below, and depositing in the United States mail to:

SANTA ROSA:
Director of Santa Rosa Water
Municipal Services Center
69 Stony Circle
Santa Rosa, CA 95401
(707) 543-4200 (PHONE)
(707) 543-3936 (FAX)
dguhin@srcity.org (EMAIL)

ROHNERT PARK:
City Manager
City Hall
130 Avram Ave.
Rohnert Park, CA 94928
(707) 588-2226 (PHONE)
(707) 794-9242 (FAX)
admin@rpcity.org (EMAIL)

The Parties may change the person, the office of the person, the mailing addresses, phone and fax numbers, and/or e-mail addresses of the persons to receive notice by giving written notice pursuant to this section.

8.10 Consultation between the Parties. Santa Rosa and Rohnert Park agree to designate a representative who shall meet at least once annually and who shall be available, upon the telephone or written request of either Party, to consult regarding the performance of this Agreement. The goal of the consultations shall be to achieve maximum efficiency in the performance of this Agreement, and to discuss other items of mutual concern. The designated representatives shall have no authority to modify this Agreement.

8.11 Recordation. Either party to this Agreement may record a Memorandum of Agreement which gives constructive notice of this Agreement to future owners, lessees or other occupants of real property subject to the terms and conditions of this Agreement.

8.12 Assignment. This Agreement cannot be assigned to any other entity or person without prior written consent of the other Party which consent shall not be unreasonably withheld.

8.13 Third Parties. Nothing in this Agreement, whether express or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any persons other than the Parties and their respective successors and assigns, nor is anything in this Agreement intended to relieve or discharge the obligations or liability of any third persons to any Party to this Agreement, nor shall any provision give any third person any right of subordination or action over or against any Party to this Agreement.

8.14 Legal Representation. The Parties affirm that they have been represented by counsel of their own choosing regarding the preparation and negotiation of this Agreement and the matters and claims set forth herein, and that each of them has read this Agreement and is fully aware of its contents and its legal effect. Neither Party is relying on any statement of the other Party outside the terms set forth in this Agreement as an inducement to enter into this Agreement.

8.15 Joint Preparation. The language of all parts of this Agreement shall in all cases be construed as a whole, according to its fair meaning, and not strictly for or against any Party. No presumptions or rules of interpretation based upon the identity of the Party preparing or drafting the Agreement, or any part thereof, shall be applicable or invoked.

8.16 Warranty of Authority. Each Party represents and warrants that it has the right, power and authority to execute this Agreement. Each Party represents and warrants that it has given any and all notices, and obtained any and all consents, powers and authorities, necessary to permit it, and the persons executing this Agreement for it, to enter into this Agreement.

8.17 Counterparts. This Agreement may be executed in counterparts, each of which will be deemed an original. This Agreement shall be binding upon the receipt of facsimile signatures.

8.18 Severability. If any one or more of the terms, provisions, sections, promises, covenants or conditions of this Agreement shall to any extent be adjudged invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, each and all of the remaining terms, provisions, sections, promises, covenants and conditions of this Agreement shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

CITY OF ROHNERT PARK

CITY OF SANTA ROSA, a charter city

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

ATTEST: _____

City Clerk

ATTEST: _____

City Clerk

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By: _____

City Attorney

By: _____

City Attorney's Office

Exhibit A:
Foxtail Golf Course

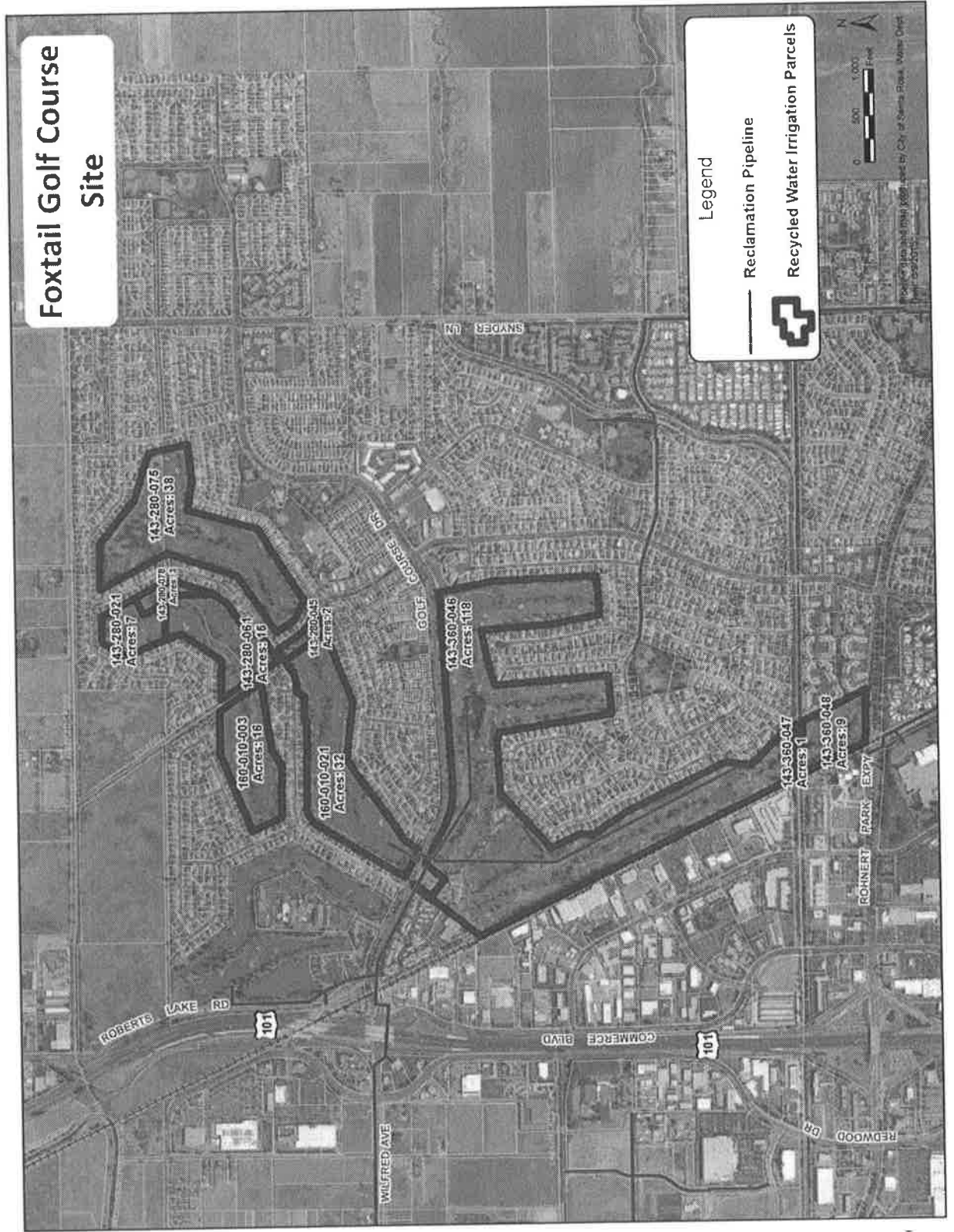


Exhibit B:
Rohnert Park Urban Reuse System and Points of Delivery

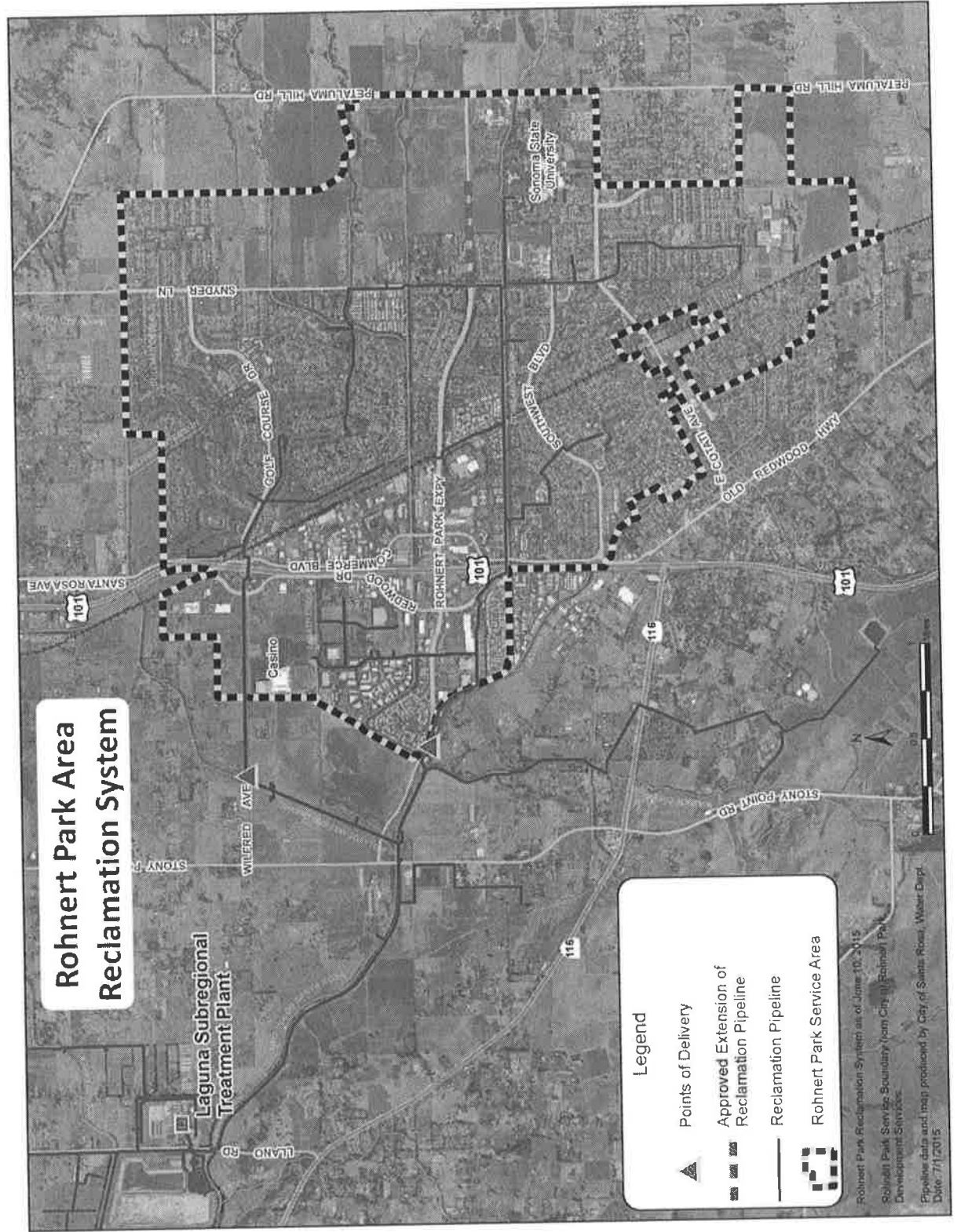


Exhibit C:
Roberts Lake Park

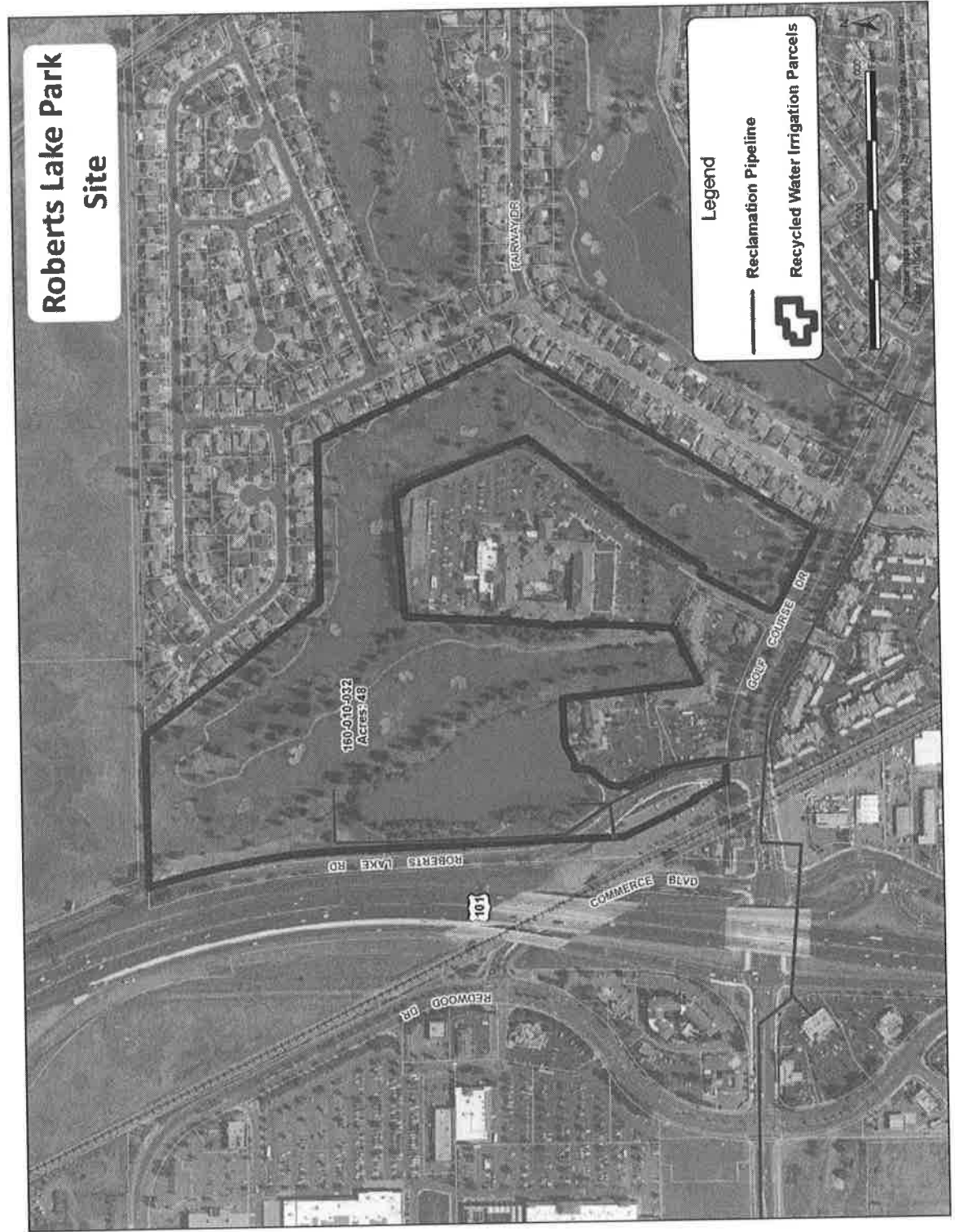


Exhibit D:
Sonoma State University

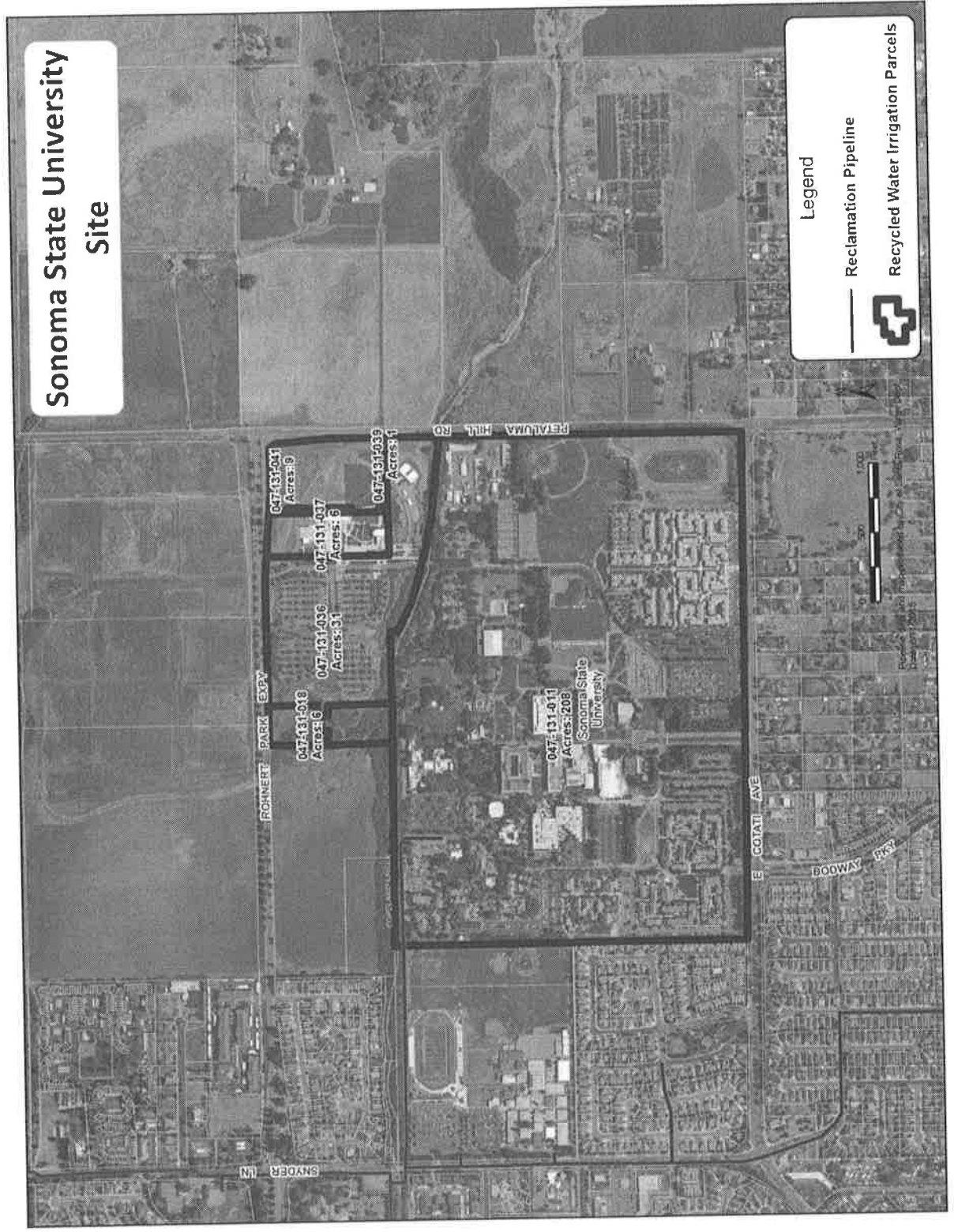


Exhibit E:
Santa Rosa Subregional System 2013 Recycled Water Pricing

Santa Rosa Subregional System 2013 – Amendment 07/2013

RECYCLED WATER PRICING POLICY

INTRODUCTION

A pricing policy for the Santa Rosa Subregional Water Reclamation System (Subregional System) was established in the early 1990's which included recycled water policies and pricing structures designed to maximize disposal. In December 2008, the Pricing Policy was revised to recognize the value that recycled water provides as a water supply resource, and a new Recycled Water Pricing Policy was adopted, which included policy guidelines and pricing structures that reflect the water supply value as well as the disposal value. Continuing to recognize the water supply and disposal value of recycled water, the Recycled Water Pricing Policy is being updated in 2013 to recognize the flexibility that interruptible recycled water service provides to the Subregional System as well as to index the wholesale recycled water rate for non-interruptible service to an index that more accurately reflects the wholesale costs of recycled water.

A. POLICY ELEMENTS RELATED TO ALL RECYCLED WATER USE

1. The Subregional System benefits from the recycled water disposal capacity that urban and agricultural use provides. Recycled water has also become an important source for regional water supply, and communities benefit from adding recycled water to their water supply mix, thereby reducing the dependence on potable water for the many uses which recycled water can serve, and diversifying their water supply sources.
2. The Subregional System can provide recycled water that is more reliable than potable water because it can be available even under conditions that cause potable water to be limited (e.g., weather or regulatory water shortage).
3. Santa Rosa currently has numerous contracts with end users of recycled water in the urban areas and in agriculture. Upon expiration or termination, where contracts are renegotiated, new contract provisions should be added to reflect this policy document.
4. Recycled water pricing has historically had the goal of encouraging reuse and meeting regulatory compliance for disposal. Recycled water has now become a valuable resource and the rates charged for the use of recycled water, both wholesale and retail, should reflect its value as a reliable and sustainable water resource.

B. POLICY ELEMENTS SPECIFIC TO URBAN REUSE – NON-INTERRUPTIBLE SERVICE

1. Policies related to use of recycled water in the urban sector should be developed and carried out by the city or utility that provides retail water service. These policies include but are not limited to whether use will be mandatory or voluntary, which users will be eligible to use recycled water, and discretionary design standards for end-use facilities (such as landscape turf limits).

2. Previous pricing policy in the urban sector had allowed Subregional System members the use of recycled water at no cost. In the early 1990's when recycled water disposal was the sole driver for urban reuse, this policy was appropriate. In 2008, with regional water resources increasingly relying on the use of recycled water to meet future water needs, the Subregional Pricing Policy was changed to reflect the water supply and disposal value of recycled water. Non-interruptible supply provides both of these benefits and pricing should continue to reflect this.

C. POLICY ELEMENTS SPECIFIC TO AGRICULTURAL AND URBAN REUSE – INTERRUPTIBLE SERVICE

1. Subregional System operation requires flexibility to respond to weather conditions and operational variables. Supply that can be interrupted in response to variables provides the Subregional System with the benefit of operational flexibility. Pricing interruptible supply to reflect the benefit to the Subregional System is reasonable.
2. Rates charged for water should take into consideration the relative reliability of the water supply, the time of year it is provided to the end user, and other site-specific factors which may affect the impact on the Subregional System to provide the water under the conditions agreed to by the City of Santa Rosa and the end user.

D. RATE STRUCTURES

1. Urban Use

The Subregional System currently serves urban recycled water customers in the cities of Santa Rosa and Rohnert Park, with the rates set by individual contracts or operating agreements with each end user. Both cities have completed feasibility studies on expanding the use of recycled water in their communities, and all or part of these expansions will likely be built over the next decade. The Cities of Cotati and Sebastopol, and other regional agencies may also seek to use recycled water from the Subregional System in the future.

- Existing and Future Santa Rosa Urban Reuse Project – Non-Interruptible Service
The Subregional System will sell recycled water to the City of Santa Rosa water utility for the Santa Rosa Urban Reuse Project on a wholesale basis. The City of Santa Rosa will set retail rates and establish all end user policies. The Subregional System will continue to provide service to the end users within the City of Santa Rosa Urban Growth Boundary for all current contracts and operating agreements until those agreements expire or are otherwise terminated, at which time the Santa Rosa water utility will provide recycled water service under the conditions of this Policy and Santa Rosa City Code.

Wholesale Recycled Water Rate for Santa Rosa Urban Reuse Project-Non-Interruptible Service: The wholesale recycled water rate for non-interruptible service for the Santa Rosa Urban Reuse Project was set by Santa Rosa City Council at \$225 per acre foot in 2008 dollars, adjusted annually consistent with the percent

changes in Sonoma County Water Agency's wholesale water rate applicable to the City of Santa Rosa. Sonoma County Water Agency wholesale water rates have increased at a significantly greater rate than the costs to wholesale recycled water. Upon review, adjusting the wholesale recycled water rate consistent with percentage changes in the Consumer Price Index-Urban (CPI-U) for the San Francisco-Oakland-San Jose, California area is a better index. Since 2008, adjusting the wholesale recycled water rate annually by CPI-U would have resulted in a rate of \$242. It is recommended that the wholesale recycled water rate be set by Santa Rosa City Council at \$242 in 2013 dollars, adjusted annually consistent with the percent changes in CPI-U for the San Francisco-Oakland-San Jose, California area. This wholesale rate provides greater revenue and lower net operating costs to the Subregional System; and provides recycled water to the Santa Rosa water utility at a rate that allows for adequate revenue from retail sales to cover the cost of operating the recycled water distribution system.

- Existing and Future Rohnert Park Urban Reuse Project – Non-Interruptible Service
The Subregional System will continue to provide recycled water service directly to the end users in Rohnert Park until March 28, 2015. Some of the existing users have potable water from the City of Rohnert Park as the alternate source of supply (if recycled water were not available), and others have private wells as the alternate source of supply.

Until March 28, 2015, when current contracts expire or are otherwise terminated, new contracts will be negotiated with the goal of the end user paying 95% of the cost of their alternate source of supply with the potential for a phase-in period which would result in the end user reaching 95% of the cost of their alternate supply not later than the end of 2013. In no case should the end user pay less than the rate in their current contract during the phase-in period. If the alternate source of supply is potable water from the City of Rohnert Park, the end user should also pay fixed charges by meter size at the rate of 90% of the City of Rohnert Park potable water fixed charges.

On or after March 29, 2015, and if the Subregional System sells recycled water to the City of Rohnert Park for the Rohnert Park Urban Reuse Project on a wholesale basis, the City of Rohnert Park will set retail rates and establish all end user policies consistent with a Wholesaler/Retailer Agreement for Supply of Recycled Water Between the City of Santa Rosa and the City of Rohnert Park.

Wholesale Recycled Water Rate for Rohnert Park Urban Reuse Project- Non-Interruptible Supply: It is recommended that the wholesale recycled water rate for non-interruptible service for the Rohnert Park Urban Reuse Project be set by Santa Rosa City Council at \$242 per acre foot in 2013 dollars, adjusted annually consistent with the Consumer Price Index-Urban (CPI-U) for the San Francisco-Oakland-San Jose, California area. This wholesale rate provides greater revenue and lower net operating costs to the Subregional System; and provides recycled water to the City of Rohnert Park at a rate that allows for adequate revenue from retail sales to cover the cost of operating the recycled water distribution system

- Existing and Future Urban Reuse Projects - Interruptible Wholesale Supply
Wholesale Recycled Water Rate for Urban Reuse Projects- Interruptible Service:
Some of the existing users store recycled water on their property site and use the stored recycled water to pressurize their irrigation system. As such, these sites can have their service interrupted at any time and provide flexibility to the Subregional System. In recognition of this flexibility, it is recommended that the wholesale recycled water rate for interruptible service for the Santa Rosa and Rohnert Park Urban Reuse Project be set by Santa Rosa City Council at \$130 per acre foot in 2013 dollars.

- Other Future Urban Reuse Projects
The Cities of Rohnert Park, Cotati and Sebastopol, as Subregional System agencies, are eligible to direct a portion of the recycled water that is land applied to their service areas for urban reuse. Regionally, other cities or special districts may also be interested in Subregional System recycled water for urban application.

The approach to rate setting for urban reuse for other agencies will be guided by the Policy Elements of sections A, B and C of this Policy, and will consider the specific interests of the agency and the Subregional System as well as market conditions for water and Subregional System costs of recycled water operations at such time as a project is identified. Flexibility exists to tailor the specific approach to the needs and interest of the parties involved.

A number of factors may influence the choice of institutional structure for future urban reuse projects, which in turn will influence rates and rate structures. Operation of a retail urban recycled water systems by the Subregional System may most effectively meets all parties' needs; or a wholesale/retail model may be most appropriate; or a hybrid of these approaches may be most effective.

2. Agricultural Use

The Subregional System will continue to provide recycled water to agricultural users under individual contracts. When current contracts expire or are otherwise terminated, any new contracts will be in accordance with the provisions of Sections A and C of this Policy. Water rates will continue to be determined by contract for agricultural recycled water delivery from the Subregional System. Rates will be designed to reflect the market conditions for water and the degree to which the use provides flexibility to the Subregional System, in accordance with this Policy.