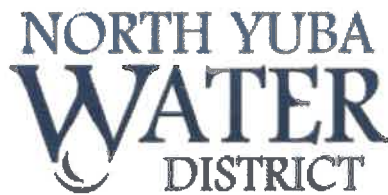


GARY HAWTHORNE
President
Division 3

DOUG NEILSON
Vice President
Division 1

CHRIS CROSS
Director
Division 2



DONALD FORGUSON
Director
Division 4

GINGER HUGHES
Director
Division 5

JEFF MAUPIN
General Manager

**SPECIAL MEETING OF THE BOARD OF DIRECTORS OF THE
NORTH YUBA WATER DISTRICT**

10:30 AM ♦ WEDNESDAY ♦ AUGUST 31, 2022

NOTICE: THIS MEETING WILL BE HELD IN ACCORDANCE WITH EXECUTIVE ORDER N-29-20, ISSUED BY CALIFORNIA GOVERNOR GAVIN NEWSOM ON MARCH 17, 2020, THE RALPH M. BROWN ACT (CALIFORNIA GOVERNMENT CODE SECTION 54950 ET SEQ.), AND THE FEDERAL AMERICANS WITH DISABILITIES ACT. THE BOARD MAY ACT ON ANY OF THE ITEMS LISTED ON THIS AGENDA REGARDLESS OF WHETHER AN ITEM IS DESCRIBED AS AN ACTION ITEM, A REPORT, OR AN INFORMATIONAL OR DISCUSSION ITEM.

THIS MEETING WILL NOT BE PHYSICALLY OPEN TO THE PUBLIC. ALL MEMBERS OF THE PUBLIC MAY PARTICIPATE IN THE MEETING VIA VIDEOCONFERENCE AT

Join Zoom Meeting
<https://us02web.zoom.us/j/82663634363?pwd=NllzbXo3a0VSbmh0a2xiclBvTmwzUT09>
Meeting ID: 826 6363 4363
Passcode: 714317
One tap mobile
+16692192599,,82663634363#,,,,*714317# US (San Jose)

Dial by your location
+1 669 219 2599 US (San Jose)
+1 213 338 8477 US (Los Angeles)
Meeting ID: 826 6363 4363
Passcode: 714317
Find your local number: <https://us02web.zoom.us/j/82663634363?pwd=NllzbXo3a0VSbmh0a2xiclBvTmwzUT09>

AND WILL BE GIVEN THE OPPORTUNITY TO PROVIDE PUBLIC COMMENT.

NOTE: ALL PUBLIC PARTICIPANTS WILL BE MUTED UPON ENTRY INTO THE MEETING AND WILL ONLY BE UNMUTED TO ALLOW THEIR COMMENT. TO PROVIDE PUBLIC COMMENT VIA VIDEO CONFERENCING CLICK ON THE "RAISE HAND." TO PROVIDE PUBLIC COMMENT BY TELECONFERENCE PRESS *9.

COMMENCEMENT OF MEETING

A. CALL TO ORDER/ROLL CALL

B. PLEDGE OF ALLEGIANCE

In compliance with the Americans with Disabilities Act, if you are a disabled person and you need a disability-related modification or accommodation to participate in this meeting, please contact North Yuba Water District office staff at 530-675-2567 or fax 530-675-0462. Requests must be made as early as possible and at least one-full business day before the start of the meeting.

C. OPPORTUNITY FOR PUBLIC COMMENT ON AGENDIZED ITEMS

As provided under Government Code section 54954.3, subdivision (a), during a Special Meeting any member of the public may address the Board concerning any item on the agenda. No other comments will be allowed. Any member of the public wishing to make comment shall identify the agenda item they intend to address, and they will be provided an opportunity to make comment on that item only. Public comment is limited to no more than two (2) minutes per person, twenty (20) minutes total for all speakers.

DISCUSSION/ACTION CALENDAR

D. RESOLUTION NO. 22-773

Adopt resolution declaring the District has a water surplus, and authorizing execution of purchase and sale agreements with Westlands Water District, Panoche Water District, Pacheco Water District, San Luis Water District, Eagle Field Water District, Mercy Springs Water District, and Byron-Bethany Irrigation District under Water Coder section 31023.

E. CLOSED SESSION

Conference with Legal Counsel —existing litigation (6 Cases) – pursuant to Government Code section 54956.9, subdivision (d), paragraph (1).

Names of cases:

Gideon Beinstock, Marieke Furnee, Israel Perla, and Jeanette Cavaliere v. North Yuba Water Agency [sic], Yuba County Superior Court Case No. CVPT21-00515;

Fellowship of Friends, Inc. v. North Yuba Water District, et al., Yuba County Superior Court Case No. CVPT22-00246;

Marieka Furnee, Gideon Bienstock, Jeanette Cavaliere, Donna Corson, Israel Perla, and Charles Sharp v. North Yuba Water District, Yuba County Superior Court Case No. CVPT21-00436;

Charles Sharp v. North Yuba Water District, et al., Yuba County Superior Court Case No. CVPT20-00386;

North Yuba Water District v. South Feather Water and Power Agency, Sutter County Superior Court Case No. CVCS21-0001857; and

South Feather Water and Power Agency v. North Yuba Water Agency, Sutter County Superior Court Case No. CVCS21-0002073.

F. CLOSED SESSION REPORT (IF ANY REPORTABLE ACTION TAKEN)

ADJOURNMENT

**RESOLUTION NO. 22-773
OF THE BOARD OF DIRECTORS OF NORTH YUBA WATER DISTRICT
DECLARING A WATER SURPLUS AND AUTHORIZING WATER TRANSFERS AND RELATED AGREEMENTS**

WHEREAS, North Yuba Water District (“NYWD”) is a county water district located in Yuba County formed and existing according to the provisions of Division 12 of the California Water Code; and

WHEREAS, NYWD provides water for domestic, municipal, industrial, and irrigation purposes; and

WHEREAS, NYWD holds water right Permit 11516, which provides for diversion to storage at Slate Creek Diversion Dam and beneficial use for domestic, municipal, industrial, and irrigation purposes throughout the NYWD boundaries; and

WHEREAS, NYWD holds water right Permit 11518, which provides for diversions to storage at Little Grass Valley Storage Dam and Sly Creek Storage Dam (collectively referred to herein as “storage facilities”) and beneficial use for domestic, municipal, and industrial uses throughout the boundaries of the NYWD and City of Yuba City, and irrigation throughout the boundaries of the NYWD; and

WHEREAS, South Feather Water & Power Agency (SFWPA) owns and operates the South Feather Power Project (SFPP), which includes the storage facilities where NYWD stores water under Permits 11516 and 11518; and

WHEREAS, on or about May 27, 2005, NYWD and SFWPA executed that “Agreement between South Feather Water and Power Agency and [North Yuba] Water District”, which the parties later amended three times. The “Agreement between South Feather Water and Power Agency and [North Yuba] Water District” and the amendments thereto are referred to herein as the “2005 Agreement”; and

WHEREAS, under the 2005 Agreement, SFWPA authorizes NYWD to use the SFPP diversion, storage and conveyance facilities to deliver water for consumptive uses to NYWD so long as NYWD holds Permits 11516 and 11518; and

WHEREAS, the 2005 Agreement requires SFWPA to deliver to NYWD a total of 23,700 acre-feet of water per year stored in SFPP reservoirs under Permits 11516 and 11518: (1) 3,700 acre-feet (af) for use in NYWD’s boundaries (Block 1 water); (2) 4,500 af for use in the City of Yuba City (Block 2 water); and (3) 15,500 acre-feet for use in NYWD’s boundaries (Block 3 water); and

WHEREAS, to serve irrigation demands in NYWD’s boundaries, NYWD must have water available to divert both from the Forbestown Ditch and from runoff in Dry Creek; and

WHEREAS, due to the limited water available at the bottom of the Forbestown Ditch and limited flows in Dry Creek, to serve the irrigation demands in 2022, NYWD must dam Dry Creek to raise the water level in the creek sufficient to move water approximately 25-30 feet from the edge of Dry Creek over an elevated earthen area (i.e., earthen mound) into the Dobbins Oregon House Canal (DOHC), which is the canal serving these irrigation demands; and

WHEREAS, the water right permit authorizing NYWD to divert water from Dry Creek into the DOHC states: “For the protection of fish and wildlife, licensee shall bypass a minimum of 4 cubic feet per second. The total stream flow shall be bypassed whenever it is less than the designated amount”; and

WHEREAS, due to the dry hydrologic conditions, the flow in Dry Creek at the point of diversion is significantly less than the 4 cubic feet per second mandated by the permit, and therefore NYWD cannot dam Dry Creek at this point of diversion and must allow all flow to pass downstream; and

WHEREAS, to lawfully serve the irrigation demands in 2022, NYWD must remove the earthen mound and enough streambed in front of the DOHC to allow water conveyed through Dry Creek to enter the DOHC; and

WHEREAS, to undertake this earthwork in and adjacent to Dry Creek, NYWD must conduct California Environmental Quality Act review and obtain a Lake and Streambed Alteration Agreement (LSAA), neither of which are feasible in 2022; and

WHEREAS, in light of the conveyance limitations in Dry Creek and the resulting non-serviceability of irrigation water, in 2022, NYWD only has a serviceable demand within the NYWD boundaries and the City of Yuba City for the first two blocks of water; and

WHEREAS, despite critical and emergency drought conditions prevailing across California, NYWD's water supply conditions are favorable and will not call for any reduction in use or implementation of any enhanced water conservation measures for its serviceable demands; and

WHEREAS, NYWD has sufficient water supply in 2022 to satisfy all serviceable customer demands, and to comply with all regulatory and legal obligations applicable to NYWD; and

WHEREAS, California is currently experiencing one of the driest three-year periods in recorded history; and

WHEREAS, Governor Newsom declared a drought emergency for all counties in California and issued drought proclamations and executive orders on April 21, 2021, May 10, 2021, July 8, 2021, October 19, 2021, and March 28, 2022; and

WHEREAS, Governor Newsom's May 10, 2021, proclamation of emergency states in ordering paragraph 3:

To support voluntary approaches where hydrology and other conditions allow, the Department of Water Resources and the State Water Resources Control Board (Water Board) shall expeditiously consider requests to move water, where appropriate, to areas of need, including requests involving voluntary water transfers, forbearance agreements, water exchanges, or other means.

WHEREAS, on March 28, 2022, Governor Newsom issued Executive Order N-7-22 stating that the prior drought orders and provisions contained in the April 21, 2021, May 10, 2021, July 8, 2021, and October 19, 2021, proclamations remain in full force and effect and reinforcing that "State agencies shall continue to implement all directions from those Proclamations and accelerate implementation where feasible", including to facilitate and consider water transfers and other means of providing water to areas facing extreme water shortages; and

WHEREAS, on July 19, 2022, NYWD submitted a petition for temporary changes to its water right Permit 11518 (Petition) to the State Water Resources Control Board (State Water Board) seeking review and approval of temporary changes to Permit 11518 to allow for a 2022 water transfer of up to 15,000 acre-

feet, combined, to Westlands Water District, Panoche Water District, Pacheco Water District, San Luis Water District, Eagle Field Water District, Mercy Springs Water District, and Byron-Bethany Irrigation District; and

WHEREAS, these districts are an “area of need” consistent with Governor Newsom’s May 10, 2021, proclamation, with critical needs for irrigation water in 2022 given that they received a zero percent (0%) allocation under their Central Valley Project contracts; and

WHEREAS, NYWD staff has negotiated draft purchase and sale agreements with these districts, copies of which are attached as **Exhibit 1** to this Resolution; and

WHEREAS, NYWD expects an order approving the Petition from the State Water Board later this year; and

WHEREAS, upon issuance of the Order, the proposed transfers are exempt from the California CEQA pursuant to Water Code section 1729; and

WHEREAS, pursuant to the 2005 Agreement, SFWPA must initially provide consent to any water transfer proposed by NYWD involving Permit 11518; and

WHEREAS, on July 22, 2022, NYWD notified SFWPA of NYWD’s proposed water transfer and is coordinating with SFWPA to evaluate the proposed transfer, including advancing SFWPA \$37,500 for necessary technical analyses;

NOW, THEREFORE, BE IT RESOLVED AND PROCLAIMED by the Board of Directors of the North Yuba Water District as follows:

1. The above recitals are true and correct and incorporated herein as findings of the Board of Directors.
2. Given NYWD’s water supply and conveyance conditions, and the critical need for water for irrigation of permanent crops in “areas of need”, NYWD deems it to be in the best interest of it and its customers to declare a surplus and authorize water sales pursuant to Water Code section 31023.
3. Subject to receipt of all regulatory approvals, including issuance of an order from the State Water Board approving the Petition, the Board of Directors approves the transfer of up to 15,000 acre-feet of water, combined, in 2022 to: Westlands Water District, Panoche Water District, Pacheco Water District, San Luis Water District, Eagle Field Water District, Mercy Springs Water District, and Byron-Bethany Irrigation District.
4. The General Manager is authorized and directed to execute purchase and sale agreements with Westlands Water District, Panoche Water District, Pacheco Water District, San Luis Water District, Eagle Field Water District, Mercy Springs Water District, and Byron-Bethany Irrigation District for the transfer of a combined total of up to 15,000 acre-feet of water in 2022.
5. The General Manager is authorized and directed to execute a storage and conveyance agreement with the California Department of Water Resources to convey the transfer supplies to the point of delivery.

6. The General Manager is authorized and directed to execute a refill agreement with the California Department of Water Resources, United States Bureau of Reclamation, and SFWPA, if necessary.
7. This Resolution shall take effect immediately upon adoption.
8. The General Manager is authorized and directed to take any further reasonable actions necessary to implement the terms of this Resolution.

PASSED AND ADOPTED by the Board of Directors of North Yuba Water District at a meeting duly called and held within the NYWD on the 31st day of August 2022 by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Gary Hawthorne
President, Board of Directors
North Yuba Water District

ATTEST:

Jeff Maupin
Secretary, Board of Directors
North Yuba Water District

EXHIBIT 1
WATER PURCHASE AND SALE
AGREEMENTS BETWEEN NORTH YUBA
WATER DISTRICT AND OTHERS

EXHIBIT 1A
Westlands Water District

WATER PURCHASE AND SALE AGREEMENT
BY AND BETWEEN NORTH YUBA WATER DISTRICT AND
THE WESTLANDS WATER DISTRICT

This Agreement is entered into this ___ day of _____, 2022 by and between NORTH YUBA WATER DISTRICT, hereinafter referred to as "Seller" or "North Yuba," and the WESTLANDS WATER DISTRICT, hereinafter referred to as "Buyer" or "Westlands." North Yuba and Westlands may be referred to herein individually as a "Party" or jointly as "Parties."

RECITALS

WHEREAS, North Yuba is a County Water District, operating pursuant to Division 12 of the Water Code and is empowered to sell and transfer water to Buyer pursuant to Water Code section 31023 as provided for in this Agreement; and

WHEREAS, Buyer is a California Water District operating under Section 34000, et seq., of the California Water Code and is empowered to purchase water from Seller as provided for in this Agreement; and

WHEREAS, Buyer obtains water from the United States Bureau of Reclamation (Reclamation) through the federal Central Valley Project (CVP) under water service repayment contracts; and

WHEREAS, Buyer received an allocation of 0% of its full contractual supply for irrigation for the 2022 water year; and

WHEREAS, Seller holds appropriative water right Permit 11518, which provides for diversion from the South Fork Feather River to storage in Little Grass Valley Reservoir and diversion from Lost Creek to storage in Sly Creek Reservoir; and

WHEREAS, the South Feather Water & Power Agency (SFWPA) operates the South Feather Power Project (SFPP), which includes a series of reservoirs and powerhouses, including Little Grass Valley Reservoir and Sly Creek Reservoir. SFWPA diverts water to storage under Permit 11518 on North Yuba's behalf; and

WHEREAS, Seller is willing to make available water appropriated pursuant to Permit 11518 for sale and delivery to the Buyer by ensuring SFWPA releases stored water from Little Grass Valley Reservoir and Sly Creek Reservoir to the Feather River; and

WHEREAS, Buyer intends by this Agreement to obtain a supplemental water supply for reasonable and beneficial use given the reduction in deliveries of contract quantities from the CVP;

NOW, THEREFORE, Seller and Buyer, on the terms and conditions set forth herein, agree as follows:

Initials: _____



AGREEMENT

1. **DEFINITIONS:** The following definitions shall govern this Agreement:
 - a. **"Agreement-Water"** is the surface water appropriated by Seller pursuant to Permit 11518, and transferred and made available through this Agreement as a result of Seller's commitment to ensure Little Grass Valley Reservoir and Sly Creek Reservoir and the South Feather Power Project are reoperated to release water to the Feather River that would otherwise remain in storage.
 - b. **"Point of Delivery"** means that location on the Feather River where water is released from the South Feather Power Project through the Kelly Ridge Powerhouse to the Feather River after passing through the Thermalito Diversion Pool.
 - c. **"Carriage Losses and Depletions"** mean water losses imposed on Agreement-Water by Reclamation or the California Department of Water Resources (DWR), including without limitation Delta carriage water loss and Delta-Mendota and San Luis Canal(s) conveyance losses imposed on Agreement-Water downstream of the Point of Delivery.
2. **TERM:** This Agreement shall commence on the date set forth above and expire on December 31, 2022, unless terminated sooner by written agreement of the Parties pursuant to the provisions set forth herein; provided, however, that any obligations under this Agreement to be performed after December 31, 2022, shall survive the expiration of the term of this Agreement and shall be fully enforceable.
3. **AGREEMENT TO DELIVER:** Seller agrees to sell and make available at the Point of Delivery, and the Buyer agrees to purchase, Agreement-Water during the term of this Agreement for its beneficial use, in the quantities described and subject to the terms and conditions of this Agreement. Buyer will use all Agreement-Water within its service area.
4. **QUANTITY AND ADJUSTMENTS TO QUANTITY:**
 - a. **Quantity.** Seller agrees to sell and make available at the Point of Delivery to Buyer up to 12,522 acre-feet of Agreement-Water, subject to other terms and conditions of this Agreement. In 2022, Seller is considering selling water to Eagle Field Water District, Mercy Springs Water District, Panoche Water District, Pacheco Water District, and San Luis Water District. Any water not purchased by any of those districts will be purchased by Buyer as Agreement-Water, pursuant to the terms and conditions of this Agreement. The parties agree such additional purchases may result in total purchases of Agreement-Water by Buyer exceeding 12,522 AF.
 - b. **Availability.** South Feather Water & Power Agency (SFWPA) shall confirm the final amount of Agreement-Water made available at the Point of Delivery during each month this Agreement is in effect.
 - c. **Losses.** Buyer shall bear the water cost of Carriage Losses and Depletions.

Initials: _____



- d. **Operational/Regulatory Limitations on Buyer's Ability to Export/Litigation Termination.** If Reclamation is unable to deliver Agreement-Water to Buyer through Delta pumping facilities at the time such water is scheduled to reach the Delta, Buyer shall provide to Seller at least a 48-hour notification to reduce, suspend, or terminate releases to the Feather River. The Parties shall promptly meet and confer regarding the details and specifics of any such constraints and cooperate in good faith to determine when Seller's releases may resume. If the Parties cannot develop a mutually acceptable plan for the resumption of releases, Buyer shall still be obligated to pay for the Agreement-Water made available at the Point of Delivery prior to the end of the 48 hour notification period. Further, if Buyer and Seller mutually agree to terminate this Agreement under Paragraph 13.b or 15.b.i, Buyer may provide the same 48-hour notification and, if such notice is provided, shall be obligated to pay Seller for only Agreement-Water made available at the Point of Delivery prior to the end of the 48-hour notification period.
5. **PURCHASE PRICE:** Buyer agrees to purchase and pay for each acre-foot of Agreement-Water Seller makes available to Buyer at the Point of Delivery. The purchase price shall be \$833 per acre-foot.
6. **INVOICING AND PAYMENTS:** The Buyer shall make payment(s) directly to the Seller as set forth in this Paragraph.
- a. Seller shall invoice Buyer on a monthly basis following the end of each calendar month for the Agreement-Water made available to Buyer at the Point of Delivery. Buyer shall pay each invoice within thirty (30) days of Buyer's receipt of the invoice and interest shall be paid at the annual interest rate of 10% on any invoices that remain unpaid thirty (30) days after receipt of the invoice. Payment shall be made to:
- North Yuba Water District
8691 La Porte Rd
Brownsville, CA 95919
jmaupin@nywd.org
- b. Seller shall provide Buyer with detailed invoices supporting all expenses incurred pursuant to Paragraph 15, and Buyer shall pay such invoices per Paragraph 6.a. Seller shall provide Buyer all invoices for reimbursable expenses pursuant to Paragraph 15 no later than ninety (90) days after the termination of this Agreement.
7. **REFUNDS:** In the event Seller fails to provide the amount of Agreement-Water Buyer has purchased, subject to Seller's right to terminate for shortages as stated in Paragraph 9, Seller will promptly refund to Buyer any payments made for purchased water not made available at the Point of Delivery. Any refunds shall include interest at the Local Agency Investment Fund rate for the period the money was held.

Initials:  _____

8. **WATER QUALITY:** The Seller makes no warranty or representations as to the quality or fitness for use of the Agreement-Water. Buyer, at its own expense, shall be responsible for all necessary measures for the testing, treatment, and other steps required for the intended uses of the Agreement-Water by the Buyer.
9. **SHORTAGE PROVISION/TERMINATION:** If the Seller's surface water supplies are unavailable for sale due to unforeseen circumstances or for reasons beyond Seller's control, including a failure of SFWPA to release water to the Feather River, Seller, at its sole discretion, may terminate this Agreement. Prior to termination or, as applicable, as quickly as possible following any action to suspend, reduce or cease releases to the Feather River, Seller and Buyer shall confer to determine if there is a mutually agreeable alternative to termination.
10. **WATER SCHEDULING:** Buyer, in coordination with Seller, SFWPA, Reclamation, and DWR, if necessary, will develop a schedule for delivery of Agreement-Water, and to assure, to the extent possible, that Agreement-Water made available by Seller can be pumped at the C.W. "Bill" Jones Pumping Plant.
11. **DIVERSION COSTS:** All fees, permitting, construction, reconstruction, and maintenance costs for facilities necessary or used to divert Agreement-Water once it is delivered at the Point of Delivery by Seller shall be borne solely by Buyer. Upon the Agreement-Water being made available at the Point of Delivery, Buyer is solely responsible for all costs associated with treatment, diversion headworks, pumping facilities, etc., to divert, convey, transport, treat, and deliver Agreement-Water to the Buyer's place of use.
12. **ENVIRONMENTAL REVIEW:** Execution of this Agreement, and the resulting transfer of Agreement-Water is exempt from the requirements of the California Environmental Quality Act pursuant to Water Code section 1729.

Buyer shall be solely responsible for arranging for and shall pay all costs incurred for the conveyance of Agreement-Water from the Point of Delivery to the Buyer's service area, including all costs associated with any agreement with Reclamation and any supporting NEPA documentation, for the conveyance and/or storage of Agreement-Water, if necessary.

13. **TERMINATION:** In the event of termination of this Agreement, the Parties shall thereafter be under no further obligation or responsibility hereunder, and will release the other party from further obligations under this Agreement, except for their respective shares of costs incurred prior to the effective date of termination, which includes administration expenses under Paragraph 15.a and may include certain litigation costs under paragraph 15.b. The Parties to this Agreement shall have the right of termination as set forth in Paragraph 9, and this Paragraph:
 - a. If regulatory approval(s) and any additional required environmental review actions (e.g., NEPA compliance actions) are not satisfied by September 30, 2022, unless the

Initials:  _____

parties agree to extend the date, either Party may, by written notice to the other Party, terminate this Agreement.

- b. If, in the reasonable judgment of either Seller or Buyer, the costs of any litigation challenging this Agreement, any restrictions, fees, charges or costs, or any relief that may be afforded to third parties in any action involving this Agreement, are too burdensome in relation to the benefits to be received under this Agreement, then that Party so determining may terminate this Agreement. If Buyer so elects to terminate the Agreement, Buyer shall still be obligated to pay for all of the Agreement-Water made available prior to such termination, for administrative expenses under Paragraph 15.a and litigation expenses under 15.b.

14. CONDITIONS PRECEDENT/APPROVALS:

- a. Except as provided in Paragraph 15 with respect to reimbursement of costs, the Parties' performance under this Agreement is contingent on the Parties obtaining any and all necessary approvals from any third-party agency for delivery of Agreement-Water, including SFWPA's consent to the transfer of Agreement-Water.
- b. Seller is responsible for obtaining necessary approvals from the SFWPA, State Water Resources Control Board (SWRCB), Reclamation, and DWR to transfer the Agreement-Water at the Point of Delivery. Buyer is responsible for obtaining all authorizations from Reclamation and DWR for conveyance of the Agreement-Water to Buyer's service area.

15. ADMINISTRATIVE AND LITIGATION EXPENSES:

- a. **Administrative Expenses.** Buyer will reimburse Seller's reasonable out-of-pocket expenses, including but not limited to actual legal and engineering consultants' fees and expenses incurred by Seller in preparing, negotiating, administering, implementing, and supporting this Agreement up to a maximum of \$33,333, and such maximum amount will be reduced by an amount equal to the quantity of water purchased by Eagle Field Water District, Mercy Springs Water District, Panoche Water District, Pacheco Water District, and San Luis Water District pursuant to separate purchase and sale agreements executed with Seller in 2022, multiplied by \$3.33 per acre-foot purchased. Buyer shall not be required to reimburse Seller for time spent by its directors, officers or employees relating to this transfer. Seller shall be entitled to this reimbursement starting on the effective date of this agreement for such expenditures starting on July 1, 2022. If Seller fails to provide any Agreement-Water due to its own action or inaction, Seller will not be entitled to reimbursement and any reimbursements made by the Buyer will be fully refunded by the Seller to the Buyer; provided, if Seller terminates the Agreement because of a reduction in water supply under Paragraph 9, Seller shall be entitled to reimbursement despite the termination. Invoicing of administrative expenses shall be pursuant to the procedures set forth in Paragraph 6.a.

Initials: _____



b. Litigation, Attorneys' Fees and Third-Party Challenges.

- i. Subject to subsections 15.b.ii and 15.b.iii, in the event of litigation or an administrative challenge related to this Agreement, Seller and Buyer will promptly meet and confer to perform a risk assessment of the litigation/challenge, and cooperate in good faith to determine whether to terminate the Agreement due to the litigation/challenge. Either Party may elect to terminate the Agreement due to any such litigation/challenge. If Buyer so elects to terminate the Agreement due to any such litigation/challenge, Buyer shall still be obligated to pay for all of the Agreement-Water made available at the Point of Delivery prior to such termination; for Seller's administrative expenses in accordance with Paragraph 15.a; for any litigation expenses in having the proceeding dismissed or otherwise resolved. If Seller so elects to terminate the Agreement, Buyer shall still be obligated to pay for all of the Agreement-Water made available at the Point of Delivery prior to such termination; for Seller's administrative expenses in accordance with Paragraph 15.a; and for any litigation expenses in having the proceeding dismissed or otherwise resolved. Regardless of whether the agreement is terminated, and except as set forth in subsections 15.b.ii and 15.b.iii, below, if litigation is pending Buyer shall have primary responsibility for defending against such litigation on behalf of both Buyer and Seller, either as a defendant, respondent, real party in interest or intervenor; and Seller shall participate in defending against such litigation to the extent it deems necessary or appropriate, in Seller's sole discretion. Buyer shall bear its own costs of litigation and shall pay any monetary award, the costs of any remedial actions, and any award of challenger's attorneys' fees associated therewith, whether levied against Buyer or Seller. Buyer shall also reimburse 55.65% of Seller's actual out-of-pocket expenses Seller incurs for defending this Agreement and against any related litigation under this Paragraph 15.b.i. .
- ii. As to claims solely challenging Seller's conduct in Seller's service area related to making Agreement-Water available at Point of Delivery, Seller shall have primary responsibility for defending such claims on behalf of both Seller and Buyer, and Buyer shall participate in defending against such claims to the extent it deems necessary or appropriate, in Buyer's sole discretion. Buyer shall bear its own fees and costs of defending against such claims. Except as provided in Paragraph 15.a regarding general cost reimbursement, Seller shall bear its own fees and costs of defending against such claims. Seller shall pay all monetary awards associated with claims challenging Seller's conduct in Seller's service area.
- iii. To the extent litigation includes multiple claims, the Parties agree to meet and confer in good faith to determine whether or not the action includes claims described under Paragraphs 15.b.i and 15.b.ii. The Parties agree that any claim

Initials: _____



identified as subject to Paragraph 15.b.ii shall be defended as provided in Paragraph 15.b.ii and the balance of such claims shall be defended as provided in Paragraph 15.b.i.

16. **WATER RIGHTS:** The Agreement-Water transferred under this Agreement is a portion of the surface water available to Seller and diverted to storage in accordance with Permit 11518. Consistent with the provisions of California Water Code Sections 109, 475, 1011, 1244, and 11961, the water transfer performed under this Agreement shall not confer any appropriative, public trust or other right to water on any person or entity. Nothing in this Agreement shall act as forfeiture, diminution, or impairment of any rights of Seller to its full diversion of water after the expiration of the Agreement, and this Agreement shall in no way prejudice any of Seller's rights thereto. The Parties agree that the Agreement-Water made available under this Agreement is considered a reasonable and beneficial use of water under California law.
17. **BUYER'S PAYMENT OF RECLAMATION AND DWR'S COSTS, RATES, AND CHARGES:**
Buyer shall be responsible for payment of all costs incurred by Reclamation and DWR, and imposed upon Seller, for Reclamation and DWR's review, approval, implementation, and administration of this Agreement. Buyer shall be responsible for any and all costs, rates, charges and assessments that Reclamation and DWR imposes upon Seller related to this Agreement.
18. **COOPERATION:** To the extent reasonably required, each Party to this Agreement shall, in good faith, assist the other in obtaining all such necessary approvals and preparation of required environmental documents. The Parties agree to cooperate and assist each other in good faith in meeting such requirements of regulatory agencies as may be applicable to performance of any terms of the Agreement.
19. **WAIVER OF RIGHTS:** Any waiver, at any time, by a Party of its rights with respect to a breach or default, or any other matter arising in connection with this Agreement, shall not be deemed to be a waiver with respect to any other breach, default or matter.
20. **ASSIGNMENT:** This Agreement is entered into in reliance on water supplies available to Seller, the credit of Buyer, and Buyer's need for water, and therefore any assignment of this Agreement in whole or in part without the prior written consent of the other Party hereto is prohibited.
21. **NOTICES:** All notices that are required, either expressly or by implication, to be given by any Party to the other under this Agreement shall be signed on behalf of the Seller and Buyer by such officers as they may, from time, authorize in writing to so act.
- a. Any notices to Parties required by this Agreement shall be delivered or mailed, United States first-class postage prepaid, by fax or by electronic mail at the following addresses, fax numbers, or electronic mail addresses:

Initials: _____



NORTH YUBA WATER DISTRICT

Jeff Maupin, General Manager
8691 La Porte Rd
Brownsville, CA 95919
jmaupin@nywd.org

WESTLANDS WATER DISTRICT

Jose Gutierrez, Chief Operating Officer
P.O. Box 6056
Fresno, CA 93703
jgutierrez@wwd.ca.gov

- b. Notice shall be deemed given (a) two calendar days following mailing via regular or certified mail, return receipt requested, (b) one business day after deposit with any one-day delivery service assuring "next day" delivery, (c) upon actual receipt of notice, or (d) upon transmission, if by facsimile or electronic mail, whichever is earlier. The Parties shall promptly give written notice to each other of any change of address, and mailing or shipment to the addresses stated herein shall be deemed sufficient unless written notification of a change of address has been received.
22. **APPROVALS:** Where the terms of this Agreement provide for action to be based upon a judgment, approval, review, or determination of either Party, such terms are not intended to be and shall never be construed as permitting such opinion, judgment, approval, review, or determination to be arbitrary, capricious, or unreasonable.
23. **ARBITRATION:** In the event of a dispute between the Parties as to any right, alleged right, obligation or alleged obligation under this Agreement, the Parties shall make a good faith effort to resolve the dispute. In the event that a resolution of the dispute cannot be reached despite these efforts, either Party may declare an impasse and its intent to submit the matter to arbitration. Any such arbitration shall be held and conducted before one arbitrator who shall be selected by mutual agreement of the Parties. If agreement is not reached on the selection of an arbitrator within fifteen (15) days after a Party has notified the other Party of its election to submit to arbitration, then such arbitrator shall be appointed by the presiding judge of the Superior Court of Sacramento County upon application of either Party hereto. The award or decision of the arbitrator shall be final, and judgment may be entered thereon. The provisions of Title 9 of Part 3 of the California Code of Civil Procedure, including §1283.05, and successor statutes, permitting expanded discovery proceedings shall be applicable to all disputes which are arbitrated pursuant to this paragraph.
24. **OTHER AGREEMENTS:** Nothing contained herein restricts the Seller from providing water services and sales to others as authorized by law which do not unreasonably interfere with Seller's obligations hereunder.
25. **ENTIRE AGREEMENT:** This Agreement constitutes the entire agreement between the Seller and Buyer and supersedes any oral agreement, statement, or promise between them

Initials: _____



relating to the specific subject matter of this Agreement. Any amendment, including oral modifications, must be reduced to writing and signed by both Parties to be effective.

26. **COUNTERPARTS:** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement shall not be effective until the execution and delivery between each of the Parties of at least one set of counterparts. The Parties authorize each other to detach and combine original signature pages and consolidate them into a single identical original. Any one of such completely executed counterparts shall be sufficient proof of this Agreement.
27. **GENERAL INTERPRETATION:** The terms of this Agreement have been negotiated by the Parties hereto and the language used in this Agreement shall be deemed to be the language chosen by the Parties hereto to express their mutual intent. This Agreement shall be construed without regard to any presumption or rule requiring construction against the Party causing such instrument or any portion thereof to be drafted, or in favor of the Party receiving a particular benefit under the Agreement. No rule of strict construction will be applied against any person.
28. **AGREEMENT NOT PRECEDENT:** The Parties acknowledge and agree that nothing in this Agreement shall be considered precedent for any agreements for purchase and sale of water between the Parties in any future year.

IN WITNESS WHEREOF, the Parties have executed this Agreement effective as of the date first above written.

BUYER: WESTLANDS WATER DISTRICT

By:  Date: August 26, 2022

SELLER: NORTH YUBA WATER DISTRICT

By: _____ Date: _____
Jeff Maupin, General Manager

Initials:  _____

EXHIBIT 1B
Panoche Water District

WATER PURCHASE AND SALE AGREEMENT
BY AND BETWEEN NORTH YUBA WATER DISTRICT AND
PANOCHÉ WATER DISTRICT

This Agreement is entered into this __ day of _____, 2022 by and between NORTH YUBA WATER DISTRICT, hereinafter referred to as “**Seller**” or “**North Yuba**,” and PANOCHÉ WATER DISTRICT, hereinafter referred to as “**Buyer**” or “**Panoche**.” North Yuba and Panoche may be referred to herein individually as a “**Party**” or jointly as “**Parties**.”

RECITALS

WHEREAS, North Yuba is a County Water District, operating pursuant to Division 12 of the Water Code and is empowered to sell and transfer water to Buyer pursuant to Water Code section 31023 as provided for in this Agreement; and

WHEREAS, Buyer is a California Water District operating under Section 34000, et seq., of the California Water Code and is empowered to purchase water from Seller as provided for in this Agreement; and

WHEREAS, Buyer obtains water from the United States Bureau of Reclamation (Reclamation) through the federal Central Valley Project (CVP) under water service repayment contracts; and

WHEREAS, Buyer received an allocation of 0% of its full contractual supply for irrigation for the 2022 water year; and

WHEREAS, Seller holds appropriative water right Permit 11518, which provides for diversion from the South Fork Feather River to storage in Little Grass Valley Reservoir and diversion from Lost Creek to storage in Sly Creek Reservoir; and

WHEREAS, the South Feather Water & Power Agency (SFWPA) operates the South Feather Power Project (SFPP), which includes a series of reservoirs and powerhouses, including Little Grass Valley Reservoir and Sly Creek Reservoir. SFWPA diverts water to storage under Permit 11518 on North Yuba’s behalf; and

WHEREAS, Seller is willing to make available water appropriated pursuant to Permit 11518 for sale and delivery to the Buyer by ensuring SFWPA releases stored water from Little Grass Valley Reservoir and Sly Creek Reservoir to the Feather River; and

WHEREAS, Buyer intends by this Agreement to obtain a supplemental water supply for reasonable and beneficial use given the reduction in deliveries of contract quantities from the CVP;

NOW, THEREFORE, Seller and Buyer, on the terms and conditions set forth herein, agree as follows:

Initials: _____

AGREEMENT

1. **DEFINITIONS:** The following definitions shall govern this Agreement:
 - a. **“Agreement-Water”** is the surface water appropriated by Seller pursuant to Permit 11518, and transferred and made available through this Agreement as a result of Seller’s commitment to ensure Little Grass Valley Reservoir and Sly Creek Reservoir and the South Feather Power Project are reoperated to release water to the Feather River that would otherwise remain in storage.
 - b. **“Point of Delivery”** means that location on the Feather River where water is released from the South Feather Power Project through the Kelly Ridge Powerhouse to the Feather River after passing through the Thermalito Diversion Pool.
 - c. **“Carriage Losses and Depletions”** mean water losses imposed on Agreement-Water by Reclamation or the California Department of Water Resources (DWR) including without limitation Delta carriage water loss and Delta-Mendota and San Luis Canal(s) conveyance losses imposed on Agreement-Water downstream of the Point of Delivery.
2. **TERM:** This Agreement shall commence on the date set forth above and expire on December 31, 2022, unless terminated sooner by written agreement of the Parties pursuant to the provisions set forth herein; provided, however, that any obligations under this Agreement to be performed after December 31, 2022, shall survive the expiration of the term of this Agreement and shall be fully enforceable.
3. **AGREEMENT TO DELIVER:** Seller agrees to sell and make available at the Point of Delivery, and the Buyer agrees to purchase, Agreement-Water during the term of this Agreement for its beneficial use, in the quantities described and subject to the terms and conditions of this Agreement. Buyer will use all Agreement-Water within its service area.
4. **QUANTITY AND ADJUSTMENTS TO QUANTITY:**
 - a. **Quantity.** Seller agrees to sell and make available at the Point of Delivery to Buyer up to 985 acre-feet of Agreement-Water, subject to other terms and conditions of this Agreement.
 - b. **Availability.** South Feather Water & Power Agency (SFWPA) shall confirm the final amount of Agreement-Water made available at the Point of Delivery during each month this Agreement is in effect.
 - c. **Losses.** Buyer shall bear the water cost of Carriage Losses and Depletions.
 - d. **Operational/Regulatory Limitations on Buyer’s Ability to Export/Litigation Termination.** If Reclamation is unable to deliver Agreement-Water to Buyer through Delta pumping facilities at the time such water is scheduled to reach the Delta, Buyer shall provide to Seller at least a 48-hour notification to reduce, suspend, or terminate

Initials: _____

releases to the Feather River. The Parties shall promptly meet and confer regarding the details and specifics of any such constraints and cooperate in good faith to determine when Seller's releases may resume. If the Parties cannot develop a mutually acceptable plan for the resumption of releases, Buyer shall still be obligated to pay for the Agreement-Water made available at the Point of Delivery prior to the end of the 48-hour notification period. Further, if Buyer and Seller mutually agree to terminate this Agreement under Paragraph 13.b or 15.b.i, Buyer may provide the same 48-hour notification and, if such notice is provided, shall be obligated to pay Seller for only Agreement-Water made available at the Point of Delivery prior to the end of the 48-hour notification period.

5. **PURCHASE PRICE:** Buyer agrees to purchase and pay for each acre-foot of Agreement-Water Seller makes available to Buyer at the Point of Delivery. The purchase price shall be \$833 per acre-foot.
6. **INVOICING AND PAYMENTS:** The Buyer shall make payment(s) directly to the Seller as set forth in this Paragraph.
 - a. Seller shall invoice Buyer on a monthly basis following the end of each calendar month for the Agreement-Water made available to Buyer at the Point of Delivery. Buyer shall pay each invoice within thirty (30) days of Buyer's receipt of the invoice and interest shall be paid at the annual interest rate of 10% on any invoices that remain unpaid thirty (30) days after receipt of the invoice. Payment shall be made to:

North Yuba Water District
8691 La Porte Rd
Brownsville, CA 95919
jmaupin@nywd.org
 - b. Seller shall provide Buyer with detailed invoices supporting all expenses incurred pursuant to Paragraph 15, and Buyer shall pay such invoices per Paragraph 6.a. Seller shall provide Buyer all invoices for reimbursable expenses pursuant to Paragraph 15 no later than ninety (90) days after the termination of this Agreement.
7. **REFUNDS:** In the event Seller fails to provide the amount of Agreement-Water Buyer has purchased, subject to Seller's right to terminate for shortages as stated in Paragraph 9, Seller will promptly refund to Buyer any payments made for purchased water not made available at the Point of Delivery. Any refunds shall include interest at the Local Agency Investment Fund rate for the period the money was held.
8. **WATER QUALITY:** The Seller makes no warranty or representations as to the quality or fitness for use of the Agreement-Water. Buyer, at its own expense, shall be responsible for all necessary measures for the testing, treatment, and other steps required for the intended uses of the Agreement-Water by the Buyer.

Initials: _____

9. **SHORTAGE PROVISION/TERMINATION:** If the Seller's surface water supplies are unavailable for sale due to unforeseen circumstances or for reasons beyond Seller's control, including a failure of SFWPA to release water to the Feather River, Seller, at its sole discretion, may terminate this Agreement. Prior to termination or, as applicable, as quickly as possible following any action to suspend, reduce or cease releases to the Feather River, Seller and Buyer shall confer to determine if there is a mutually agreeable alternative to termination.
10. **WATER SCHEDULING:** Buyer, in coordination with Seller, SFWPA, Reclamation, and DWR, if necessary, will develop a schedule for delivery of Agreement-Water, and to assure, to the extent possible, that Agreement-Water made available by Seller can be pumped at the C.W. "Bill" Jones Pumping Plant.
11. **DIVERSION COSTS:** All fees, permitting, construction, reconstruction, and maintenance costs for facilities necessary or used to divert Agreement-Water once it is delivered at the Point of Delivery by Seller shall be borne solely by Buyer. Upon the Agreement-Water being made available at the Point of Delivery, Buyer is solely responsible for all costs associated with treatment, diversion headworks, pumping facilities, etc., to divert, convey, transport, treat, and deliver Agreement-Water to the Buyer's place of use.
12. **ENVIRONMENTAL REVIEW:** Execution of this Agreement, and the resulting transfer of Agreement-Water, is exempt from the requirements of the California Environmental Quality Act pursuant to Water Code section 1729.

Buyer shall be solely responsible for arranging for and shall pay any costs incurred for the conveyance of Agreement-Water from the Point of Delivery to the Buyer's service area, including all costs associated with any agreement with Reclamation and any supporting NEPA documentation, for the conveyance and/or storage of Agreement-Water, if necessary.

13. **TERMINATION:** In the event of termination of this Agreement, the Parties shall thereafter be under no further obligation or responsibility hereunder, and will release the other party from further obligations under this Agreement, except for their respective shares of costs incurred prior to the effective date of termination, which includes administration expenses under Paragraph 15.a and may include certain litigation costs under paragraph 15.b. The Parties to this Agreement shall have the right of termination as set forth in Paragraph 9, and this Paragraph:
 - a. If regulatory approval(s) and any additional required environmental review actions (e.g., NEPA compliance actions) are not satisfied by September 30, 2022, unless the parties agree to extend the date, either Party may, by written notice to the other Party, terminate this Agreement.
 - b. If, in the reasonable judgment of either Seller or Buyer, the costs of any litigation challenging this Agreement, any restrictions, fees, charges or costs, or any relief that may be afforded to third parties in any action involving this Agreement, are too burdensome in relation to the benefits to be received under this Agreement, then that

Initials: _____

Party so determining may terminate this Agreement. If Buyer so elects to terminate the Agreement, Buyer shall still be obligated to pay for all of the Agreement-Water made available prior to such termination, for administrative expenses under Paragraph 15.a and litigation expenses under 15.b.

14. CONDITIONS PRECEDENT/APPROVALS:

- a. Except as provided in Paragraph 15 with respect to reimbursement of costs, the Parties' performance under this Agreement is contingent on the Parties obtaining any and all necessary approvals from any third-party agency for delivery of Agreement-Water, including SFWPA's consent to the transfer of Agreement-Water.
- b. Seller is responsible for obtaining necessary approvals from the SFWPA, State Water Resources Control Board ("SWRCB"), Reclamation and DWR to transfer the Agreement-Water at the Point of Delivery. Buyer is responsible for obtaining all authorizations from Reclamation and DWR for conveyance of the Agreement-Water to Buyer's service area.

15. ADMINISTRATIVE AND LITIGATION EXPENSES:

- a. **Administrative Expenses.** Buyer will reimburse Seller's reasonable out-of-pocket expenses, including but not limited to actual legal and engineering consultants' fees and expenses incurred by Seller in preparing, negotiating, administering, implementing, and supporting this Agreement up to a maximum of \$2,187. Buyer shall not be required to reimburse Seller for time spent by its directors, officers or employees relating to this transfer. Seller shall be entitled to this reimbursement starting on the effective date of this Agreement for such expenditures starting on July 1, 2022. If Seller fails to provide any Agreement-Water due to its own action or inaction, Seller will not be entitled to reimbursement and any reimbursements made by the Buyer will be fully refunded by the Seller to the Buyer; provided, if Seller terminates the Agreement because of a reduction in water supply under Paragraph 9, Seller shall be entitled to reimbursement despite the termination. Invoicing of administrative expenses shall be pursuant to the procedures set forth in Paragraph 6.a.
- b. **Litigation, Attorneys' Fees and Third-Party Challenges.**
 - i. Subject to subsections 15.b.ii and 15.b.iii, in the event of litigation or an administrative challenge related to this Agreement, Seller and Buyer will promptly meet and confer to perform a risk assessment of the litigation/challenge, and cooperate in good faith to determine whether to terminate the Agreement due to the litigation/challenge. Either Party may elect to terminate the Agreement due to any such litigation/challenge. If Buyer so elects to terminate the Agreement due to any such litigation/challenge, Buyer shall still be obligated to pay for all of the Agreement-Water made available at the Point of Delivery prior to such termination; for Seller's administrative expenses in accordance with Paragraph 15.a; for any litigation expenses in having the proceeding dismissed or otherwise

Initials: _____

resolved. If Seller so elects to terminate the Agreement, Buyer shall still be obligated to pay for all of the Agreement-Water made available at the Point of Delivery prior to such termination; for Seller's administrative expenses in accordance with Paragraph 15.a; and for any litigation expenses in having the proceeding dismissed or otherwise resolved. Regardless of whether the agreement is terminated, and except as set forth in subsections 15.b.ii and 15.b.iii, below, if litigation is pending Buyer shall have primary responsibility for defending against such litigation on behalf of both Buyer and Seller, either as a defendant, respondent, real party in interest or intervenor; and Seller shall participate in defending against such litigation to the extent it deems necessary or appropriate, in Seller's sole discretion. Buyer shall bear its own costs of litigation and shall pay any monetary award, the costs of any remedial actions, and any award of challenger's attorneys' fees associated therewith, whether levied against Buyer or Seller. Buyer shall also reimburse 4.38% of Seller's actual out-of-pocket expenses Seller incurs for defending this Agreement and against any related litigation under this Paragraph 15.b.i.

- ii. As to claims solely challenging Seller's conduct in Seller's service area related to making Agreement-Water available at the Point of Delivery, Seller shall have primary responsibility for defending such claims on behalf of both Seller and Buyer, and Buyer shall participate in defending against such claims to the extent it deems necessary or appropriate, in Buyer's sole discretion. Buyer shall bear its own fees and costs of defending against such claims. Except as provided in Paragraph 15.a regarding general cost reimbursement, Seller shall bear its own fees and costs of defending against such claims. Seller shall pay all monetary awards associated with claims challenging Seller's conduct in Seller's service area.
- iii. To the extent litigation includes multiple claims, the Parties agree to meet and confer in good faith to determine whether or not the action includes claims described under Paragraphs 15.b.i and 15.b.ii. The Parties agree that any claim identified as subject to Paragraph 15.b.ii shall be defended as provided in Paragraph 15.b.ii and the balance of such claims shall be defended as provided in Paragraph 15.b.i.

16. **WATER RIGHTS:** The Agreement-Water transferred under this Agreement is a portion of the surface water available to Seller and diverted to storage in accordance with Permit 11518. Consistent with the provisions of California Water Code Sections 109, 475, 1011, 1244, and 11961, the water transfer performed under this Agreement shall not confer any appropriative, public trust or other right to water on any person or entity. Nothing in this Agreement shall act as forfeiture, diminution, or impairment of any rights of Seller to its full diversion of water after the expiration of the Agreement, and this Agreement shall in no way prejudice any of Seller's rights thereto. The Parties agree that the Agreement-Water made available under this Agreement is considered a reasonable and beneficial use of water under California law.

Initials: _____

17. **BUYER'S PAYMENT OF RECLAMATION AND DWR'S COSTS, RATES, AND CHARGES:** Buyer shall be responsible for payment of all costs incurred by Reclamation and DWR, and imposed upon Seller, for Reclamation and DWR's review, approval, implementation, and administration of this Agreement. Buyer shall be responsible for any and all costs, rates, charges and assessments that Reclamation and DWR impose upon Seller related to this Agreement.
18. **COOPERATION:** To the extent reasonably required, each Party to this Agreement shall, in good faith, assist the other in obtaining all such necessary approvals and preparation of required environmental documents. The Parties agree to cooperate and assist each other in good faith in meeting such requirements of regulatory agencies as may be applicable to performance of any terms of the Agreement.
19. **WAIVER OF RIGHTS:** Any waiver, at any time, by a Party of its rights with respect to a breach or default, or any other matter arising in connection with this Agreement, shall not be deemed to be a waiver with respect to any other breach, default or matter.
20. **ASSIGNMENT:** This Agreement is entered into in reliance on water supplies available to Seller, the credit of Buyer, and Buyer's need for water, and therefore any assignment of this Agreement in whole or in part without the prior written consent of the other Party hereto is prohibited.
21. **NOTICES:** All notices that are required, either expressly or by implication, to be given by any Party to the other under this Agreement shall be signed on behalf of the Seller and Buyer by such officers as they may, from time, authorize in writing to so act.
- a. Any notices to Parties required by this Agreement shall be delivered or mailed, United States first-class postage prepaid, by fax or by electronic mail at the following addresses, fax numbers, or electronic mail addresses:

NORTH YUBA WATER DISTRICT

Jeff Maupin, General Manager
8691 La Porte Rd
Brownsville, CA 95919
jmaupin@nywd.org

PANOCHÉ WATER DISTRICT

Ara Azhderian
Panoche Water District
52027 W. Althea Avenue
Firebaugh CA 93622
209-704-1164
aazhderian@panochewd.org

Initials: _____

- b. Notice shall be deemed given (a) two calendar days following mailing via regular or certified mail, return receipt requested, (b) one business day after deposit with any one-day delivery service assuring "next day" delivery, (c) upon actual receipt of notice, or (d) upon transmission, if by facsimile or electronic mail, whichever is earlier. The Parties shall promptly give written notice to each other of any change of address, and mailing or shipment to the addresses stated herein shall be deemed sufficient unless written notification of a change of address has been received.
22. **APPROVALS:** Where the terms of this Agreement provide for action to be based upon a judgment, approval, review, or determination of either Party, such terms are not intended to be and shall never be construed as permitting such opinion, judgment, approval, review, or determination to be arbitrary, capricious, or unreasonable.
23. **ARBITRATION:** In the event of a dispute between the Parties as to any right, alleged right, obligation or alleged obligation under this Agreement, the Parties shall make a good faith effort to resolve the dispute. In the event that a resolution of the dispute cannot be reached despite these efforts, either Party may declare an impasse and its intent to submit the matter to arbitration. Any such arbitration shall be held and conducted before one arbitrator who shall be selected by mutual agreement of the Parties. If agreement is not reached on the selection of an arbitrator within fifteen (15) days after a Party has notified the other Party of its election to submit to arbitration, then such arbitrator shall be appointed by the presiding judge of the Superior Court of Sacramento County upon application of either Party hereto. The award or decision of the arbitrator shall be final, and judgment may be entered thereon. The provisions of Title 9 of Part 3 of the California Code of Civil Procedure, including §1283.05, and successor statutes, permitting expanded discovery proceedings shall be applicable to all disputes which are arbitrated pursuant to this paragraph.
24. **OTHER AGREEMENTS:** Nothing contained herein restricts the Seller from providing water services and sales to others as authorized by law which do not unreasonably interfere with Seller's obligations hereunder.
25. **ENTIRE AGREEMENT:** This Agreement constitutes the entire agreement between the Seller and Buyer and supersedes any oral agreement, statement, or promise between them relating to the specific subject matter of this Agreement. Any amendment, including oral modifications, must be reduced to writing and signed by both Parties to be effective.
26. **COUNTERPARTS:** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement shall not be effective until the execution and delivery between each of the Parties of at least one set of counterparts. The Parties authorize each other to detach and combine original signature pages and consolidate them into a single identical original. Any one of such completely executed counterparts shall be sufficient proof of this Agreement.

Initials: _____

27. **GENERAL INTERPRETATION:** The terms of this Agreement have been negotiated by the Parties hereto and the language used in this Agreement shall be deemed to be the language chosen by the Parties hereto to express their mutual intent. This Agreement shall be construed without regard to any presumption or rule requiring construction against the Party causing such instrument or any portion thereof to be drafted, or in favor of the Party receiving a particular benefit under the Agreement. No rule of strict construction will be applied against any person.

28. **AGREEMENT NOT PRECEDENT:** The Parties acknowledge and agree that nothing in this Agreement shall be considered precedent for any agreements for purchase and sale of water between the Parties in any future year.

IN WITNESS WHEREOF, the Parties have executed this Agreement effective as of the date first above written.

BUYER: PANOCHÉ WATER DISTRICT

By: _____ Date: _____

SELLER: NORTH YUBA WATER DISTRICT

By: _____ Date: _____
Jeff Maupin, General Manager

Initials: _____

EXHIBIT 1C
Pacheco Water District

WATER PURCHASE AND SALE AGREEMENT
BY AND BETWEEN NORTH YUBA WATER DISTRICT AND
PACHECO WATER DISTRICT

This Agreement is entered into this ___ day of _____, 2022 by and between NORTH YUBA WATER DISTRICT, hereinafter referred to as "Seller" or "North Yuba," and PACHECO WATER DISTRICT, hereinafter referred to as "Buyer" or "Pacheco." North Yuba and Pacheco may be referred to herein individually as a "Party" or jointly as "Parties."

RECITALS

WHEREAS, North Yuba is a County Water District, operating pursuant to Division 12 of the Water Code and is empowered to sell and transfer water to Buyer pursuant to Water Code section 31023 as provided for in this Agreement; and

WHEREAS, Buyer is a California Water District operating under Section 34000, et seq., of the California Water Code and is empowered to purchase water from Seller as provided for in this Agreement; and

WHEREAS, Buyer obtains water from the United States Bureau of Reclamation (Reclamation) through the federal Central Valley Project (CVP) under water service repayment contracts; and

WHEREAS, Buyer received an allocation of 0% of its full contractual supply for irrigation for the 2022 water year; and

WHEREAS, Seller holds appropriate water right Permit 11518, which provides for diversion from the South Fork Feather River to storage in Little Grass Valley Reservoir and diversion from Lost Creek to storage in Sly Creek Reservoir; and

WHEREAS, the South Feather Water & Power Agency (SFWPA) operates the South Feather Power Project (SFPP), which includes a series of reservoirs and powerhouses, including Little Grass Valley Reservoir and Sly Creek Reservoir. SFWPA diverts water to storage under Permit 11518 on North Yuba's behalf; and

WHEREAS, Seller is willing to make available water appropriated pursuant to Permit 11518 for sale and delivery to the Buyer by ensuring SFWPA releases stored water from Little Grass Valley Reservoir and Sly Creek Reservoir to the Feather River; and

WHEREAS, Buyer intends by this Agreement to obtain a supplemental water supply for reasonable and beneficial use given the reduction in deliveries of contract quantities from the CVP;

NOW, THEREFORE, Seller and Buyer, on the terms and conditions set forth herein, agree as follows:

Initials:  _____

AGREEMENT

1. **DEFINITIONS:** The following definitions shall govern this Agreement:
 - a. **"Agreement-Water"** is the surface water appropriated by Seller pursuant to Permit 11518, and transferred and made available through this Agreement as a result of Seller's commitment to ensure Little Grass Valley Reservoir and Sly Creek Reservoir and the South Feather Power Project are reoperated to release water to the Feather River that would otherwise remain in storage.
 - b. **"Point of Delivery"** means that location on the Feather River where water is released from the South Feather Power Project through the Kelly Ridge Powerhouse to the Feather River after passing through the Thermalito Diversion Pool.
 - c. **"Carriage Losses and Depletions"** mean water losses imposed on Agreement-Water by Reclamation or the California Department of Water Resources (DWR) including without limitation Delta carriage water loss and Delta-Mendota and San Luis Canal(s) conveyance losses imposed on Agreement-Water downstream of the Point of Delivery.
2. **TERM:** This Agreement shall commence on the date set forth above and expire on December 31, 2022, unless terminated sooner by written agreement of the Parties pursuant to the provisions set forth herein; provided, however, that any obligations under this Agreement to be performed after December 31, 2022, shall survive the expiration of the term of this Agreement and shall be fully enforceable.
3. **AGREEMENT TO DELIVER:** Seller agrees to sell and make available at the Point of Delivery, and the Buyer agrees to purchase, Agreement-Water during the term of this Agreement for its beneficial use, in the quantities described and subject to the terms and conditions of this Agreement. Buyer will use all Agreement-Water within its service area.
4. **QUANTITY AND ADJUSTMENTS TO QUANTITY:**
 - a. **Quantity.** Seller agrees to sell and make available at the Point of Delivery to Buyer 70 acre-feet of Agreement-Water, subject to other terms and conditions of this Agreement.
 - b. **Availability.** South Feather Water & Power Agency (SFWPA) shall confirm the final amount of Agreement-Water made available at the Point of Delivery during each month this Agreement is in effect.
 - c. **Losses.** Buyer shall bear the water cost of Carriage Losses and Depletions.
 - d. **Operational/Regulatory Limitations on Buyer's Ability to Export/Litigation Termination.** If Reclamation is unable to deliver Agreement-Water to Buyer through Delta pumping facilities at the time such water is scheduled to reach the Delta, Buyer shall provide to Seller at least a 48-hour notification to reduce, suspend, or terminate releases to the Feather River. The Parties shall promptly meet and confer regarding the

Initials: EH _____

details and specifics of any such constraints and cooperate in good faith to determine when Seller's releases may resume. If the Parties cannot develop a mutually acceptable plan for the resumption of releases, Buyer shall still be obligated to pay for the Agreement-Water made available at the Point of Delivery prior to the end of the 48-hour notification period. Further, if Buyer and Seller mutually agree to terminate this Agreement under Paragraph 13.b or 15.b.i, Buyer may provide the same 48-hour notification and, if such notice is provided, shall be obligated to pay Seller for only Agreement-Water made available at the Point of Delivery prior to the end of the 48-hour notification period.

5. **PURCHASE PRICE:** Buyer agrees to purchase and pay for each acre-foot of Agreement-Water Seller makes available to Buyer at the Point of Delivery. The purchase price shall be \$833 per acre-foot.
6. **INVOICING AND PAYMENTS:** The Buyer shall make payment(s) directly to the Seller as set forth in this Paragraph.
 - a. Seller shall invoice Buyer on a monthly basis following the end of each calendar month for the Agreement-Water made available to Buyer at the Point of Delivery. Buyer shall pay each invoice within thirty (30) days of Buyer's receipt of the invoice and interest shall be paid at the annual interest rate of 10% on any invoices that remain unpaid thirty (30) days after receipt of the invoice. Payment shall be made to:

North Yuba Water District
8691 La Porte Rd
Brownsville, CA 95919
jmaupin@nywd.org
 - b. Seller shall provide Buyer with detailed invoices supporting all expenses incurred pursuant to Paragraph 15, and Buyer shall pay such invoices per Paragraph 6.a. Seller shall provide Buyer all invoices for reimbursable expenses pursuant to Paragraph 15 no later than ninety (90) days after the termination of this Agreement.
7. **REFUNDS:** In the event Seller fails to provide the amount of Agreement-Water Buyer has purchased, subject to Seller's right to terminate for shortages as stated in Paragraph 9, Seller will promptly refund to Buyer any payments made for purchased water not made available at the Point of Delivery. Any refunds shall include interest at the Local Agency Investment Fund rate for the period the money was held.
8. **WATER QUALITY:** The Seller makes no warranty or representations as to the quality or fitness for use of the Agreement-Water. Buyer, at its own expense, shall be responsible for all necessary measures for the testing, treatment, and other steps required for the intended uses of the Agreement-Water by the Buyer.
9. **SHORTAGE PROVISION/TERMINATION:** If the Seller's surface water supplies are unavailable for sale due to unforeseen circumstances or for reasons beyond Seller's control,

Initials:  _____

including a failure of SFWPA to release water to the Feather River, Seller, at its sole discretion, may terminate this Agreement. Prior to termination or, as applicable, as quickly as possible following any action to suspend, reduce or cease releases to the Feather River, Seller and Buyer shall confer to determine if there is a mutually agreeable alternative to termination.

10. **WATER SCHEDULING:** Buyer, in coordination with Seller, SFWPA, Reclamation, and DWR, if necessary, will develop a schedule for delivery of Agreement-Water, and to assure, to the extent possible, that Agreement-Water made available by Seller can be pumped at the C.W. "Bill" Jones Pumping Plant.
11. **DIVERSION COSTS:** All fees, permitting, construction, reconstruction, and maintenance costs for facilities necessary or used to divert Agreement-Water once it is delivered at the Point of Delivery by Seller shall be borne solely by Buyer. Upon the Agreement-Water being made available at the Point of Delivery, Buyer is solely responsible for all costs associated with treatment, diversion headworks, pumping facilities, etc., to divert, convey, transport, treat, and deliver Agreement-Water to the Buyer's place of use.
12. **ENVIRONMENTAL REVIEW:** Execution of this Agreement, and the resulting transfer of Agreement-Water, is exempt from the requirements of the California Environmental Quality Act pursuant to Water Code section 1729.

Buyer shall be solely responsible for arranging for and shall pay any costs incurred for the conveyance of Agreement-Water from the Point of Delivery to the Buyer's service area, including all costs associated with any agreement with Reclamation and any supporting NEPA documentation, for the conveyance and/or storage of Agreement-Water, if necessary.

13. **TERMINATION:** In the event of termination of this Agreement, the Parties shall thereafter be under no further obligation or responsibility hereunder, and will release the other party from further obligations under this Agreement, except for their respective shares of costs incurred prior to the effective date of termination, which includes administration expenses under Paragraph 15.a and may include certain litigation costs under paragraph 15.b. The Parties to this Agreement shall have the right of termination as set forth in Paragraph 9, and this Paragraph:
 - a. If regulatory approval(s) and any additional required environmental review actions (e.g., NEPA compliance actions) are not satisfied by September 30, 2022, unless the parties agree to extend the date, either Party may, by written notice to the other Party, terminate this Agreement.
 - b. If, in the reasonable judgment of either Seller or Buyer, the costs of any litigation challenging this Agreement, any restrictions, fees, charges or costs, or any relief that may be afforded to third parties in any action involving this Agreement, are too burdensome in relation to the benefits to be received under this Agreement, then that Party so determining may terminate this Agreement. If Buyer so elects to terminate the Agreement, Buyer shall still be obligated to pay for all of the Agreement-Water

Initials: EK _____

made available prior to such termination, for administrative expenses under Paragraph 15.a and litigation expenses under 15.b.

14. CONDITIONS PRECEDENT/APPROVALS:

- a. Except as provided in Paragraph 15 with respect to reimbursement of costs, the Parties' performance under this Agreement is contingent on the Parties obtaining any and all necessary approvals from any third-party agency for delivery of Agreement-Water, including SFWPA's consent to the transfer of Agreement-Water.
- b. Seller is responsible for obtaining necessary approvals from the SFWPA, State Water Resources Control Board ("SWRCB"), Reclamation, and DWR to transfer the Agreement-Water at the Point of Delivery. Buyer is responsible for obtaining all authorizations from Reclamation and DWR for conveyance of the Agreement-Water to Buyer's service area.

15. ADMINISTRATIVE AND LITIGATION EXPENSES:

- a. **Administrative Expenses.** Buyer will reimburse Seller's reasonable out-of-pocket expenses, including but not limited to actual legal and engineering consultants' fees and expenses incurred by Seller in preparing, negotiating, administering, implementing, and supporting this Agreement up to a maximum of \$2,231. Buyer shall not be required to reimburse Seller for time spent by its directors, officers or employees relating to this transfer. Seller shall be entitled to this reimbursement starting on the effective date of this Agreement for such expenditures starting on July 1, 2022. If Seller fails to provide any Agreement-Water due to its own action or inaction, Seller will not be entitled to reimbursement and any reimbursements made by the Buyer will be fully refunded by the Seller to the Buyer; provided, if Seller terminates the Agreement because of a reduction in water supply under Paragraph 9, Seller shall be entitled to reimbursement despite the termination. Invoicing of administrative expenses shall be pursuant to the procedures set forth in Paragraph 6.a.
- b. **Litigation, Attorneys' Fees and Third-Party Challenges.**
 - i. Subject to subsections 15.b.ii and 15.b.iii, in the event of litigation or an administrative challenge related to this Agreement, Seller and Buyer will promptly meet and confer to perform a risk assessment of the litigation/challenge, and cooperate in good faith to determine whether to terminate the Agreement due to the litigation/challenge. Either Party may elect to terminate the Agreement due to any such litigation/challenge. If Buyer so elects to terminate the Agreement due to any such litigation/challenge, Buyer shall still be obligated to pay for all of the Agreement-Water made available at the Point of Delivery prior to such termination; for Seller's administrative expenses in accordance with Paragraph 15.a; for any litigation expenses in having the proceeding dismissed or otherwise resolved. If Seller so elects to terminate the Agreement, Buyer shall still be obligated to pay for all of the Agreement-Water made available at the Point of

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GH

Delivery prior to such termination; for Seller's administrative expenses in accordance with Paragraph 15.a; and for any litigation expenses in having the proceeding dismissed or otherwise resolved. Regardless of whether the agreement is terminated, and except as set forth in subsections 15.b.ii and 15.b.iii, below, if litigation is pending Buyer shall have primary responsibility for defending against such litigation on behalf of both Buyer and Seller, either as a defendant, respondent, real party in interest or intervenor; and Seller shall participate in defending against such litigation to the extent it deems necessary or appropriate, in Seller's sole discretion. Buyer shall bear its own costs of litigation and shall pay any monetary award, the costs of any remedial actions, and any award of challenger's attorneys' fees associated therewith, whether levied against Buyer or Seller. Buyer shall also reimburse 100% of Seller's actual out-of-pocket expenses Seller incurs for defending this Agreement and against any related litigation under this Paragraph 15.b.i. Buyer's share of expenses under this subsection shall be in proportion to the Quantity of Agreement-Water made available divided by 15,000 acre-feet.

- ii. As to claims solely challenging Seller's conduct in Seller's service area related to making Agreement-Water available at the Point of Delivery, Seller shall have primary responsibility for defending such claims on behalf of both Seller and Buyer, and Buyer shall participate in defending against such claims to the extent it deems necessary or appropriate, in Buyer's sole discretion. Buyer shall bear its own fees and costs of defending against such claims. Except as provided in Paragraph 15.a regarding general cost reimbursement, Seller shall bear its own fees and costs of defending against such claims. Seller shall pay all monetary awards associated with claims challenging Seller's conduct in Seller's service area.
- iii. To the extent litigation includes multiple claims, the Parties agree to meet and confer in good faith to determine whether or not the action includes claims described under Paragraphs 15.b.i and 15.b.ii. The Parties agree that any claim identified as subject to Paragraph 15.b.ii shall be defended as provided in Paragraph 15.b.ii and the balance of such claims shall be defended as provided in Paragraph 15.b.i.

16. **WATER RIGHTS:** The Agreement-Water transferred under this Agreement is a portion of the surface water available to Seller and diverted to storage in accordance with Permit 11518. Consistent with the provisions of California Water Code Sections 109, 475, 1011, 1244, and 11961, the water transfer performed under this Agreement shall not confer any appropriative, public trust or other right to water on any person or entity. Nothing in this Agreement shall act as forfeiture, diminution, or impairment of any rights of Seller to its full diversion of water after the expiration of the Agreement, and this Agreement shall in no way prejudice any of Seller's rights thereto. The Parties agree that the Agreement-Water made available under this Agreement is considered a reasonable and beneficial use of water under California law.

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17. **BUYER'S PAYMENT OF RECLAMATION AND DWR'S COSTS, RATES, AND CHARGES:** Buyer shall be responsible for payment of all costs incurred by Reclamation and DWR, and imposed upon Seller, for Reclamation and DWR's review, approval, implementation, and administration of this Agreement. Buyer shall be responsible for any and all costs, rates, charges and assessments that Reclamation and DWR impose upon Seller related to this Agreement.
18. **COOPERATION:** To the extent reasonably required, each Party to this Agreement shall, in good faith, assist the other in obtaining all such necessary approvals and preparation of required environmental documents. The Parties agree to cooperate and assist each other in good faith in meeting such requirements of regulatory agencies as may be applicable to performance of any terms of the Agreement.
19. **WAIVER OF RIGHTS:** Any waiver, at any time, by a Party of its rights with respect to a breach or default, or any other matter arising in connection with this Agreement, shall not be deemed to be a waiver with respect to any other breach, default or matter.
20. **ASSIGNMENT:** This Agreement is entered into in reliance on water supplies available to Seller, the credit of Buyer, and Buyer's need for water, and therefore any assignment of this Agreement in whole or in part without the prior written consent of the other Party hereto is prohibited.
21. **NOTICES:** All notices that are required, either expressly or by implication, to be given by any Party to the other under this Agreement shall be signed on behalf of the Seller and Buyer by such officers as they may, from time, authorize in writing to so act.
- a. Any notices to Parties required by this Agreement shall be delivered or mailed, United States first-class postage prepaid, by fax or by electronic mail at the following addresses, fax numbers, or electronic mail addresses:

NORTH YUBA WATER DISTRICT

Jeff Maupin, General Manager
8691 La Porte Rd
Brownsville, CA 95919
jmaupin@nvwed.org

PACHECO WATER DISTRICT

Chase Hurley
Pacheco Water District
P.O. Box 2657
Los Banos, CA 93635
209.704.5105
churley@waterandlandsolutions.com

Initials: CH _____

- b. Notice shall be deemed given (a) two calendar days following mailing via regular or certified mail, return receipt requested, (b) one business day after deposit with any one-day delivery service assuring "next day" delivery, (c) upon actual receipt of notice, or (d) upon transmission, if by facsimile or electronic mail, whichever is earlier. The Parties shall promptly give written notice to each other of any change of address, and mailing or shipment to the addresses stated herein shall be deemed sufficient unless written notification of a change of address has been received.
22. **APPROVALS:** Where the terms of this Agreement provide for action to be based upon a judgment, approval, review, or determination of either Party, such terms are not intended to be and shall never be construed as permitting such opinion, judgment, approval, review, or determination to be arbitrary, capricious, or unreasonable.
23. **ARBITRATION:** In the event of a dispute between the Parties as to any right, alleged right, obligation or alleged obligation under this Agreement, the Parties shall make a good faith effort to resolve the dispute. In the event that a resolution of the dispute cannot be reached despite these efforts, either Party may declare an impasse and its intent to submit the matter to arbitration. Any such arbitration shall be held and conducted before one arbitrator who shall be selected by mutual agreement of the Parties. If agreement is not reached on the selection of an arbitrator within fifteen (15) days after a Party has notified the other Party of its election to submit to arbitration, then such arbitrator shall be appointed by the presiding judge of the Superior Court of Sacramento County upon application of either Party hereto. The award or decision of the arbitrator shall be final, and judgment may be entered thereon. The provisions of Title 9 of Part 3 of the California Code of Civil Procedure, including §1283.05, and successor statutes, permitting expanded discovery proceedings shall be applicable to all disputes which are arbitrated pursuant to this paragraph.
24. **OTHER AGREEMENTS:** Nothing contained herein restricts the Seller from providing water services and sales to others as authorized by law which do not unreasonably interfere with Seller's obligations hereunder.
25. **ENTIRE AGREEMENT:** This Agreement constitutes the entire agreement between the Seller and Buyer and supersedes any oral agreement, statement, or promise between them relating to the specific subject matter of this Agreement. Any amendment, including oral modifications, must be reduced to writing and signed by both Parties to be effective.
26. **COUNTERPARTS:** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement shall not be effective until the execution and delivery between each of the Parties of at least one set of counterparts. The Parties authorize each other to detach and combine original signature pages and consolidate them into a single identical original. Any one of such completely executed counterparts shall be sufficient proof of this Agreement.

Initials: CH _____

27. **GENERAL INTERPRETATION:** The terms of this Agreement have been negotiated by the Parties hereto and the language used in this Agreement shall be deemed to be the language chosen by the Parties hereto to express their mutual intent. This Agreement shall be construed without regard to any presumption or rule requiring construction against the Party causing such instrument or any portion thereof to be drafted, or in favor of the Party receiving a particular benefit under the Agreement. No rule of strict construction will be applied against any person.

28. **AGREEMENT NOT PRECEDENT:** The Parties acknowledge and agree that nothing in this Agreement shall be considered precedent for any agreements for purchase and sale of water between the Parties in any future year.

IN WITNESS WHEREOF, the Parties have executed this Agreement effective as of the date first above written.

BUYER: PACHECO WATER DISTRICT

By: *Chris Healy* Date: 0808, 22

SELLER: NORTH YUBA WATER DISTRICT

By: _____ Date: _____
Jeff Maupin, General Manager

Initials: *EH* _____

EXHIBIT 1D
San Luis Water District

WATER PURCHASE AND SALE AGREEMENT
BY AND BETWEEN NORTH YUBA WATER DISTRICT AND
SAN LUIS WATER DISTRICT

This Agreement is entered into this ___ day of _____, 2022 by and between NORTH YUBA WATER DISTRICT, hereinafter referred to as “**Seller**” or “**North Yuba**,” and SAN LUIS WATER DISTRICT, hereinafter referred to as “**Buyer**” or “**San Luis**.” North Yuba and San Luis may be referred to herein individually as a “**Party**” or jointly as “**Parties**.”

RECITALS

WHEREAS, North Yuba is a County Water District, operating pursuant to Division 12 of the Water Code and is empowered to sell and transfer water to Buyer pursuant to Water Code section 31023 as provided for in this Agreement; and

WHEREAS, Buyer is a California Water District operating under Section 34000, et seq., of the California Water Code and is empowered to purchase water from Seller as provided for in this Agreement; and

WHEREAS, Buyer obtains water from the United States Bureau of Reclamation (Reclamation) through the federal Central Valley Project (CVP) under water service repayment contracts; and

WHEREAS, Buyer received an allocation of 0% of its full contractual supply for irrigation for the 2022 water year; and

WHEREAS, Seller holds appropriative water right Permit 11518, which provides for diversion from the South Fork Feather River to storage in Little Grass Valley Reservoir and diversion from Lost Creek to storage in Sly Creek Reservoir; and

WHEREAS, the South Feather Water & Power Agency (SFWPA) operates the South Feather Power Project (SFPP), which includes a series of reservoirs and powerhouses, including Little Grass Valley Reservoir and Sly Creek Reservoir. SFWPA diverts water to storage under Permit 11518 on North Yuba’s behalf; and

WHEREAS, Seller is willing to make available water appropriated pursuant to Permit 11518 for sale and delivery to the Buyer by ensuring SFWPA releases stored water from Little Grass Valley Reservoir and Sly Creek Reservoir to the Feather River; and

WHEREAS, Buyer intends by this Agreement to obtain a supplemental water supply for reasonable and beneficial use given the reduction in deliveries of contract quantities from the CVP;

NOW, THEREFORE, Seller and Buyer, on the terms and conditions set forth herein, agree as follows:

Initials: _____

AGREEMENT

1. **DEFINITIONS:** The following definitions shall govern this Agreement:
 - a. **“Agreement-Water”** is the surface water appropriated by Seller pursuant to Permit 11518, and transferred and made available through this Agreement as a result of Seller’s commitment to ensure Little Grass Valley Reservoir and Sly Creek Reservoir and the South Feather Power Project are reoperated to release water to the Feather River that would otherwise remain in storage.
 - b. **“Point of Delivery”** means that location on the Feather River where water is released from the South Feather Power Project through the Kelly Ridge Powerhouse to the Feather River after passing through the Thermalito Diversion Pool.
 - c. **“Carriage Losses and Depletions”** mean water losses imposed on Agreement-Water by Reclamation or the California Department of Water Resources (DWR) including without limitation Delta carriage water loss and Delta-Mendota and San Luis Canal(s) conveyance losses imposed on Agreement-Water downstream of the Point of Delivery.
2. **TERM:** This Agreement shall commence on the date set forth above and expire on December 31, 2022, unless terminated sooner by written agreement of the Parties pursuant to the provisions set forth herein; provided, however, that any obligations under this Agreement to be performed after December 31, 2022, shall survive the expiration of the term of this Agreement and shall be fully enforceable.
3. **AGREEMENT TO DELIVER:** Seller agrees to sell and make available at the Point of Delivery, and the Buyer agrees to purchase, Agreement-Water during the term of this Agreement for its beneficial use, in the quantities described and subject to the terms and conditions of this Agreement. Buyer will use all Agreement-Water within its service area.
4. **QUANTITY AND ADJUSTMENTS TO QUANTITY:**
 - a. **Quantity.** Seller agrees to sell and make available at the Point of Delivery to Buyer up to 1,310 acre-feet of Agreement-Water, subject to other terms and conditions of this Agreement.
 - b. **Availability.** South Feather Water & Power Agency (SFWPA) shall confirm the final amount of Agreement-Water made available at the Point of Delivery during each month this Agreement is in effect.
 - c. **Losses.** Buyer shall bear the water cost of Carriage Losses and Depletions.
 - d. **Operational/Regulatory Limitations on Buyer’s Ability to Export/Litigation Termination.** If Reclamation is unable to deliver Agreement-Water to Buyer through Delta pumping facilities at the time such water is scheduled to reach the Delta, Buyer shall provide to Seller at least a 48-hour notification to reduce, suspend, or terminate

Initials: _____

releases to the Feather River. The Parties shall promptly meet and confer regarding the details and specifics of any such constraints and cooperate in good faith to determine when Seller's releases may resume. If the Parties cannot develop a mutually acceptable plan for the resumption of releases, Buyer shall still be obligated to pay for the Agreement-Water made available at the Point of Delivery prior to the end of the 48-hour notification period. Further, if Buyer and Seller mutually agree to terminate this Agreement under Paragraph 13.b or 15.b.i, Buyer may provide the same 48-hour notification and, if such notice is provided, shall be obligated to pay Seller for only Agreement-Water made available at the Point of Delivery prior to the end of the 48-hour notification period.

5. **PURCHASE PRICE:** Buyer agrees to purchase and pay for each acre-foot of Agreement-Water Seller makes available to Buyer at the Point of Delivery. The purchase price shall be \$833 per acre-foot.
6. **INVOICING AND PAYMENTS:** The Buyer shall make payment(s) directly to the Seller as set forth in this Paragraph.
 - a. Seller shall invoice Buyer on a monthly basis following the end of each calendar month for the Agreement-Water made available to Buyer at the Point of Delivery. Buyer shall pay each invoice within thirty (30) days of Buyer's receipt of the invoice and interest shall be paid at the annual interest rate of 10% on any invoices that remain unpaid thirty (30) days after receipt of the invoice. Payment shall be made to:

North Yuba Water District
8691 La Porte Rd
Brownsville, CA 95919
jmaupin@nywd.org
 - b. Seller shall provide Buyer with detailed invoices supporting all expenses incurred pursuant to Paragraph 15, and Buyer shall pay such invoices per Paragraph 6.a. Seller shall provide Buyer all invoices for reimbursable expenses pursuant to Paragraph 15 no later than ninety (90) days after the termination of this Agreement.
7. **REFUNDS:** In the event Seller fails to provide the amount of Agreement-Water Buyer has purchased, subject to Seller's right to terminate for shortages as stated in Paragraph 9, Seller will promptly refund to Buyer any payments made for purchased water not made available at the Point of Delivery. Any refunds shall include interest at the Local Agency Investment Fund rate for the period the money was held.
8. **WATER QUALITY:** The Seller makes no warranty or representations as to the quality or fitness for use of the Agreement-Water. Buyer, at its own expense, shall be responsible for all necessary measures for the testing, treatment, and other steps required for the intended uses of the Agreement-Water by the Buyer.
9. **SHORTAGE PROVISION/TERMINATION:** If the Seller's surface water supplies are unavailable for sale due to unforeseen circumstances or for reasons beyond Seller's control,

Initials: _____

including a failure of SFWPA to release water to the Feather River, Seller, at its sole discretion, may terminate this Agreement. Prior to termination or, as applicable, as quickly as possible following any action to suspend, reduce or cease releases to the Feather River, Seller and Buyer shall confer to determine if there is a mutually agreeable alternative to termination.

10. **WATER SCHEDULING:** Buyer, in coordination with Seller, SFWPA, Reclamation, and DWR, if necessary, will develop a schedule for delivery of Agreement-Water, and to assure, to the extent possible, that Agreement-Water made available by Seller can be pumped at the C.W. "Bill" Jones Pumping Plant.
11. **DIVERSION COSTS:** All fees, permitting, construction, reconstruction, and maintenance costs for facilities necessary or used to divert Agreement-Water once it is delivered at the Point of Delivery by Seller shall be borne solely by Buyer. Upon the Agreement-Water being made available at the Point of Delivery, Buyer is solely responsible for all costs associated with treatment, diversion headworks, pumping facilities, etc., to divert, convey, transport, treat, and deliver Agreement-Water to the Buyer's place of use.
12. **ENVIRONMENTAL REVIEW:** Execution of this Agreement, and the resulting transfer of Agreement-Water, is exempt from the requirements of the California Environmental Quality Act pursuant to Water Code section 1729.

Buyer shall be solely responsible for arranging for and shall pay any costs incurred for the conveyance of Agreement-Water from the Point of Delivery to the Buyer's service area, including all costs associated with any agreement with Reclamation and any supporting NEPA documentation, for the conveyance and/or storage of Agreement-Water, if necessary.

13. **TERMINATION:** In the event of termination of this Agreement, the Parties shall thereafter be under no further obligation or responsibility hereunder, and will release the other party from further obligations under this Agreement, except for their respective shares of costs incurred prior to the effective date of termination, which includes administration expenses under Paragraph 15.a and may include certain litigation costs under paragraph 15.b. The Parties to this Agreement shall have the right of termination as set forth in Paragraph 9, and this Paragraph:
 - a. If regulatory approval(s) and any additional required environmental review actions (e.g., NEPA compliance actions) are not satisfied by September 30, 2022, unless the parties agree to extend the date, either Party may, by written notice to the other Party, terminate this Agreement.
 - b. If, in the reasonable judgment of either Seller or Buyer, the costs of any litigation challenging this Agreement, any restrictions, fees, charges or costs, or any relief that may be afforded to third parties in any action involving this Agreement, are too burdensome in relation to the benefits to be received under this Agreement, then that Party so determining may terminate this Agreement. If Buyer so elects to terminate the Agreement, Buyer shall still be obligated to pay for all of the Agreement-Water

Initials: _____

made available prior to such termination, for administrative expenses under Paragraph 15.a and litigation expenses under 15.b.

14. CONDITIONS PRECEDENT/APPROVALS:

- a. Except as provided in Paragraph 15 with respect to reimbursement of costs, the Parties' performance under this Agreement is contingent on the Parties obtaining any and all necessary approvals from any third-party agency for delivery of Agreement-Water, including SFWPA's consent to the transfer of Agreement-Water.
- b. Seller is responsible for obtaining necessary approvals from the SFWPA, State Water Resources Control Board ("SWRCB"), Reclamation, and DWR to transfer the Agreement-Water at the Point of Delivery. Buyer is responsible for obtaining all authorizations from Reclamation and DWR for conveyance of the Agreement-Water to Buyer's service area.

15. ADMINISTRATIVE AND LITIGATION EXPENSES:

- a. **Administrative Expenses.** Buyer will reimburse Seller's reasonable out-of-pocket expenses, including but not limited to actual legal and engineering consultants' fees and expenses incurred by Seller in preparing, negotiating, administering, implementing, and supporting this Agreement up to a maximum of \$2,910. Buyer shall not be required to reimburse Seller for time spent by its directors, officers or employees relating to this transfer. Seller shall be entitled to this reimbursement starting on the effective date of this Agreement for such expenditures starting on July 1, 2022. If Seller fails to provide any Agreement-Water due to its own action or inaction, Seller will not be entitled to reimbursement and any reimbursements made by the Buyer will be fully refunded by the Seller to the Buyer; provided, if Seller terminates the Agreement because of a reduction in water supply under Paragraph 9, Seller shall be entitled to reimbursement despite the termination. Invoicing of administrative expenses shall be pursuant to the procedures set forth in Paragraph 6.a.
- b. **Litigation, Attorneys' Fees and Third-Party Challenges.**
 - i. Subject to subsections 15.b.ii and 15.b.iii, in the event of litigation or an administrative challenge related to this Agreement, Seller and Buyer will promptly meet and confer to perform a risk assessment of the litigation/challenge, and cooperate in good faith to determine whether to terminate the Agreement due to the litigation/challenge. Either Party may elect to terminate the Agreement due to any such litigation/challenge. If Buyer so elects to terminate the Agreement due to any such litigation/challenge, Buyer shall still be obligated to pay for all of the Agreement-Water made available at the Point of Delivery prior to such termination; for Seller's administrative expenses in accordance with Paragraph 15.a; for any litigation expenses in having the proceeding dismissed or otherwise resolved. If Seller so elects to terminate the Agreement, Buyer shall still be obligated to pay for all of the Agreement-Water made available at the Point of

Initials: _____

Delivery prior to such termination; for Seller's administrative expenses in accordance with Paragraph 15.a; and for any litigation expenses in having the proceeding dismissed or otherwise resolved. Regardless of whether the agreement is terminated, and except as set forth in subsections 15.b.ii and 15.b.iii, below, if litigation is pending Buyer shall have primary responsibility for defending against such litigation on behalf of both Buyer and Seller, either as a defendant, respondent, real party in interest or intervenor; and Seller shall participate in defending against such litigation to the extent it deems necessary or appropriate, in Seller's sole discretion. Buyer shall bear its own costs of litigation and shall pay any monetary award, the costs of any remedial actions, and any award of challenger's attorneys' fees associated therewith, whether levied against Buyer or Seller. Buyer shall also reimburse 5.82% of Seller's actual out-of-pocket expenses Seller incurs for defending this Agreement and against any related litigation under this Paragraph 15.b.i.

- ii. As to claims solely challenging Seller's conduct in Seller's service area related to making Agreement-Water available at the Point of Delivery, Seller shall have primary responsibility for defending such claims on behalf of both Seller and Buyer, and Buyer shall participate in defending against such claims to the extent it deems necessary or appropriate, in Buyer's sole discretion. Buyer shall bear its own fees and costs of defending against such claims. Except as provided in Paragraph 15.a regarding general cost reimbursement, Seller shall bear its own fees and costs of defending against such claims. Seller shall pay all monetary awards associated with claims challenging Seller's conduct in Seller's service area.
- iii. To the extent litigation includes multiple claims, the Parties agree to meet and confer in good faith to determine whether or not the action includes claims described under Paragraphs 15.b.i and 15.b.ii. The Parties agree that any claim identified as subject to Paragraph 15.b.ii shall be defended as provided in Paragraph 15.b.ii and the balance of such claims shall be defended as provided in Paragraph 15.b.i.

16. **WATER RIGHTS:** The Agreement-Water transferred under this Agreement is a portion of the surface water available to Seller and diverted to storage in accordance with Permit 11518. Consistent with the provisions of California Water Code Sections 109, 475, 1011, 1244, and 11961, the water transfer performed under this Agreement shall not confer any appropriate, public trust or other right to water on any person or entity. Nothing in this Agreement shall act as forfeiture, diminution, or impairment of any rights of Seller to its full diversion of water after the expiration of the Agreement, and this Agreement shall in no way prejudice any of Seller's rights thereto. The Parties agree that the Agreement-Water made available under this Agreement is considered a reasonable and beneficial use of water under California law.

17. **BUYER'S PAYMENT OF RECLAMATION AND DWR'S COSTS, RATES, AND CHARGES:** Buyer shall be responsible for payment of all costs incurred by Reclamation

Initials: _____

and DWR, and imposed upon Seller, for Reclamation and DWR's review, approval, implementation, and administration of this Agreement. Buyer shall be responsible for any and all costs, rates, charges and assessments that Reclamation and DWR impose upon Seller related to this Agreement.

18. **COOPERATION:** To the extent reasonably required, each Party to this Agreement shall, in good faith, assist the other in obtaining all such necessary approvals and preparation of required environmental documents. The Parties agree to cooperate and assist each other in good faith in meeting such requirements of regulatory agencies as may be applicable to performance of any terms of the Agreement.
19. **WAIVER OF RIGHTS:** Any waiver, at any time, by a Party of its rights with respect to a breach or default, or any other matter arising in connection with this Agreement, shall not be deemed to be a waiver with respect to any other breach, default or matter.
20. **ASSIGNMENT:** This Agreement is entered into in reliance on water supplies available to Seller, the credit of Buyer, and Buyer's need for water, and therefore any assignment of this Agreement in whole or in part without the prior written consent of the other Party hereto is prohibited.
21. **NOTICES:** All notices that are required, either expressly or by implication, to be given by any Party to the other under this Agreement shall be signed on behalf of the Seller and Buyer by such officers as they may, from time, authorize in writing to so act.
 - a. Any notices to Parties required by this Agreement shall be delivered or mailed, United States first-class postage prepaid, by fax or by electronic mail at the following addresses, fax numbers, or electronic mail addresses:

NORTH YUBA WATER DISTRICT

Jeff Maupin, General Manager
8691 La Porte Rd
Brownsville, CA 95919
jmaupin@nywd.org

SAN LUIS WATER DISTRICT

Lon Martin
General Manager
San Luis Water District
1015 Sixth Street
Los Banos, CA 93635
209-826-4043
lmartin@slwd.net

- b. Notice shall be deemed given (a) two calendar days following mailing via regular or certified mail, return receipt requested, (b) one business day after deposit with any

Initials: _____

one-day delivery service assuring "next day" delivery, (c) upon actual receipt of notice, or (d) upon transmission, if by facsimile or electronic mail, whichever is earlier. The Parties shall promptly give written notice to each other of any change of address, and mailing or shipment to the addresses stated herein shall be deemed sufficient unless written notification of a change of address has been received.

22. **APPROVALS:** Where the terms of this Agreement provide for action to be based upon a judgment, approval, review, or determination of either Party, such terms are not intended to be and shall never be construed as permitting such opinion, judgment, approval, review, or determination to be arbitrary, capricious, or unreasonable.
23. **ARBITRATION:** In the event of a dispute between the Parties as to any right, alleged right, obligation or alleged obligation under this Agreement, the Parties shall make a good faith effort to resolve the dispute. In the event that a resolution of the dispute cannot be reached despite these efforts, either Party may declare an impasse and its intent to submit the matter to arbitration. Any such arbitration shall be held and conducted before one arbitrator who shall be selected by mutual agreement of the Parties. If agreement is not reached on the selection of an arbitrator within fifteen (15) days after a Party has notified the other Party of its election to submit to arbitration, then such arbitrator shall be appointed by the presiding judge of the Superior Court of Sacramento County upon application of either Party hereto. The award or decision of the arbitrator shall be final, and judgment may be entered thereon. The provisions of Title 9 of Part 3 of the California Code of Civil Procedure, including §1283.05, and successor statutes, permitting expanded discovery proceedings shall be applicable to all disputes which are arbitrated pursuant to this paragraph.
24. **OTHER AGREEMENTS:** Nothing contained herein restricts the Seller from providing water services and sales to others as authorized by law which do not unreasonably interfere with Seller's obligations hereunder.
25. **ENTIRE AGREEMENT:** This Agreement constitutes the entire agreement between the Seller and Buyer and supersedes any oral agreement, statement, or promise between them relating to the specific subject matter of this Agreement. Any amendment, including oral modifications, must be reduced to writing and signed by both Parties to be effective.
26. **COUNTERPARTS:** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement shall not be effective until the execution and delivery between each of the Parties of at least one set of counterparts. The Parties authorize each other to detach and combine original signature pages and consolidate them into a single identical original. Any one of such completely executed counterparts shall be sufficient proof of this Agreement.
27. **GENERAL INTERPRETATION:** The terms of this Agreement have been negotiated by the Parties hereto and the language used in this Agreement shall be deemed to be the language chosen by the Parties hereto to express their mutual intent. This Agreement shall be construed without regard to any presumption or rule requiring construction against the

Initials: _____

Party causing such instrument or any portion thereof to be drafted, or in favor of the Party receiving a particular benefit under the Agreement. No rule of strict construction will be applied against any person.

28. **AGREEMENT NOT PRECEDENT:** The Parties acknowledge and agree that nothing in this Agreement shall be considered precedent for any agreements for purchase and sale of water between the Parties in any future year.

IN WITNESS WHEREOF, the Parties have executed this Agreement effective as of the date first above written.

BUYER: SAN LUIS WATER DISTRICT

By: _____ Date: _____

SELLER: NORTH YUBA WATER DISTRICT

By: _____ Date: _____
Jeff Maupin, General Manager

Initials: _____

EXHIBIT 1E
Eagle Field Water District

WATER PURCHASE AND SALE AGREEMENT
BY AND BETWEEN NORTH YUBA WATER DISTRICT AND
EAGLE FIELD WATER DISTRICT

This Agreement is entered into this ___ day of _____, 2022 by and between NORTH YUBA WATER DISTRICT, hereinafter referred to as “**Seller**” or “**North Yuba,**” and the EAGLE FIELD WATER DISTRICT, hereinafter referred to as “**Buyer**” or “**Eagle Field.**” North Yuba and Eagle Field may be referred to herein individually as a “**Party**” or jointly as “**Parties.**”

RECITALS

WHEREAS, North Yuba is a County Water District, operating pursuant to Division 12 of the Water Code and is empowered to sell and transfer water to Buyer pursuant to Water Code section 31023 as provided for in this Agreement; and

WHEREAS, Buyer is a California Water District operating under Section 34000, et seq., of the California Water Code and is empowered to purchase water from Seller as provided for in this Agreement; and

WHEREAS, Buyer obtains water from the United States Bureau of Reclamation (Reclamation) through the federal Central Valley Project (CVP) under water service repayment contracts; and

WHEREAS, Buyer received an allocation of 0% of its full contractual supply for irrigation for the 2022 water year; and

WHEREAS, Seller holds appropriative water right Permit 11518, which provides for diversion from the South Fork Feather River to storage in Little Grass Valley Reservoir and diversion from Lost Creek to storage in Sly Creek Reservoir; and

WHEREAS, the South Feather Water & Power Agency (SFWPA) operates the South Feather Power Project (SFPP), which includes a series of reservoirs and powerhouses, including Little Grass Valley Reservoir and Sly Creek Reservoir. SFWPA diverts water to storage under Permit 11518 on North Yuba’s behalf; and

WHEREAS, Seller is willing to make available water appropriated pursuant to Permit 11518 for sale and delivery to the Buyer by ensuring SFWPA releases stored water from Little Grass Valley Reservoir and Sly Creek Reservoir to the Feather River; and

WHEREAS, Buyer intends by this Agreement to obtain a supplemental water supply for reasonable and beneficial use given the reduction in deliveries of contract quantities from the CVP;

NOW, THEREFORE, Seller and Buyer, on the terms and conditions set forth herein, agree as follows:

Initials: _____

AGREEMENT

1. **DEFINITIONS:** The following definitions shall govern this Agreement:
 - a. **“Agreement-Water”** is the surface water appropriated by Seller pursuant to Permit 11518, and transferred and made available through this Agreement as a result of Seller’s commitment to ensure Little Grass Valley Reservoir and Sly Creek Reservoir and the South Feather Power Project are reoperated to release water to the Feather River that would otherwise remain in storage.
 - b. **“Point of Delivery”** means that location on the Feather River where water is released from the South Feather Power Project through the Kelly Ridge Powerhouse to the Feather River after passing through the Thermalito Diversion Pool.
 - c. **“Carriage Losses and Depletions”** mean water losses imposed on Agreement-Water by Reclamation or the California Department of Water Resources (DWR) including without limitation Delta carriage water loss and Delta-Mendota and San Luis Canal(s) conveyance losses imposed on Agreement-Water downstream of the Point of Delivery.
2. **TERM:** This Agreement shall commence on the date set forth above and expire on December 31, 2022, unless terminated sooner by written agreement of the Parties pursuant to the provisions set forth herein; provided, however, that any obligations under this Agreement to be performed after December 31, 2022, shall survive the expiration of the term of this Agreement and shall be fully enforceable.
3. **AGREEMENT TO DELIVER:** Seller agrees to sell and make available at the Point of Delivery, and the Buyer agrees to purchase, Agreement-Water during the term of this Agreement for its beneficial use, in the quantities described and subject to the terms and conditions of this Agreement. Buyer will use all Agreement-Water within its service area.
4. **QUANTITY AND ADJUSTMENTS TO QUANTITY:**
 - a. **Quantity.** Seller agrees to sell and make available at the Point of Delivery to Buyer up to 32 acre-feet of Agreement-Water, subject to other terms and conditions of this Agreement.
 - b. **Availability.** South Feather Water & Power Agency (SFWPA) shall confirm the final amount of Agreement-Water made available at the Point of Delivery during each month this Agreement is in effect.
 - c. **Losses.** Buyer shall bear the water cost of Carriage Losses and Depletions.
 - d. **Operational/Regulatory Limitations on Buyer’s Ability to Export/Litigation Termination.** If Reclamation is unable to deliver Agreement-Water to Buyer through Delta pumping facilities at the time such water is scheduled to reach the Delta, Buyer shall provide to Seller at least a 48-hour notification to reduce, suspend, or terminate

Initials: _____

releases to the Feather River. The Parties shall promptly meet and confer regarding the details and specifics of any such constraints and cooperate in good faith to determine when Seller's releases may resume. If the Parties cannot develop a mutually acceptable plan for the resumption of releases, Buyer shall still be obligated to pay for the Agreement-Water made available at the Point of Delivery prior to the end of the 48-hour notification period. Further, if Buyer and Seller mutually agree to terminate this Agreement under Paragraph 13.b or 15.b.i, Buyer may provide the same 48-hour notification and, if such notice is provided, shall be obligated to pay Seller for only Agreement-Water made available at the Point of Delivery prior to the end of the 48-hour notification period.

5. **PURCHASE PRICE:** Buyer agrees to purchase and pay for each acre-foot of Agreement-Water Seller makes available to Buyer at the Point of Delivery. The purchase price shall be \$833 per acre-foot.
6. **INVOICING AND PAYMENTS:** The Buyer shall make payment(s) directly to the Seller as set forth in this Paragraph.
 - a. Seller shall invoice Buyer on a monthly basis following the end of each calendar month for the Agreement-Water made available to Buyer at the Point of Delivery. Buyer shall pay each invoice within thirty(30) days of Buyer's receipt of the invoice and interest shall be paid at the annual interest rate of 10% on any invoices that remain unpaid thirty (30) days after receipt of the invoice. Payment shall be made to:

North Yuba Water District
8691 La Porte Rd
Brownsville, CA 95919
jmaupin@nywd.org
 - b. Seller shall provide Buyer with detailed invoices supporting all expenses incurred pursuant to Paragraph 15, and Buyer shall pay such invoices per Paragraph 6.a. Seller shall provide Buyer all invoices for reimbursable expenses pursuant to Paragraph 15 no later than ninety (90) days after the termination of this Agreement.
7. **REFUNDS:** In the event Seller fails to provide the amount of Agreement-Water Buyer has purchased, subject to Seller's right to terminate for shortages as stated in Paragraph 9, Seller will promptly refund to Buyer any payments made for purchased water not made available at the Point of Delivery. Any refunds shall include interest at the Local Agency Investment Fund rate for the period the money was held.
8. **WATER QUALITY:** The Seller makes no warranty or representations as to the quality or fitness for use of the Agreement-Water. Buyer, at its own expense, shall be responsible for all necessary measures for the testing, treatment, and other steps required for the intended uses of the Agreement-Water by the Buyer.

Initials: _____

9. **SHORTAGE PROVISION/TERMINATION:** If the Seller's surface water supplies are unavailable for sale due to unforeseen circumstances or for reasons beyond Seller's control, including a failure of SFWPA to release water to the Feather River, Seller, at its sole discretion, may terminate this Agreement. Prior to termination or, as applicable, as quickly as possible following any action to suspend, reduce or cease releases to the Feather River, Seller and Buyer shall confer to determine if there is a mutually agreeable alternative to termination.
10. **WATER SCHEDULING:** Buyer, in coordination with Seller, SFWPA, Reclamation, and DWR, if necessary, will develop a schedule for delivery of Agreement-Water, and to assure, to the extent possible, that Agreement-Water made available by Seller can be pumped at the C.W. "Bill" Jones Pumping Plant.
11. **DIVERSION COSTS:** All fees, permitting, construction, reconstruction, and maintenance costs for facilities necessary or used to divert Agreement-Water once it is delivered at the Point of Delivery by Seller shall be borne solely by Buyer. Upon the Agreement-Water being made available at the Point of Delivery, Buyer is solely responsible for all costs associated with treatment, diversion headworks, pumping facilities, etc., to divert, convey, transport, treat, and deliver Agreement-Water to the Buyer's place of use.
12. **ENVIRONMENTAL REVIEW:** Execution of this Agreement, and the resulting transfer of Agreement-Water, is exempt from the requirements of the California Environmental Quality Act pursuant to Water Code section 1729.

Buyer shall be solely responsible for arranging for and shall pay any costs incurred for the conveyance of Agreement-Water from the Point of Delivery to the Buyer's service area, including all costs associated with any agreement with Reclamation and any supporting NEPA documentation, for the conveyance and/or storage of Agreement-Water, if necessary.

13. **TERMINATION:** In the event of termination of this Agreement, the Parties shall thereafter be under no further obligation or responsibility hereunder, and will release the other party from further obligations under this Agreement, except for their respective shares of costs incurred prior to the effective date of termination, which includes administration expenses under Paragraph 15.a and may include certain litigation costs under paragraph 15.b. The Parties to this Agreement shall have the right of termination as set forth in Paragraph 9, and this Paragraph:
- a. If regulatory approval(s) and any additional required environmental review actions (e.g., NEPA compliance actions) are not satisfied by September 30, 2022, unless the parties agree to extend the date, either Party may, by written notice to the other Party, terminate this Agreement.
 - b. If, in the reasonable judgment of either Seller or Buyer, the costs of any litigation challenging this Agreement, any restrictions, fees, charges or costs, or any relief that may be afforded to third parties in any action involving this Agreement, are too burdensome in relation to the benefits to be received under this Agreement, then that

Initials: _____

Party so determining may terminate this Agreement. If Buyer so elects to terminate the Agreement, Buyer shall still be obligated to pay for all of the Agreement-Water made available prior to such termination, for administrative expenses under Paragraph 15.a and litigation expenses under 15.b.

14. CONDITIONS PRECEDENT/APPROVALS:

- a. Except as provided in Paragraph 15 with respect to reimbursement of costs, the Parties' performance under this Agreement is contingent on the Parties obtaining any and all necessary approvals from any third-party agency for delivery of Agreement-Water, including SFWPA's consent to the transfer of Agreement-Water.
- b. Seller is responsible for obtaining necessary approvals from the SFWPA, State Water Resources Control Board ("SWRCB"), Reclamation and DWR to transfer the Agreement-Water at the Point of Delivery. Buyer is responsible for obtaining all authorizations from Reclamation and DWR for conveyance of the Agreement-Water to Buyer's service area.

15. ADMINISTRATIVE AND LITIGATION EXPENSES:

- a. **Administrative Expenses.** Buyer will reimburse Seller's reasonable out-of-pocket expenses, including but not limited to actual legal and engineering consultants' fees and expenses incurred by Seller in preparing, negotiating, administering, implementing, and supporting this Agreement up to a maximum of \$107. Buyer shall not be required to reimburse Seller for time spent by its directors, officers or employees relating to this transfer. Seller shall be entitled to this reimbursement starting on the effective date of this Agreement for such expenditures starting on July 1, 2022. If Seller fails to provide any Agreement-Water due to its own action or inaction, Seller will not be entitled to reimbursement and any reimbursements made by the Buyer will be fully refunded by the Seller to the Buyer; provided, if Seller terminates the Agreement because of a reduction in water supply under Paragraph 9, Seller shall be entitled to reimbursement despite the termination. Invoicing of administrative expenses shall be pursuant to the procedures set forth in Paragraph 6.a.
- b. **Litigation, Attorneys' Fees and Third-Party Challenges.**
 - i. Subject to subsections 15.b.ii and 15.b.iii, in the event of litigation or an administrative challenge related to this Agreement, Seller and Buyer will promptly meet and confer to perform a risk assessment of the litigation/challenge, and cooperate in good faith to determine whether to terminate the Agreement due to the litigation/challenge. Either Party may elect to terminate the Agreement due to any such litigation/challenge. If Buyer so elects to terminate the Agreement due to any such litigation/challenge, Buyer shall still be obligated to pay for all of the Agreement-Water made available at the Point of Delivery prior to such termination; for Seller's administrative expenses in accordance with Paragraph 15.a; for any litigation expenses in having the proceeding dismissed or

Initials: _____

otherwise resolved. If Seller so elects to terminate the Agreement, Buyer shall still be obligated to pay for all of the Agreement-Water made available at the Point of Delivery prior to such termination; for Seller's administrative expenses in accordance with Paragraph 15.a; and for any litigation expenses in having the proceeding dismissed or otherwise resolved. Regardless of whether the agreement is terminated, and except as set forth in subsections 15.b.ii and 15.b.iii, below, if litigation is pending Buyer shall have primary responsibility for defending against such litigation on behalf of both Buyer and Seller, either as a defendant, respondent, real party in interest or intervenor; and Seller shall participate in defending against such litigation to the extent it deems necessary or appropriate, in Seller's sole discretion. Buyer shall bear its own costs of litigation and shall pay any monetary award, the costs of any remedial actions, and any award of challenger's attorneys' fees associated therewith, whether levied against Buyer or Seller. Buyer shall also reimburse 0.21%% of Seller's actual out-of-pocket expenses Seller incurs for defending this Agreement and against any related litigation under this Paragraph 15.b.i.

- ii. As to claims solely challenging Seller's conduct in Seller's service area related to making Agreement-Water available at the Point of Delivery, Seller shall have primary responsibility for defending such claims on behalf of both Seller and Buyer, and Buyer shall participate in defending against such claims to the extent it deems necessary or appropriate, in Buyer's sole discretion. Buyer shall bear its own fees and costs of defending against such claims. Except as provided in Paragraph 15.a regarding general cost reimbursement, Seller shall bear its own fees and costs of defending against such claims. Seller shall pay all monetary awards associated with claims challenging Seller's conduct in Seller's service area.
- iii. To the extent litigation includes multiple claims, the Parties agree to meet and confer in good faith to determine whether or not the action includes claims described under Paragraphs 15.b.i and 15.b.ii. The Parties agree that any claim identified as subject to Paragraph 15.b.ii shall be defended as provided in Paragraph 15.b.ii and the balance of such claims shall be defended as provided in Paragraph 15.b.i.

16. WATER RIGHTS: The Agreement-Water transferred under this Agreement is a portion of the surface water available to Seller and diverted to storage in accordance with Permit 11518. Consistent with the provisions of California Water Code Sections 109, 475, 1011, 1244, and 11961, the water transfer performed under this Agreement shall not confer any appropriative, public trust or other right to water on any person or entity. Nothing in this Agreement shall act as forfeiture, diminution, or impairment of any rights of Seller to its full diversion of water after the expiration of the Agreement, and this Agreement shall in no way prejudice any of Seller's rights thereto. The Parties agree that the Agreement-Water made available under this Agreement is considered a reasonable and beneficial use of water under California law.

Initials: _____

17. **BUYER'S PAYMENT OF RECLAMATION AND DWR'S COSTS, RATES, AND CHARGES:** Buyer shall be responsible for payment of all costs incurred by Reclamation and DWR, and imposed upon Seller, for Reclamation and DWR's review, approval, implementation, and administration of this Agreement. Buyer shall be responsible for any and all costs, rates, charges and assessments that Reclamation and DWR impose upon Seller related to this Agreement.
18. **COOPERATION:** To the extent reasonably required, each Party to this Agreement shall, in good faith, assist the other in obtaining all such necessary approvals and preparation of required environmental documents. The Parties agree to cooperate and assist each other in good faith in meeting such requirements of regulatory agencies as may be applicable to performance of any terms of the Agreement.
19. **WAIVER OF RIGHTS:** Any waiver, at any time, by a Party of its rights with respect to a breach or default, or any other matter arising in connection with this Agreement, shall not be deemed to be a waiver with respect to any other breach, default or matter.
20. **ASSIGNMENT:** This Agreement is entered into in reliance on water supplies available to Seller, the credit of Buyer, and Buyer's need for water, and therefore any assignment of this Agreement in whole or in part without the prior written consent of the other Party hereto is prohibited.
21. **NOTICES:** All notices that are required, either expressly or by implication, to be given by any Party to the other under this Agreement shall be signed on behalf of the Seller and Buyer by such officers as they may, from time, authorize in writing to so act.
- a. Any notices to Parties required by this Agreement shall be delivered or mailed, United States first-class postage prepaid, by fax or by electronic mail at the following addresses, fax numbers, or electronic mail addresses:

NORTH YUBA WATER DISTRICT

Jeff Maupin, General Manager
8691 La Porte Rd
Brownsville, CA 95919
jmaupin@nywd.org

EAGLE FIELD WATER DISTRICT

John F. Bennett
Eagle Field Water District
c/o J.F.B. Ranch, Inc.
51170 W. Althea Avenue
Firebaugh, CA. 93622
Office: (209) 364-6149
Cellular: (209) 769-8780
E-mail: jfb@jfbri.com

Initials: _____

b. Notice shall be deemed given (a) two calendar days following mailing via regular or certified mail, return receipt requested, (b) one business day after deposit with any one-day delivery service assuring "next day" delivery, (c) upon actual receipt of notice, or (d) upon transmission, if by facsimile or electronic mail, whichever is earlier. The Parties shall promptly give written notice to each other of any change of address, and mailing or shipment to the addresses stated herein shall be deemed sufficient unless written notification of a change of address has been received.

22. **APPROVALS:** Where the terms of this Agreement provide for action to be based upon a judgment, approval, review, or determination of either Party, such terms are not intended to be and shall never be construed as permitting such opinion, judgment, approval, review, or determination to be arbitrary, capricious, or unreasonable.

23. **ARBITRATION:** In the event of a dispute between the Parties as to any right, alleged right, obligation or alleged obligation under this Agreement, the Parties shall make a good faith effort to resolve the dispute. In the event that a resolution of the dispute cannot be reached despite these efforts, either Party may declare an impasse and its intent to submit the matter to arbitration. Any such arbitration shall be held and conducted before one arbitrator who shall be selected by mutual agreement of the Parties. If agreement is not reached on the selection of an arbitrator within fifteen (15) days after a Party has notified the other Party of its election to submit to arbitration, then such arbitrator shall be appointed by the presiding judge of the Superior Court of Sacramento County upon application of either Party hereto. The award or decision of the arbitrator shall be final, and judgment may be entered thereon. The provisions of Title 9 of Part 3 of the California Code of Civil Procedure, including §1283.05, and successor statutes, permitting expanded discovery proceedings shall be applicable to all disputes which are arbitrated pursuant to this paragraph.

24. **OTHER AGREEMENTS:** Nothing contained herein restricts the Seller from providing water services and sales to others as authorized by law which do not unreasonably interfere with Seller's obligations hereunder.

25. **ENTIRE AGREEMENT:** This Agreement constitutes the entire agreement between the Seller and Buyer and supersedes any oral agreement, statement, or promise between them relating to the specific subject matter of this Agreement. Any amendment, including oral modifications, must be reduced to writing and signed by both Parties to be effective.

26. **COUNTERPARTS:** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement shall not be effective until the execution and delivery between each of the Parties of at least one set of counterparts. The Parties authorize each other to detach and combine original signature pages and consolidate them into a single identical original. Any one of such completely executed counterparts shall be sufficient proof of this Agreement.

27. **GENERAL INTERPRETATION:** The terms of this Agreement have been negotiated by the Parties hereto and the language used in this Agreement shall be deemed to be the

Initials: _____

language chosen by the Parties hereto to express their mutual intent. This Agreement shall be construed without regard to any presumption or rule requiring construction against the Party causing such instrument or any portion thereof to be drafted, or in favor of the Party receiving a particular benefit under the Agreement. No rule of strict construction will be applied against any person.

28. **AGREEMENT NOT PRECEDENT:** The Parties acknowledge and agree that nothing in this Agreement shall be considered precedent for any agreements for purchase and sale of water between the Parties in any future year.

IN WITNESS WHEREOF, the Parties have executed this Agreement effective as of the date first above written.

BUYER: EAGLE FIELD WATER DISTRICT

By: _____ Date: _____

SELLER: NORTH YUBA WATER DISTRICT

By: _____ Date: _____
Jeff Maupin, General Manager

Initials: _____

EXHIBIT 1F
Mercy Springs Water District

WATER PURCHASE AND SALE AGREEMENT
BY AND BETWEEN NORTH YUBA WATER DISTRICT AND
MERCY SPRINGS WATER DISTRICT

This Agreement is entered into this ___ day of _____, 2022 by and between NORTH YUBA WATER DISTRICT, hereinafter referred to as “**Seller**” or “**North Yuba**,” and the MERCY SPRINGS WATER DISTRICT, hereinafter referred to as “**Buyer**” or “**Mercy Springs**.” North Yuba and Mercy Springs may be referred to herein individually as a “**Party**” or jointly as “**Parties**.”

RECITALS

WHEREAS, North Yuba is a County Water District, operating pursuant to Division 12 of the Water Code and is empowered to sell and transfer water to Buyer pursuant to Water Code section 31023 as provided for in this Agreement; and

WHEREAS, Buyer is a California Water District operating under Section 34000, et seq., of the California Water Code and is empowered to purchase water from Seller as provided for in this Agreement; and

WHEREAS, Buyer obtains water from the United States Bureau of Reclamation (Reclamation) through the federal Central Valley Project (CVP) under water service repayment contracts; and

WHEREAS, Buyer received an allocation of 0% of its full contractual supply for irrigation for the 2022 water year; and

WHEREAS, Seller holds appropriative water right Permit 11518, which provides for diversion from the South Fork Feather River to storage in Little Grass Valley Reservoir and diversion from Lost Creek to storage in Sly Creek Reservoir; and

WHEREAS, the South Feather Water & Power Agency (SFWPA) operates the South Feather Power Project (SFPP), which includes a series of reservoirs and powerhouses, including Little Grass Valley Reservoir and Sly Creek Reservoir. SFWPA diverts water to storage under Permit 11518 on North Yuba’s behalf; and

WHEREAS, Seller is willing to make available water appropriated pursuant to Permit 11518 for sale and delivery to the Buyer by ensuring SFWPA releases stored water from Little Grass Valley Reservoir and Sly Creek Reservoir to the Feather River; and

WHEREAS, Buyer intends by this Agreement to obtain a supplemental water supply for reasonable and beneficial use given the reduction in deliveries of contract quantities from the CVP;

NOW, THEREFORE, Seller and Buyer, on the terms and conditions set forth herein, agree as follows:

Initials: _____

AGREEMENT

1. **DEFINITIONS:** The following definitions shall govern this Agreement:
 - a. **“Agreement-Water”** is the surface water appropriated by Seller pursuant to Permit 11518, and transferred and made available through this Agreement as a result of Seller’s commitment to ensure Little Grass Valley Reservoir and Sly Creek Reservoir and the South Feather Power Project are reoperated to release water to the Feather River that would otherwise remain in storage.
 - b. **“Point of Delivery”** means that location on the Feather River where water is released from the South Feather Power Project through the Kelly Ridge Powerhouse to the Feather River after passing through the Thermalito Diversion Pool.
 - c. **“Carriage Losses and Depletions”** mean water losses imposed on Agreement-Water by Reclamation or the California Department of Water Resources (DWR) including without limitation Delta carriage water loss and Delta-Mendota and San Luis Canal(s) conveyance losses imposed on Agreement-Water downstream of the Point of Delivery.
2. **TERM:** This Agreement shall commence on the date set forth above and expire on December 31, 2022, unless terminated sooner by written agreement of the Parties pursuant to the provisions set forth herein; provided, however, that any obligations under this Agreement to be performed after December 31, 2022, shall survive the expiration of the term of this Agreement and shall be fully enforceable.
3. **AGREEMENT TO DELIVER:** Seller agrees to sell and make available at the Point of Delivery, and the Buyer agrees to purchase, Agreement-Water during the term of this Agreement for its beneficial use, in the quantities described and subject to the terms and conditions of this Agreement. Buyer will use all Agreement-Water within its service area.
4. **QUANTITY AND ADJUSTMENTS TO QUANTITY:**
 - a. **Quantity.** Seller agrees to sell and make available at the Point of Delivery to Buyer up to 30 acre-feet of Agreement-Water, subject to other terms and conditions of this Agreement.
 - b. **Availability.** South Feather Water & Power Agency (SFWPA) shall confirm the final amount of Agreement-Water made available at the Point of Delivery during each month this Agreement is in effect.
 - c. **Losses.** Buyer shall bear the water cost of Carriage Losses and Depletions.
 - d. **Operational/Regulatory Limitations on Buyer’s Ability to Export/Litigation Termination.** If Reclamation is unable to deliver Agreement-Water to Buyer through Delta pumping facilities at the time such water is scheduled to reach the Delta, Buyer shall provide to Seller at least a 48-hour notification to reduce, suspend, or terminate

Initials: _____

releases to the Feather River. The Parties shall promptly meet and confer regarding the details and specifics of any such constraints and cooperate in good faith to determine when Seller's releases may resume. If the Parties cannot develop a mutually acceptable plan for the resumption of releases, Buyer shall still be obligated to pay for the Agreement-Water made available at the Point of Delivery prior to the end of the 48-hour notification period. Further, if Buyer and Seller mutually agree to terminate this Agreement under Paragraph 13.b or 15.b.i, Buyer may provide the same 48-hour notification and, if such notice is provided, shall be obligated to pay Seller for only Agreement-Water made available at the Point of Delivery prior to the end of the 48-hour notification period.

5. **PURCHASE PRICE:** Buyer agrees to purchase and pay for each acre-foot of Agreement-Water Seller makes available to Buyer at the Point of Delivery. The purchase price shall be \$833 per acre-foot.
6. **INVOICING AND PAYMENTS:** The Buyer shall make payment(s) directly to the Seller as set forth in this Paragraph.
 - a. Seller shall invoice Buyer on a monthly basis following the end of each calendar month for the Agreement-Water made available to Buyer at the Point of Delivery. Buyer shall pay each invoice within thirty (30) days of Buyer's receipt of the invoice and interest shall be paid at the annual interest rate of 10% on any invoices that remain unpaid thirty (30) days after receipt of the invoice. Payment shall be made to:

North Yuba Water District
8691 La Porte Rd
Brownsville, CA 95919
jmaupin@nywd.org
 - b. Seller shall provide Buyer with detailed invoices supporting all expenses incurred pursuant to Paragraph 15, and Buyer shall pay such invoices per Paragraph 6.a. Seller shall provide Buyer all invoices for reimbursable expenses pursuant to Paragraph 15 no later than ninety (90) days after the termination of this Agreement.
7. **REFUNDS:** In the event Seller fails to provide the amount of Agreement-Water Buyer has purchased, subject to Seller's right to terminate for shortages as stated in Paragraph 9, Seller will promptly refund to Buyer any payments made for purchased water not made available at the Point of Delivery. Any refunds shall include interest at the Local Agency Investment Fund rate for the period the money was held.
8. **WATER QUALITY:** The Seller makes no warranty or representations as to the quality or fitness for use of the Agreement-Water. Buyer, at its own expense, shall be responsible for all necessary measures for the testing, treatment, and other steps required for the intended uses of the Agreement-Water by the Buyer.

Initials: _____

9. **SHORTAGE PROVISION/TERMINATION:** If the Seller's surface water supplies are unavailable for sale due to unforeseen circumstances or for reasons beyond Seller's control, including a failure of SFWPA to release water to the Feather River, Seller, at its sole discretion, may terminate this Agreement. Prior to termination or, as applicable, as quickly as possible following any action to suspend, reduce or cease releases to the Feather River, Seller and Buyer shall confer to determine if there is a mutually agreeable alternative to termination.
10. **WATER SCHEDULING:** Buyer, in coordination with Seller, SFWPA, Reclamation, and DWR, if necessary, will develop a schedule for delivery of Agreement-Water, and to assure, to the extent possible, that Agreement-Water made available by Seller can be pumped at the C.W. "Bill" Jones Pumping Plant.
11. **DIVERSION COSTS:** All fees, permitting, construction, reconstruction, and maintenance costs for facilities necessary or used to divert Agreement-Water once it is delivered at the Point of Delivery by Seller shall be borne solely by Buyer. Upon the Agreement-Water being made available at the Point of Delivery, Buyer is solely responsible for all costs associated with treatment, diversion head-works, pumping facilities, etc., to divert, convey, transport, treat, and deliver Agreement-Water to the Buyer's place of use.
12. **ENVIRONMENTAL REVIEW:** Execution of this Agreement, and the resulting transfer of Agreement-Water, is exempt from the requirements of the California Environmental Quality Act pursuant to Water Code section 1729.

Buyer shall be solely responsible for arranging for and shall pay any costs incurred for the conveyance of Agreement-Water from the Point of Delivery to the Buyer's service area, including all costs associated with any agreement with Reclamation and any supporting NEPA documentation, for the conveyance and/or storage of Agreement-Water, if necessary.

13. **TERMINATION:** In the event of termination of this Agreement, the Parties shall thereafter be under no further obligation or responsibility hereunder, and will release the other party from further obligations under this Agreement, except for their respective shares of costs incurred prior to the effective date of termination, which includes administration expenses under Paragraph 15.a and may include certain litigation costs under paragraph 15.b. The Parties to this Agreement shall have the right of termination as set forth in Paragraph 9, and this Paragraph:
 - a. If regulatory approval(s) and any additional required environmental review actions (e.g., NEPA compliance actions) are not satisfied by September 30, 2022, unless the parties agree to extend the date, either Party may, by written notice to the other Party, terminate this Agreement.
 - b. If, in the reasonable judgment of either Seller or Buyer, the costs of any litigation challenging this Agreement, any restrictions, fees, charges or costs, or any relief that may be afforded to third parties in any action involving this Agreement, are too burdensome in relation to the benefits to be received under this Agreement, then that

Initials: _____

Party so determining may terminate this Agreement. If Buyer so elects to terminate the Agreement, Buyer shall still be obligated to pay for all of the Agreement-Water made available prior to such termination, for administrative expenses under Paragraph 15.a and litigation expenses under 15.b.

14. CONDITIONS PRECEDENT/APPROVALS:

- a. Except as provided in Paragraph 15 with respect to reimbursement of costs, the Parties' performance under this Agreement is contingent on the Parties obtaining any and all necessary approvals from any third-party agency for delivery of Agreement-Water, including SFWPA's consent to the transfer of Agreement-Water.
- b. Seller is responsible for obtaining necessary approvals from the SFWPA, State Water Resources Control Board ("SWRCB"), Reclamation and DWR to transfer the Agreement-Water at the Point of Delivery. Buyer is responsible for obtaining all authorizations from Reclamation and DWR for conveyance of the Agreement-Water to Buyer's service area.

15. ADMINISTRATIVE AND LITIGATION EXPENSES:

- a. **Administrative Expenses.** Buyer will reimburse Seller's reasonable out-of-pocket expenses, including but not limited to actual legal and engineering consultants' fees and expenses incurred by Seller in preparing, negotiating, administering, implementing, and supporting this Agreement up to a maximum of \$67. Buyer shall not be required to reimburse Seller for time spent by its directors, officers or employees relating to this transfer. Seller shall be entitled to this reimbursement starting on the effective date of this Agreement for such expenditures starting on July 1, 2022. If Seller fails to provide any Agreement-Water due to its own action or inaction, Seller will not be entitled to reimbursement and any reimbursements made by the Buyer will be fully refunded by the Seller to the Buyer; provided, if Seller terminates the Agreement because of a reduction in water supply under Paragraph 9, Seller shall be entitled to reimbursement despite the termination. Invoicing of administrative expenses shall be pursuant to the procedures set forth in Paragraph 6.a.
- b. **Litigation, Attorneys' Fees and Third-Party Challenges.**
 - i. Subject to subsections 15.b.ii and 15.b.iii, in the event of litigation or an administrative challenge related to this Agreement, Seller and Buyer will promptly meet and confer to perform a risk assessment of the litigation/challenge, and cooperate in good faith to determine whether to terminate the Agreement due to the litigation/challenge. Either Party may elect to terminate the Agreement due to any such litigation/challenge. If Buyer so elects to terminate the Agreement due to any such litigation/challenge, Buyer shall still be obligated to pay for all of the Agreement-Water made available at the Point of Delivery prior to such termination; for Seller's administrative expenses in accordance with Paragraph 15.a; for any litigation expenses in having the proceeding dismissed or

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otherwise resolved. If Seller so elects to terminate the Agreement, Buyer shall still be obligated to pay for all of the Agreement-Water made available at the Point of Delivery prior to such termination; for Seller's administrative expenses in accordance with Paragraph 15.a; and for any litigation expenses in having the proceeding dismissed or otherwise resolved. Regardless of whether the agreement is terminated, and except as set forth in subsections 15.b.ii and 15.b.iii, below, if litigation is pending Buyer shall have primary responsibility for defending against such litigation on behalf of both Buyer and Seller, either as a defendant, respondent, real party in interest or intervenor; and Seller shall participate in defending against such litigation to the extent it deems necessary or appropriate, in Seller's sole discretion. Buyer shall bear its own costs of litigation and shall pay any monetary award, the costs of any remedial actions, and any award of challenger's attorneys' fees associated therewith, whether levied against Buyer or Seller. Buyer shall also reimburse 0.13% of Seller's actual out-of-pocket expenses Seller incurs for defending this Agreement and against any related litigation under this Paragraph 15.b.i.

- ii. As to claims solely challenging Seller's conduct in Seller's service area related to making Agreement-Water available at the Point of Delivery, Seller shall have primary responsibility for defending such claims on behalf of both Seller and Buyer, and Buyer shall participate in defending against such claims to the extent it deems necessary or appropriate, in Buyer's sole discretion. Buyer shall bear its own fees and costs of defending against such claims. Except as provided in Paragraph 15.a regarding general cost reimbursement, Seller shall bear its own fees and costs of defending against such claims. Seller shall pay all monetary awards associated with claims challenging Seller's conduct in Seller's service area.
- iii. To the extent litigation includes multiple claims, the Parties agree to meet and confer in good faith to determine whether or not the action includes claims described under Paragraphs 15.b.i and 15.b.ii. The Parties agree that any claim identified as subject to Paragraph 15.b.ii shall be defended as provided in Paragraph 15.b.ii and the balance of such claims shall be defended as provided in Paragraph 15.b.i.

16. **WATER RIGHTS:** The Agreement-Water transferred under this Agreement is a portion of the surface water available to Seller and diverted to storage in accordance with Permit 11518. Consistent with the provisions of California Water Code Sections 109, 475, 1011, 1244, and 11961, the water transfer performed under this Agreement shall not confer any appropriative, public trust or other right to water on any person or entity. Nothing in this Agreement shall act as forfeiture, diminution, or impairment of any rights of Seller to its full diversion of water after the expiration of the Agreement, and this Agreement shall in no way prejudice any of Seller's rights thereto. The Parties agree that the Agreement-Water made available under this Agreement is considered a reasonable and beneficial use of water under California law.

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17. **BUYER'S PAYMENT OF RECLAMATION AND DWR'S COSTS, RATES, AND CHARGES:** Buyer shall be responsible for payment of all costs incurred by Reclamation and DWR, and imposed upon Seller, for Reclamation and DWR's review, approval, implementation, and administration of this Agreement. Buyer shall be responsible for any and all costs, rates, charges and assessments that Reclamation and DWR impose upon Seller related to this Agreement.
18. **COOPERATION:** To the extent reasonably required, each Party to this Agreement shall, in good faith, assist the other in obtaining all such necessary approvals and preparation of required environmental documents. The Parties agree to cooperate and assist each other in good faith in meeting such requirements of regulatory agencies as may be applicable to performance of any terms of the Agreement.
19. **WAIVER OF RIGHTS:** Any waiver, at any time, by a Party of its rights with respect to a breach or default, or any other matter arising in connection with this Agreement, shall not be deemed to be a waiver with respect to any other breach, default or matter.
20. **ASSIGNMENT:** This Agreement is entered into in reliance on water supplies available to Seller, the credit of Buyer, and Buyer's need for water, and therefore any assignment of this Agreement in whole or in part without the prior written consent of the other Party hereto is prohibited.
21. **NOTICES:** All notices that are required, either expressly or by implication, to be given by any Party to the other under this Agreement shall be signed on behalf of the Seller and Buyer by such officers as they may, from time, authorize in writing to so act.
- a. Any notices to Parties required by this Agreement shall be delivered or mailed, United States first-class postage prepaid, by fax or by electronic mail at the following addresses, fax numbers, or electronic mail addresses:

NORTH YUBA WATER DISTRICT

Jeff Maupin, General Manager
8691 La Porte Rd
Brownsville, CA 95919
jmaupin@nywd.org

MERCY SPRINGS WATER DISTRICT

Ara Azhderian
Mercy Springs Water District
52027 W. Althea Avenue
Firebaugh CA 93622
209-704-1164
aazhderian@panochewd.org

Initials: _____

- b. Notice shall be deemed given (a) two calendar days following mailing via regular or certified mail, return receipt requested, (b) one business day after deposit with any one-day delivery service assuring "next day" delivery, (c) upon actual receipt of notice, or (d) upon transmission, if by facsimile or electronic mail, whichever is earlier. The Parties shall promptly give written notice to each other of any change of address, and mailing or shipment to the addresses stated herein shall be deemed sufficient unless written notification of a change of address has been received.
22. **APPROVALS:** Where the terms of this Agreement provide for action to be based upon a judgment, approval, review, or determination of either Party, such terms are not intended to be and shall never be construed as permitting such opinion, judgment, approval, review, or determination to be arbitrary, capricious, or unreasonable.
23. **ARBITRATION:** In the event of a dispute between the Parties as to any right, alleged right, obligation or alleged obligation under this Agreement, the Parties shall make a good faith effort to resolve the dispute. In the event that a resolution of the dispute cannot be reached despite these efforts, either Party may declare an impasse and its intent to submit the matter to arbitration. Any such arbitration shall be held and conducted before one arbitrator who shall be selected by mutual agreement of the Parties. If agreement is not reached on the selection of an arbitrator within fifteen (15) days after a Party has notified the other Party of its election to submit to arbitration, then such arbitrator shall be appointed by the presiding judge of the Superior Court of Sacramento County upon application of either Party hereto. The award or decision of the arbitrator shall be final, and judgment may be entered thereon. The provisions of Title 9 of Part 3 of the California Code of Civil Procedure, including §1283.05, and successor statutes, permitting expanded discovery proceedings shall be applicable to all disputes which are arbitrated pursuant to this paragraph.
24. **OTHER AGREEMENTS:** Nothing contained herein restricts the Seller from providing water services and sales to others as authorized by law which do not unreasonably interfere with Seller's obligations hereunder.
25. **ENTIRE AGREEMENT:** This Agreement constitutes the entire agreement between the Seller and Buyer and supersedes any oral agreement, statement, or promise between them relating to the specific subject matter of this Agreement. Any amendment, including oral modifications, must be reduced to writing and signed by both Parties to be effective.
26. **COUNTERPARTS:** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement shall not be effective until the execution and delivery between each of the Parties of at least one set of counterparts. The Parties authorize each other to detach and combine original signature pages and consolidate them into a single identical original. Any one of such completely executed counterparts shall be sufficient proof of this Agreement.
27. **GENERAL INTERPRETATION:** The terms of this Agreement have been negotiated by the Parties hereto and the language used in this Agreement shall be deemed to be the

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language chosen by the Parties hereto to express their mutual intent. This Agreement shall be construed without regard to any presumption or rule requiring construction against the Party causing such instrument or any portion thereof to be drafted, or in favor of the Party receiving a particular benefit under the Agreement. No rule of strict construction will be applied against any person.

28. **AGREEMENT NOT PRECEDENT:** The Parties acknowledge and agree that nothing in this Agreement shall be considered precedent for any agreements for purchase and sale of water between the Parties in any future year.

IN WITNESS WHEREOF, the Parties have executed this Agreement effective as of the date first above written.

BUYER: MERCY SPRINGS WATER DISTRICT

By: _____ Date: _____

SELLER: NORTH YUBA WATER DISTRICT

By: _____ Date: _____
Jeff Maupin, General Manager

Initials: _____

EXHIBIT 1G
Byron-Bethany Irrigation District

WATER PURCHASE AND SALE AGREEMENT
BY AND BETWEEN NORTH YUBA WATER DISTRICT AND
BYRON-BETHANY IRRIGATION DISTRICT

This Agreement is entered into this 10 day of August, 2022 by and between NORTH YUBA WATER DISTRICT, hereinafter referred to as "Seller" or "North Yuba," and the BYRON-BETHANY IRRIGATION DISTRICT, hereinafter referred to as "Buyer" or "BBID." North Yuba and BBID may be referred to herein individually as a "Party" or jointly as "Parties."

RECITALS

WHEREAS, North Yuba is a County Water District, operating pursuant to Division 12 of the Water Code and is empowered to sell and transfer water to Buyer pursuant to Water Code section 31023 as provided for in this Agreement; and

WHEREAS, Buyer is a California Irrigation District operating under Section 20500, et seq., of the California Water Code and is empowered to purchase water from Seller as provided for in this Agreement; and

WHEREAS, BBID diverts water under its pre-1914 appropriative water right (Statement No. 021256) and The West Side Irrigation District's post-1914 appropriative water right (License No. 1381) within the Sacramento-San Joaquin River Delta (Delta); and

WHEREAS, Buyer obtains water from the United States Bureau of Reclamation (Reclamation) through the federal Central Valley Project (CVP) under water service repayment contracts; and

WHEREAS, Buyer received an allocation of 0% of its full contractual supply for irrigation water for the 2022 water year; and

WHEREAS, given the dry conditions in 2022, Buyer anticipates that there may not be enough water supply under the priority of its rights to divert throughout the irrigation season; and

WHEREAS, Seller holds appropriative water right Permit 11518, which provides for diversion from the South Fork Feather River to storage in Little Grass Valley Reservoir and diversion from Lost Creek to storage in Sly Creek Reservoir; and

WHEREAS, the South Feather Water & Power Agency (SFWPA) operates the South Feather Power Project (SFPP), which includes a series of reservoirs and powerhouses, including Little Grass Valley Reservoir and Sly Creek Reservoir. SFWPA diverts water to storage under Permit 11518 on North Yuba's behalf; and

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WHEREAS, Seller is willing to make available water appropriated pursuant to Permit 11518 and make it available for sale and delivery to the Buyer by ensuring SFWPA releases stored water from Little Grass Valley Reservoir and Sly Creek Reservoir to the Feather River; and

WHEREAS, Buyer intends by this Agreement to obtain a supplemental water supply for reasonable and beneficial use given the reduction in deliveries of contract quantities from the CVP and potential unavailability of supplies to serve its appropriative water rights;

NOW, THEREFORE, Seller and Buyer, on the terms and conditions set forth herein, agree as follows:

AGREEMENT

1. **DEFINITIONS:** The following definitions shall govern this Agreement:
 - a. **"Agreement-Water"** is the surface water appropriated by the Seller pursuant to Permit 11518, and transferred and made available through this Agreement as a result of Seller's commitment to ensure that Little Grass Valley Reservoir and Sly Creek Reservoir and the South Feather Power Project are reoperated to release water to the Feather River that would otherwise remain in storage.
 - b. **"Point of Delivery"** means that location on the Feather River where water is released from the South Feather Power Project through the Kelly Ridge Powerhouse to the Feather River after passing through the Thermalito Diversion Pool.
 - c. **"Carriage Losses and Depletions"** mean water losses imposed on Agreement-Water by Reclamation or the California Department of Water Resources (DWR), including without limitation Delta carriage water loss and Delta-Mendota Canal conveyance losses imposed on Agreement-Water downstream of the Point of Delivery.
2. **TERM:** This Agreement shall commence on the date set forth above and expire on December 31, 2022, unless terminated sooner by written agreement of the Parties pursuant to the provisions set forth herein; provided, however, that any obligations under this Agreement to be performed after December 31, 2022, shall survive the expiration of the term of this Agreement and shall be fully enforceable.
3. **AGREEMENT TO DELIVER:** Seller agrees to sell and make available at the Point of Delivery, and the Buyer agrees to purchase, Agreement-Water during the term of this Agreement for its beneficial use, in the quantities described and subject to the terms and conditions of this Agreement. Buyer will use all Agreement-Water within the boundaries of Buyer's service area.

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4. **QUANTITY AND ADJUSTMENTS TO QUANTITY:**

- a. **Quantity.** Seller agrees to sell and make available at the Point of Delivery to Buyer up to 5,000 acre-feet of Agreement-Water through reservoir reoperation, subject to other terms and conditions of this Agreement.
- b. **Availability.** SFWPA shall confirm the final amount of Agreement-Water made available at the Point of Delivery during each month this Agreement is in effect.
- c. **Losses.** Buyer shall bear the water cost associated with Carriage Losses and Depletions,
- d. **Operational/Regulatory Limitations on Buyer's Ability to Export/Litigation Termination.** If Reclamation is unable to deliver Agreement-Water to Buyer through Delta pumping facilities at the time such water is scheduled to reach the Delta, Buyer shall provide to Seller at least a 48-hour notification to reduce, suspend, or terminate releases to the Feather River. The Parties shall promptly meet and confer regarding the details and specifics of any such constraints and cooperate in good faith to determine when Seller's releases may resume. If the Parties cannot develop a mutually acceptable plan for the resumption of releases, Buyer shall still be obligated to pay for the Agreement-Water made available prior to the end of the 48-hour notification period. Further, if Buyer and Seller mutually agree to terminate this Agreement under Paragraph 13.b or 15.b.i, Buyer may provide the same 48-hour notification and, if such notice is provided, shall be obligated to pay Seller for only Agreement-Water made available at the Point of Delivery prior to the end of the 48-hour notification period.

5. **PURCHASE PRICE:** Buyer agrees to purchase and pay for each acre-foot of Agreement-Water Seller makes available to Buyer at the Point of Delivery. The purchase price shall be \$833 per acre-foot.

6. **INVOICING AND PAYMENTS:** The Buyer shall make payment(s) directly to the Seller as set forth in this Paragraph.

- a. Seller shall invoice Buyer on a monthly basis following the end of each calendar month for the Agreement-Water made available to Buyer at the Point of Delivery. Buyer shall pay each invoice within thirty (30) days of Buyer's receipt of the invoice and interest shall be paid at the annual interest rate of 10% on any invoices that remain unpaid thirty (30) days after receipt of the invoice. Payment shall be made to:

North Yuba Water District
8691 La Porte Rd
Brownsville, CA 95919
jmaupin@nywd.org

- b. Seller shall provide Buyer with detailed invoices supporting all expenses incurred pursuant to Paragraph 15, and Buyer shall pay such invoices per Paragraph 6.a.

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Seller shall provide Buyer all invoices for reimbursable expenses pursuant to Paragraph 15 no later than ninety (90) days after the termination of this Agreement.

7. **REFUNDS:** In the event Seller fails to provide the amount of Agreement-Water Buyer has purchased, subject to Seller's right to terminate for shortages as stated in Paragraph 9, Seller will promptly refund to Buyer any payments made for purchased water not made available at the Point of Delivery. Any refunds shall include interest at the Local Agency Investment Fund rate for the period the money was held.
8. **WATER QUALITY:** The Seller makes no warranty or representations as to the quality or fitness for use of the Agreement-Water. Buyer, at its own expense, shall be responsible for all necessary measures for the testing, treatment, and other steps required for the intended uses of the Agreement-Water by the Buyer.
9. **SHORTAGE PROVISION/TERMINATION:** If the Seller's surface water supplies are unavailable due to unforeseen circumstances or for reasons beyond Seller's control, including a failure of SFWPA to release water to the Feather River at the Point of Delivery, Seller, at its sole discretion, may terminate this Agreement. Prior to termination or, as applicable, as quickly as possible following any action to suspend, reduce, or cease releases to the Feather River, Seller and Buyer shall meet and confer to determine if there is a mutually agreeable alternative to termination.
10. **WATER SCHEDULING:** Buyer, in coordination with Seller, SFWPA, Reclamation, and DWR, if necessary, will develop a schedule for delivery of Agreement-Water, and to assure, to the extent possible, that Agreement-Water made available by Seller can be pumped at the C.W. "Bill" Jones Pumping Plant, Byron-Bethany Irrigation District (Banks), or Byron-Bethany Irrigation District (Wicklund Cut) points of diversion.
11. **DIVERSION COSTS:** All fees, permitting, construction, reconstruction, and maintenance costs for facilities necessary or used to divert Agreement-Water once it is delivered at the Point of Delivery by Seller shall be borne solely by Buyer. Upon the Agreement-Water being made available at the Point of Delivery, Buyer is solely responsible for all costs associated with treatment, diversion headworks, pumping facilities, etc., to divert, convey, transport, treat, and deliver Agreement-Water to the Buyer's place of use.
12. **ENVIRONMENTAL REVIEW:** Execution of this Agreement, and the resulting transfer of Agreement-Water, is exempt from the requirements of the California Environmental Quality Act pursuant to Water Code section 1729.

Buyer shall be solely responsible for arranging for and shall pay all costs incurred for the conveyance of Agreement-Water from the Point of Delivery to the Buyer's service area, including all costs associated with any agreement with Reclamation and/or DWR and any supporting NEPA documentation with Reclamation, for the conveyance and/or storage of Agreement-Water, if necessary.

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13. **TERMINATION:** In the event of termination of this Agreement, the Parties shall thereafter be under no further obligation or responsibility hereunder, and will release the other party from further obligations under this Agreement, except for their respective shares of costs incurred prior to the effective date of termination, which includes administration expenses under Paragraph 15.a and may include certain litigation costs under paragraph 15.b. The Parties to this Agreement shall have the right of termination as set forth in Paragraph 9, and this Paragraph:

- a. If regulatory approval(s) and any additional required environmental review actions (e.g., NEPA compliance actions) are not satisfied by September 30, 2022, unless the parties agree to extend the date, either Party may, by written notice to the other Party, terminate this Agreement.
- b. If, in the reasonable judgment of either Seller or Buyer, the costs of any litigation challenging this Agreement, any restrictions, fees, charges, or costs, or any relief that may be afforded to third parties in any action involving this Agreement, are too burdensome in relation to the benefits to be received under this Agreement, then that Party so determining may terminate this Agreement. If Buyer so elects to terminate the Agreement, Buyer shall still be obligated to pay for all of the Agreement-Water made available prior to such termination, for administrative expenses under Paragraph 15.a, and litigation expenses under 15.b .

14. **CONDITIONS PRECEDENT/APPROVALS:**

- a. Except as provided in Paragraph 15 with respect to reimbursement of costs, the Parties' performance under this Agreement is contingent on the Parties obtaining any and all necessary approvals from any third-party agency for delivery of Agreement-Water, including SFWPA's consent to the transfer of Agreement-Water.
- b. Seller is responsible for obtaining necessary approvals from the SFWPA, State Water Resources Control Board ("SWRCB"), Reclamation, and DWR to transfer the Agreement-Water at the Point of Delivery. Buyer is responsible for obtaining all authorizations from Reclamation and DWR for conveyance of the Agreement-Water to Buyer's service area.

15. **ADMINISTRATIVE AND LITIGATION EXPENSES:**

- a. **Administrative Expenses.** Buyer will reimburse Seller's reasonable out-of-pocket expenses, including but not limited to actual legal and engineering consultants' fees and expenses incurred by Seller in preparing, negotiating, administering, implementing, and supporting this Agreement up to a maximum of \$16,667. Buyer shall not be required to reimburse Seller for time spent by its directors, officers, or employees relating to this transfer. Seller shall be entitled to this reimbursement starting on the effective date of this agreement for such expenditures starting on July 1, 2022. If Seller fails to provide any Agreement-Water due to its own action or inaction, Seller will not be entitled to reimbursement and any reimbursements made

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by the Buyer will be fully refunded by the Seller to the Buyer; provided, if Seller terminates the Agreement because of a reduction in water supply under Paragraph 9, Seller shall be entitled to reimbursement despite the termination. Invoicing of administrative expenses shall be pursuant to the procedures set forth in Paragraph 6.a.

b. Litigation, Attorneys' Fees and Third-Party Challenges.

- i. Subject to subsections 15.b.ii and 15.b.iii, in the event of litigation or an administrative challenge related to this Agreement, Seller and Buyer will promptly meet and confer to perform a risk assessment of the litigation/challenge, and cooperate in good faith to determine whether to terminate the Agreement due to the litigation/challenge. Either Party may elect to terminate the Agreement due to any such litigation/challenge. If Buyer so elects to terminate the Agreement due to any such litigation/challenge, Buyer shall still be obligated to pay for all of the Agreement-Water made available at the Point of Delivery prior to such termination; for Seller's administrative expenses in accordance with Paragraph 15.a; for any litigation expenses in having the proceeding dismissed or otherwise resolved. If Seller so elects to terminate the Agreement, Buyer shall still be obligated to pay for all of the Agreement-Water made available at the Point of Delivery prior to such termination; for Seller's administrative expenses in accordance with Paragraph 15.a; and for any litigation expenses in having the proceeding dismissed or otherwise resolved. Regardless of whether the agreement is terminated, and except as set forth in subsections 15.b.ii and 15.b.iii below, if litigation is pending Buyer shall have primary responsibility for defending against such litigation on behalf of both Buyer and Seller, either as a defendant, respondent, real party in interest or intervenor; and Seller shall participate in defending against such litigation to the extent it deems necessary or appropriate, in Seller's sole discretion. Buyer shall bear its own costs of litigation and shall pay any monetary award, the costs of any remedial actions, and any award of challenger's attorneys' fees associated therewith, whether levied against Buyer or Seller. Buyer shall also reimburse 100% of Seller's actual out-of-pocket expenses Seller incurs for defending this Agreement and against any related litigation under this Paragraph 15.b.i.
- ii. As to claims solely challenging Seller's conduct in Seller's service area related to making Agreement-Water available at the Point of Delivery, Seller shall have primary responsibility for defending such claims on behalf of both Seller and Buyer, and Buyer shall participate in defending against such claims to the extent it deems necessary or appropriate, in Buyer's sole discretion. Buyer shall bear its own fees and costs of defending against such claims. Except as provided in Paragraph 15.a regarding general cost reimbursement, Seller shall bear its own fees and costs of defending against such claims. Seller shall pay all monetary awards associated with claims challenging Seller's conduct in Seller's service area.

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iii. To the extent litigation includes multiple claims, the Parties agree to meet and confer in good faith to determine whether or not the action includes claims described under Paragraphs 15.b.i and 15.b.ii. The Parties agree that any claim identified as subject to Paragraph 15.b.ii shall be defended as provided in Paragraph 15.b.ii and the balance of such claims shall be defended as provided in Paragraph 15.b.i.

16. **WATER RIGHTS:** The Agreement-Water transferred under this Agreement is a portion of the surface water available to Seller and diverted to storage in accordance with Permit 11518. Consistent with the provisions of California Water Code Sections 109, 475, 1011, 1244, and 11961, the water transfer performed under this Agreement shall not confer any appropriative, public trust, or other right to water on any person or entity. Nothing in this Agreement shall act as forfeiture, diminution, or impairment of any rights of Seller to its full diversion of water after the expiration of the Agreement, and this Agreement shall in no way prejudice any of Seller's rights thereto. The Parties agree that the Agreement-Water made available under this Agreement is considered a reasonable and beneficial use of water under California law.
17. **BUYER'S PAYMENT OF RECLAMATION AND DWR'S COSTS, RATES, AND CHARGES:** Buyer shall be responsible for payment of all costs incurred by Reclamation and DWR, and imposed upon Seller, for Reclamation and DWR's review, approval, implementation, and administration of this Agreement. Buyer shall be responsible for any and all costs, rates, charges, and assessments that Reclamation and DWR imposes upon Seller related to this Agreement.
18. **COOPERATION:** To the extent reasonably required, each Party to this Agreement shall, in good faith, assist the other in obtaining all such necessary approvals and preparation of required environmental documents. The Parties agree to cooperate and assist each other in good faith in meeting such requirements of regulatory agencies as may be applicable to performance of any terms of the Agreement.
19. **WAIVER OF RIGHTS:** Any waiver, at any time, by a Party of its rights with respect to a breach or default, or any other matter arising in connection with this Agreement, shall not be deemed to be a waiver with respect to any other breach, default, or matter.
20. **ASSIGNMENT:** This Agreement is entered into in reliance on water supplies available to Seller, the credit of Buyer, and Buyer's need for water, and therefore any assignment of this Agreement in whole or in part without the prior written consent of the other Party hereto is prohibited.
21. **NOTICES:** All notices that are required, either expressly or by implication, to be given by any Party to the other under this Agreement shall be signed on behalf of the Seller and Buyer by such officers as they may, from time to time, authorize in writing to so act.

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- a. Any notices to Parties required by this Agreement shall be delivered or mailed, United States first-class postage prepaid, by fax or by electronic mail at the following addresses, fax numbers, or electronic mail addresses:

NORTH YUBA WATER DISTRICT

Jeff Maupin, General Manager
8691 La Porte Rd
Brownsville, CA 95919
jmaupin@nywd.org

BYRON-BETHANY IRRIGATION DISTRICT

Kelley Geyer, Assistant General Manager
7995 Bruns Rd
Byron, CA 94514
k.geyer@bbid.org

- b. Notice shall be deemed given (a) two calendar days following mailing via regular or certified mail, return receipt requested, (b) one business day after deposit with any one-day delivery service assuring "next day" delivery, (c) upon actual receipt of notice, or (d) upon transmission, if by facsimile or electronic mail, whichever is earlier. The Parties shall promptly give written notice to each other of any change of address, and mailing or shipment to the addresses stated herein shall be deemed sufficient unless written notification of a change of address has been received.
22. **APPROVALS:** Where the terms of this Agreement provide for action to be based upon a judgment, approval, review, or determination of either Party, such terms are not intended to be and shall never be construed as permitting such opinion, judgment, approval, review, or determination to be arbitrary, capricious, or unreasonable.
23. **ARBITRATION:** In the event of a dispute between the Parties as to any right, alleged right, obligation, or alleged obligation under this Agreement, the Parties shall make a good-faith effort to resolve the dispute. In the event that a resolution of the dispute cannot be reached despite these efforts, either Party may declare an impasse and its intent to submit the matter to arbitration. Any such arbitration shall be held and conducted before one arbitrator who shall be selected by mutual agreement of the Parties. If agreement is not reached on the selection of an arbitrator within fifteen (15) days after a Party has notified the other Party of its election to submit to arbitration, then such arbitrator shall be appointed by the presiding judge of the Superior Court of Sacramento County upon application of either Party hereto. The award or decision of the arbitrator shall be final, and judgment may be entered thereon. The provisions of Title 9 of Part 3 of the California Code of Civil Procedure, including §1283.05, and successor statutes, permitting expanded discovery proceedings shall be applicable to all disputes which are arbitrated pursuant to this paragraph.
24. **OTHER AGREEMENTS:** Nothing contained herein restricts the Seller from providing water services and sales to others as authorized by law which do not unreasonably interfere with Seller's obligations hereunder.

Initials: KMG _____

25. **ENTIRE AGREEMENT:** This Agreement constitutes the entire agreement between the Seller and Buyer and supersedes any oral agreement, statement, or promise between them relating to the specific subject matter of this Agreement. Any amendment, including oral modifications, must be reduced to writing and signed by both Parties to be effective.
26. **COUNTERPARTS:** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement shall not be effective until the execution and delivery between each of the Parties of at least one set of counterparts. The Parties authorize each other to detach and combine original signature pages and consolidate them into a single identical original. Any one of such completely executed counterparts shall be sufficient proof of this Agreement.
27. **GENERAL INTERPRETATION:** The terms of this Agreement have been negotiated by the Parties hereto and the language used in this Agreement shall be deemed to be the language chosen by the Parties hereto to express their mutual intent. This Agreement shall be construed without regard to any presumption or rule requiring construction against the Party causing such instrument or any portion thereof to be drafted, or in favor of the Party receiving a particular benefit under the Agreement. No rule of strict construction will be applied against any person.
28. **AGREEMENT NOT PRECEDENT:** The Parties acknowledge and agree that nothing in this Agreement shall be considered precedent for any agreements for purchase and sale of water between the Parties in any future year.

IN WITNESS WHEREOF, the Parties have executed this Agreement effective as of the date first above written.

BUYER: BYRON-BETHANY IRRIGATION DISTRICT

By:  Date: 5/10/2022
Kelley Geyer, Assistant General Manager

SELLER: NORTH YUBA WATER DISTRICT

By: _____ Date: _____
Jeff Maupin, General Manager

Initials: KMG _____