

**JOINT EXERCISE OF POWERS AGREEMENT
FOR THE
SOUTH PLACER WASTEWATER AUTHORITY**

THIS JOINT EXERCISE OF POWERS AGREEMENT (the "Agreement") is made effective as of the 1st day of October, 2000, by and among the **CITY OF ROSEVILLE**, a charter city duly organized and existing under the laws of the State of California (the "City"), the **SOUTH PLACER MUNICIPAL UTILITY DISTRICT**, a municipal utility district duly organized and existing under the laws of the State of California (the "District"), and the **COUNTY OF PLACER**, a political subdivision duly organized and existing under the laws of the State of California (the "County")

RECITALS

- A. WHEREAS, the City, the District, and the County have the common powers to acquire real property and to plan, finance, acquire, construct, own, and operate wastewater facilities; and
- B. WHEREAS, the City, the District, and the County have determined that the public interest will be served by the joint exercise of these powers through this Agreement and the creation of a joint powers authority with the power to plan for, finance, acquire, construct, own and operate Regional Wastewater Facilities; and
- C. WHEREAS, as soon as practicable after the date first above written, the City, the District, the County, and the Authority will enter into the Funding Agreement and the Operations Agreement (defined hereinafter), to provide for the funding and operation of the Regional Wastewater Facilities.

NOW THEREFORE, the parties hereto agree as follows:

AGREEMENT

- 1 Definitions. Words and phrases used in this Agreement shall have the following meanings:

Authority is defined in Section 3

Board is defined in Subsection 7 a.

City is defined in the preamble

County is defined in the preamble

District is defined in the preamble.

Dry Creek Plant means the regional wastewater treatment plant owned and operated by the City for the mutual benefit of the Participants and known as the "Dry Creek Wastewater Treatment Plant "

Funding Agreement means an agreement among the Authority and the Participants relating to the funding of Regional Wastewater Facilities. The Funding Agreement shall be in the form of Exhibit A, attached hereto, subject to such changes as may be (a) necessary to facilitate the issuance of bonds for the planning, design, acquisition, and construction of Regional Wastewater Facilities, or (b) otherwise agreed upon by the Participants

Law is defined in Section 2 hereof.

Operations Agreement means an agreement among the Authority and the Participants relating to the operation of Regional Wastewater Facilities. The Operations Agreement shall be in the form of Exhibit B, attached hereto, subject to such changes as may be (a) necessary to facilitate the issuance of bonds for the planning, design, acquisition, and construction of Regional Wastewater Facilities, or (b) otherwise agreed upon by the Participants

Participant means, individually, the City, the County, or the District. Participants means, collectively, the City, the County and the District

Pleasant Grove Plant means the regional wastewater treatment plant to be owned and operated by the City for the mutual benefit of the Participants and to be known as the Pleasant Grove Wastewater Treatment Plant

Regional Connection Fees means the connection fees imposed and collected by the Participants pursuant to the applicable provisions of the Roseville Municipal Code, District ordinances, and County ordinances, for the purpose of funding expansions or modifications of, and/or improvements to, Regional Wastewater Facilities

Regional Wastewater Facilities means the Pleasant Grove Plant, the Dry Creek Plant, any other regional treatment plants constructed by the Authority or any of the Participants in the future to facilitate wastewater treatment, collection, conveyance, recycling, discharge, and disposal services collectively to all of the Participants, and all Related Regional Infrastructure.

Related Regional Infrastructure means trunk sewers, interceptor lines, force mains, pump stations, reclaimed/recycled water infrastructure, and all other wastewater infrastructure, constructed in conjunction with the Pleasant Grove Plant, the Dry Creek Plant, and/or other

regional wastewater treatment plants constructed in the future, as appropriate and necessary to facilitate wastewater collection, conveyance, treatment, recycling, discharge, and disposal services collectively to all of the Participants. "Related Regional Infrastructure" shall not include trunk sewers, interceptor lines, force mains, pump stations, reclaimed/recycled water infrastructure, or any other wastewater infrastructure that (a) facilitate such services to only one or two of the Participants, or (b) are otherwise covered by other agreements providing for the apportionment of construction, operation and maintenance costs therefor, except for the agreements that are expressly superceded by the Funding Agreement and the Operations Agreement.

2. Authority and Purpose. This Agreement is made pursuant to Chapter 5 of Division 7 of Title 1 of the California Government Code (commencing with section 6500) (the "Law") relative to the joint exercise of powers common to the Participants. The purpose of this Agreement is to provide for the planning, financing, acquisition, ownership, construction, and operation of Regional Wastewater Facilities.

3. Creation of Authority and Jurisdiction. The Participants hereby create the South Placer Wastewater Authority ("Authority"), a public entity separate from the City, the District, and the County. The jurisdiction of the Authority shall be the service areas served by Regional Wastewater Facilities, as those areas may be modified from time to time.

4. Term and Termination. This Agreement shall be effective as of the date first above written. It shall remain in effect until terminated in accordance with the Law by two (2) or more of the Participants; provided, however, that this Agreement may not be terminated, and no Participant may withdraw its membership, until all bonds or other instruments of indebtedness issued by the Authority, if any, have been paid in full.

5. Powers. The Authority shall have all powers necessary or reasonably convenient to carry out the purposes stated in Section 2, including, but not limited to, the following:

- a. to secure administrative office space and furnishings;
- b. to make and enter into contracts;
- c. to contract for, or employ, administrative, technical and support staff, and consultants and contractors of any kind;
- d. to acquire and maintain insurance of all types;
- e. to lease, acquire, hold, or dispose of real property by negotiation, dedication, or eminent domain;
- f. to lease, acquire, operate, maintain and dispose of materials, supplies, and equipment of all types;

g. to construct and operate buildings and facilities of any kind, including, without limitation, Regional Wastewater Facilities;

h. to accept, hold, invest (pursuant to the Law, including, without limitation, section 6509 5 thereof), manage, and expend monies;

i. to levy fees and taxes, to enter into lease purchase agreements, and to issue bonds and incur other forms of indebtedness, as provided for in the Law, including, without limitation, sections 6547, 6547 1, 6547 5, and 6547 6 thereof, or any other applicable law;

j. to form a special assessment district under any legal authority that exists now or in the future, including, without limitation, the Improvement Act of 1911 (Streets & Highways Code section 5000 *et seq.*), the Municipal Improvement Act of 1913 (Streets & Highways Code section 10000 *et seq.*), the Improvement Bond act of 1915 (Streets & Highways Code section 8500 *et seq.*), or any other authority that exists now or in the future;

k. to form a special tax district under the Mello-Roos Community Facilities District Act or any other authority that may exist now or in the future;

l. to negotiate and enter into reimbursement agreements when monies to construct Regional Wastewater Facilities are available;

m. to sue and be sued; and

n. to exercise all powers incidental to the foregoing.

6. Duties The Authority shall have the duty to do the following within the times specified or, if no time is specified, within a reasonable time:

a. to retain legal counsel for all Authority business, including litigation;

b. to evaluate the need for, and acquire and maintain if necessary, liability, errors and omissions, or other insurance;

c. to finance Regional Wastewater Facilities; and

d. to conduct an annual audit as required by the provisions of Subsection 7 d(3)

7 Administration

a. Governing Board -- Membership The Authority shall be administered by a board of directors ("Board") consisting of five directors. Two directors shall be appointed by the City, one director shall be appointed by the District, and two directors shall be appointed by the County. One County-appointed director shall be a member of the County Board of Supervisors and must represent a supervisorial district which includes all or a portion of the City of Roseville; such County-appointed director shall be selected annually by the County Board of Supervisors, and shall be subject to confirmation by the Roseville City Council.

b. Meetings

(1) Regular Meetings The Board shall by resolution establish the number of regular meetings to be held each year and the date, hour and location at which such regular meetings shall be held; provided, that the Board shall meet at least once every six (6) months

(2) Special Meetings Special meetings of the Board may be called in accordance with the provisions of the Ralph M. Brown Act (California Government Code section 54950 *et seq.*).

(3) Conduct of Meetings All meetings of the Board shall be held in accordance with the Ralph M. Brown Act (California Government Code section 54950 *et seq.*)

(4) Minutes The Secretary of the Authority shall cause minutes of all meetings of the Board to be kept and shall, as soon as possible after each meeting, cause a copy of the minutes to be forwarded to each member of the Board, and to the City, District, and County.

(5) Quorum Three (3) directors of the Board shall constitute a quorum for the transaction of business. Except as provided in Section 8, actions of the Board shall require the affirmative vote of a majority of the entire Board (i.e., three (3) affirmative votes).

c. Procedures

(1) The Board shall elect a chair from among its membership to preside at meetings and shall select a secretary who may, but need not, be a member of the Board. The Board may, from time to time, elect such other officers as the Board shall deem necessary or convenient to conduct the affairs of the Authority.

(2) The Board may adopt by resolution rules of procedure, not inconsistent with the provisions of this Agreement, to govern the conduct of its meetings.

(3) Members of the Board shall comply with Title 9 of the California Government Code, commencing with section 81000 (Political Reform Act of 1974).

d. Fiscal Matters

(1) Treasurer and Auditor

(A) Except as provided in Subsection (B), below, the treasurer and finance director of the City, respectively, are designated the treasurer and auditor of the Authority with the powers, duties, and responsibilities specified in the Law, including, without limitation, sections 6505 and 6505.5 thereof

(B) In lieu of the designations in Subsection (A), above, the Board may appoint one or more of its employees to either or both of the positions of treasurer or auditor as provided in the Law, including, without limitation, section 6505.6 thereof

(2) Custodian of Property The treasurer and auditor of the Authority shall be the public officers who have charge of, handle, and have access to, the Authority's property and shall file with the Authority an official bond in the amount set by the Board

(3) Accounts and Reports The Board shall establish and maintain such funds and accounts as may be required by good accounting practice. The books and records of the Authority shall be open to inspection at all reasonable times to the County, the City and the District, and their respective representatives. The accounts shall be prepared and maintained by the treasurer and auditor of the Authority. The Authority, within one hundred twenty (120) days after the close of each fiscal year, shall cause an independent audit of all financial activities for such fiscal year to be prepared by an independent certified public accountant employed by the Authority. The Authority shall promptly deliver copies of the audit report to the Participants

(4) Budgets The Board shall adopt a budget no later than ninety (90) days after the effective date of this Agreement and no later than June 30th of each year thereafter

(5) Contributions The Participants shall pay to the Authority the contributions to be specified in the Funding Agreement

8 Voting. Notwithstanding Subsection 7 b, the following actions may only be taken as set forth below:

- a The affirmative vote of at least four (4) Board members is required to set reserves, or authorize expenditures, for future expansions of Regional Wastewater Facilities

b The affirmative vote of at least five (5) Board members is required:

- (1) to authorize the issuance and sale, refinancing, or early redemption, of bonds; or
- (2) to impose fees or assessments (other than the Regional Connection Fee), levy taxes, or order the formation of an assessment or special district.

9. Exercise of Powers. The powers and duties which (a) are common to the Participants, and (b) are vested in the Authority only by virtue of this Agreement, and are not independent powers and duties which arise by virtue of the Law, shall be exercised and carried out subject only to such restrictions upon the manner of exercising such powers or carrying out such duties as are imposed upon the City of Roseville in the exercise of similar powers or in carrying out similar duties, as provided in section 6509 of the Law

10. Fiscal Year. The fiscal year of the Authority shall be the period from July 1st of each year to and including the following June 30th.

11. Debts, Liabilities and Obligations. The debts, liabilities, and obligations of the Authority shall not constitute debts, liabilities, or obligations of the County, the City, or the District, either jointly or severally.

12. Liability of Board, Officers and Employees

a The members of the Board, officers, and employees of the Authority shall use ordinary care and reasonable diligence in the exercise of their powers, and in the performance of their duties pursuant to this Agreement. They shall not be liable to the Participants for any mistake of judgment or other action made, taken, or omitted by them in good faith, nor for any action made, taken, or omitted by any agent, employee, or independent contractor selected with reasonable care, nor for loss incurred through the investment of the Authority's funds, or failure to invest the same.

b To the extent authorized by California law, no member of the Board, officer, or employee of the Authority shall be responsible for any action made, taken, or omitted, by any other member of the Board, officer, or employee. No member of the Board, officer, or employee of the Authority shall be required to give a bond or other security to guarantee the faithful performance of his or her duties pursuant to this Agreement, except as provided in Subsection 7 d(2).

c The funds of the Authority shall be used to defend, indemnify, and hold harmless the Authority and any member of the Board, officer, or employee of the Authority for actions taken in good faith and within the scope of his or her authority. Nothing herein shall limit the right of the Authority to purchase insurance to provide coverage for the foregoing indemnity.

13. Liberal Construction The provisions of this Agreement shall be liberally construed as necessary or reasonably convenient to achieve the purposes of the Authority

14. Disposition of Property Upon termination of this Agreement, the Authority shall convey all assets of the Authority to the City. Thereafter, the City shall use such assets of the Authority for the benefit of the City, District and County, as set forth in the Operations Agreement and the Funding Agreement

15. Severability Should any part, term, or provision of this Agreement be decided by the courts to be illegal or in conflict with any law of the State of California, or otherwise be rendered unenforceable or ineffectual, the validity of the remaining portions or provisions shall not be affected thereby

16. Successors; Assignment This Agreement shall be binding upon and shall inure to the benefit of the successors of the Participants. No Participant may assign any rights or obligations hereunder without the consent of the other Participants; provided, further, that no such assignment may be made if it would materially and adversely affect (a) the rating of bonds issued by the Authority, or (b) bondholders holding such bonds.

17. Amendments This Agreement may be amended only by the unanimous written agreement of the Participants. So long as any bonds of the Authority are outstanding and unpaid, or funds are not otherwise set aside for the payment or redemption thereof in accordance with the terms of the bonds and the documentation relating thereto, this Agreement shall not be amended, modified or otherwise revised, changed or rescinded, if such action would (a) materially and adversely affect (1) the rating of bonds issued by the Authority, or (2) bondholders holding such bonds, or (b) limit or reduce the obligations of the Participants to make, in the aggregate, the payments under the Funding Agreement which are for the benefit of the owners of the bonds.

18. Notices Any notices to Participants required by this Agreement shall be delivered or mailed, U.S. first class, postage prepaid, addressed as follows:

SOUTH PLACER
WASTEWATER AUTHORITY
2005 Hilltop Circle
Roseville, CA 95747

Attention: Art O'Brien

with a copy to:
Authority's General Counsel
Hyde, Miller, Owen & Trost
428 J Street, Suite 400
Sacramento, CA 95814
Attention: Kirk E. Trost

CITY OF ROSEVILLE
Environmental Utilities Dept.
2005 Hilltop Circle
Roseville, CA 95747

Attention: Derrick Whitehead
Environmental Utilities Director

SOUTH PLACER MUNICIPAL
UTILITY DISTRICT
P O. Box 45
3671 Taylor Road
Loomis, CA 95650

Attention: Jerry Loscalzo
General Manager

COUNTY OF PLACER
Department of Facilities Services
Special Districts Divisions
11476 "C" Avenue
Auburn, CA 95603
Attention: Tom Miller,
Director

with a copy to:
Roseville City Attorney
311 Vernon Street, Suite 202
Roseville, CA 95678
Attention: Mark Doane

with a copy to:
District's General Counsel
O'Brien & Brown LLP
2339 Gold Meadow Way, Suite 230
Gold River, CA 95670
Attention: Adam Brown

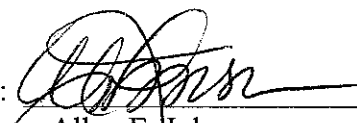
with a copy to:
Placer County Counsel
175 Fulweiler Avenue
Auburn, CA 95603
Attention: Scott Finley

Notices under this Agreement shall be deemed given and received at the earlier of actual receipt, or the second business day following deposit in the United States mail, as required above. Any Participant may amend its address for notice by notifying the other Participants

19 Counterparts. This Agreement may be executed in any number of counterparts, and by different parties in separate counterparts, each of which, when executed and delivered, shall be deemed to be an original and all of which counterparts taken together shall constitute but one and the same instrument

IN WITNESS WHEREOF, the Participants have entered into this Agreement effective as of the date first above written.

CITY OF ROSEVILLE

BY: 
Allen E. Johnson
City Manager

ATTEST:

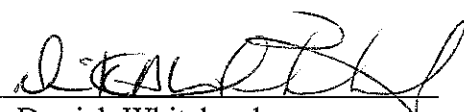
BY: 
Carolyn Parkinson
City Clerk

APPROVED AS TO FORM:

BY: 
Mark J. Doane
City Attorney

REC'D OCT 27 2000

APPROVED AS TO SUBSTANCE:

BY: 
Derrick Whitehead
Environmental Utilities Director

SOUTH PLACER MUNICIPAL UTILITY DISTRICT

BY: Frances E. Scheible
Frances E. Scheible
President, Board of Directors

APPROVED AS TO FORM:

BY: William T. Sweigert
William T. Sweigert
District Counsel

ATTEST:

BY: Carol Bean
Carol Bean
Secretary to the Board of Directors

COUNTY OF PLACER

BY: Harriet White
Harriet White
Chairman, Board of Supervisors

APPROVED AS TO FORM:

BY: Anthony J. LaBouff
for Anthony J. LaBouff
County Counsel

ATTEST:

BY: Antoinette Sharp
Antoinette Sharp
Clerk, Board of Supervisors