

WATER USE AGREEMENT No. 16-182

This Water Use Agreement ("Agreement") is made this 22nd day of November, 2016, by and between the County of Yolo, a political subdivision of the State of California, on behalf of and for the benefit of the El Macero County Service Area, ("CSA"), and the El Macero Country Club, a California non-profit, mutual benefit corporation, ("EMCC").

RECITALS

CSA desires access to nonpotable water from EMCC for irrigation of one or more CSA public street medians or parks ("CSA Purposes"). EMCC desires to provide water to CSA for CSA Purposes.

Now, therefore, the parties agree that:

TERMS AND CONDITIONS

1. Water for CSA Purposes. CSA may use water from EMCC sources for CSA Purposes provided that:
 - a. CSA shall pay to EMCC \$200 per month (which may be paid as agreed by the parties) during the first 60 months of this Agreement, and which amount is calculated to compensate for start-up and ongoing operating costs incurred by EMCC during the first five (5) years of this Agreement;
 - b. After the first 60 months, the parties shall negotiate in good faith a new financial calculation that reflects the ongoing operating costs to EMCC of providing water to the CSA under this Agreement.
2. No Warranty. EMCC makes no warranty, express or implied, with respect to the quality or quantity of water provided to CSA and CSA takes and utilizes such water at CSA's sole risk and subject to the terms of this Agreement. CSA shall indemnify, hold harmless, and defend EMCC with respect to any and all claims, demands, or lawsuits regarding water produced by EMCC and used for CSA Purposes.
3. Term of Agreement. This Agreement shall remain in effect until the earliest to occur of:
 - a. Termination by either party for any reason or no reason upon 60 days' advance notice to the other party;
 - b. Termination by mutual consent of the parties;
4. Independent Contractor. EMCC is an independent contractor and not an agent, officer or employee of CSA. The parties mutually understand that this Agreement is by and between two independent contractors and is not intended to and shall not be

construed to create the relationship of agent, servant, employee, partnership, joint venture or association.

5. Notice

- a. Any notice provided in connection with this Agreement shall be given in writing by personal delivery, by any commercially accepted overnight delivery service or by prepaid first-class mail addressed as follows:

El Macero County Service Area
County of Yolo, County Administrators Office
625 Court Street – Room 202
Woodland, CA 95695

El Macero Country Club
44571 Clubhouse Drive
El Macero, CA 95618

- b. If notice is given by personal delivery, notice is effective as of the date of personal delivery. If notice is given by mail or by overnight delivery service, notice is effective as of the day following the date of mailing or the date of delivery reflected upon a return receipt, whichever occurs first.

6. Choice of Law. The parties have executed and delivered this Agreement in the County of Yolo, State of California. The laws of the State of California shall govern the validity, enforceability or interpretation of this Agreement. Yolo County shall be the venue for any action or proceeding, in law or equity that may be brought in connection with this Agreement.

7. Entire Agreement. This Agreement and the Water Use Agreement of the same date, including any attachments referenced, constitutes the entire agreement between the parties and there are no inducements, promises, terms, conditions or obligations made or entered into by CSA or EMCC other than those contained in this Agreement.

EMCC


COUNTY OF YOLO

By: _____

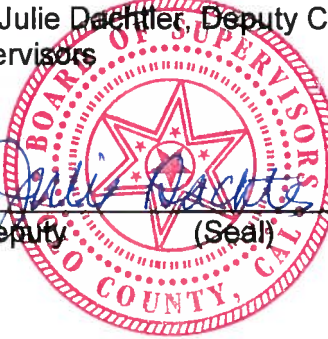
By: 

Jim Provenza, Chair, Board of Supervisors

Attest: Julie Dachtler, Deputy Clerk, Board of Supervisors

By: 

Deputy (Seal)



Approved as to Form:
Philip J. Pogledich, County Counsel

By: 

Carrie Scarlata,
Assistant County Counsel