

RECORDING REQUESTED; WHEN RECORDED RETURN TO:
Yolo County Flood Control and
Water Conservation District
34274 State Highway 16
Woodland, CA 95695

DOCUMENT NUMBER

95-006551

RECORDED AT REQUEST

Grant

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**STANDARD AGREEMENT FOR SALE OF WATER
(NON-AGRICULTURAL WATER)**

LAKE COUNTY
ASSESSOR-RECORDER
DAN L. IRWIN

NO FEE

THIS AGREEMENT is entered into this 11th day of April
 , 1995, by and between the YOLO COUNTY FLOOD CONTROL AND
WATER CONSERVATION DISTRICT (hereinafter referred to as the
"District") and COUNTY OF LAKE FOR **COUNTY SERVICES AREA #20**
(hereinafter referred to as "Water User").

RECITALS

A. The District is holder of rights to store and divert
water from Clear Lake for irrigation, domestic, municipal, and
other beneficial uses.

B. The District, as successor to the Clear Lake Water
Company, has an obligation to offer water for sale from Clear Lake
to serve the dedicated service area of the Clear Lake Water
Company, which includes the area proposed to be served by the Water
User.

C. To the extent that the District has water supplies
available from Clear Lake sufficient to meet Water User's ultimate
needs, the District will allow water to be diverted by Water User
as set forth in this Agreement. In the event that there is a
shortage of water available from Clear Lake, municipal water use
around Clear Lake shall have priority over other uses.

D. The District withdraws water from Clear Lake pursuant to the operating criteria set forth in that certain Stipulation and Consent to Entry Judgment and Decree, filed March 27, 1978, in the Case County of Lake v. Yolo County Flood Control and Water Conservation District (Solano County Superior Court No. 58122).

E. Pursuant to Paragraph 3 of the Stipulation, the operating criteria regulating withdrawals of water from Clear Lake do not limit the District's right, under any condition, to withdraw water from Clear Lake for municipal use within Lake County.

F. Water User claims it owns certain littoral water rights to Clear Lake. These claimed littoral lands are shown on the map of Water User's service area, attached as Exhibit "A" and incorporated herein, and hereinafter referred to as "Littoral Lands".

G. The District and Water User recognize that all withdrawals of water from Clear Lake have an impact on the amount of water available to the District for other purposes and that, therefore, all withdrawals by Water User from Clear Lake, other than for use on Littoral Lands, shall be paid for pursuant to the provisions of this Agreement.

NOW, THEREFORE, based on the considerations recited above and the terms and conditions set forth below, the District and Water User agree as follows:

1. To the extent that the District has water supplies available from Clear Lake sufficient to meet Water User's needs, the District agrees to allow Water User to purchase up to 1,200

acre feet annually of untreated water each year for municipal, industrial, or other non-agricultural use within its service area, as shown on Exhibit "A", attached hereto. Water User shall be under no obligation to take any particular amount of water in any year, but shall pay for all water diverted from Clear Lake pursuant to this Agreement, except for water diverted for use on Littoral Lands, as provided in Paragraph 8. Water diverted by Water User pursuant to this Agreement shall only be used within the service area of Water User, as shown on Exhibit "A"(as modified by annexations from time to time which have been approved by the District), and shall not be used in, or delivered to, areas outside such service area.

2. Water User agrees that it will not divert water from Clear Lake at any location other than that set forth in Exhibit "A" without the prior written consent of the District. To the extent it is authorized to do so, Water User shall prohibit all other diversions from Clear Lake within its service area, except through the diversion point set forth on Exhibit "A". Water User shall pay all costs of diverting water from Clear Lake.

3. Water User, at its sole cost, agrees to place a measuring device approved by the District on its water diversion facility and to account to the District on a bi-monthly (every two months) basis for the quantities of water diverted. Water User shall, at its sole cost, keep and maintain the measuring device in good working condition. The measuring device installed by Water User shall be available for District inspection, upon reasonable request. Water

User shall provide the District a bi-monthly (every two months) Statement of Water Usage (on forms available from the District) so that it is received by the District within 30 days of the end of each bi-month (every two months) period. Within 30 days from the date of District's written request, Water User shall provide the District copies of all supporting data which may be necessary to confirm the quantities of water diverted. If a Statement of Water Usage or supporting data requested by the District is not received by the District within this 30 day period, the parties agree the District shall assume that Water User diverted not less than 100 acre feet of water that month, which is one-twelfth of 1,200 acre feet (the allowable annual use) and shall be billed accordingly. The assumed amount diverted for purposes of the preceding sentence shall be subject to increase if Water User actually diverts more water.

4. Water User agrees to pay the District for all water diverted from Clear Lake, other than for use upon Littoral Lands at the water rates established by the District, as set by the District from time to time.

5. Water User shall remit to the District payment of water charges at the time of submittal of its bi-monthly (every two months) Statement of Water Usage. All charges remaining unpaid thereafter will become delinquent and bear interest and incur penalties at the rates applicable to water users within the District, as set by the District from time to time.

6. The parties recognize that District may find it necessary to increase its water rates from time to time. The parties agree that an annual increase of not more than the greater of (a) 5%, or (b) the average percentage increase to District water users within the District, shall be considered reasonable. Only adjustments in excess of the greater of those annual percentages shall be subject to objection and binding arbitration as hereinafter provided. The District shall provide 30 days' prior written notice of any proposed increase in rates. Water User shall have 60 days from the date of such notice to determine whether to arbitrate the rate increase. During the 30 days between the effective date of the increase and the deadline for deciding whether to seek arbitration, Water User shall pay applicable water charges, but may pay the water charges under protest and receive a refund, plus the legal rate of interest, if it prevails in the arbitration.

7. If Water User elects not to accept the rate adjustment contemplated in the preceding paragraph, the parties agree to binding arbitration under the rules and procedures of the American Arbitration Association, or any lawful successor thereof. Any arbitrator selected shall not be a resident of either Lake County or Yolo County, or a property owner or leaseholder therein, unless the parties agree otherwise. The parties intend such arbitration to be binding because of the delay and expense attendant upon court proceedings. If hereafter the State of California or any of its political subdivisions establish a regulatory body having jurisdiction over such contracts as this, the parties agree that,

in lieu of arbitration, such body shall have jurisdiction to determine the fairness of any such rate increase, consistent with the terms of this Agreement. Each party shall pay one-half of the fees and charges of arbitration therefor, except each party shall pay its own attorney fees in such connection.

8. Water User shall be entitled to divert water from Clear Lake for use on Littoral Lands pursuant to its claimed littoral water right. Water User shall not be required to pay the District for this amount of water. Water taken pursuant to Water User's claimed littoral water right may be used only on the Littoral Lands and only for proper littoral uses. Although Water User shall not be required to pay for water taken pursuant to this paragraph, Water User shall report the amount of water so used.

9. Water User agrees that it is fully responsible for the carriage, treatment, and use of all water after it is diverted by Water User from Clear Lake, and Water User shall indemnify; hold the District harmless from, and defend it against any and all claims, lawsuits, or damages arising from Water User's diversion, sales, and use of the water covered by this Agreement.

10. If any action at law or in equity is brought to enforce or interpret the provisions of this Agreement, the prevailing party shall be entitled to reasonable attorney fees in addition to any other relief to which it may be entitled, except as provided by Paragraph 7 of this Agreement.

11. This Agreement shall remain in effect until December 31, 2020, and shall be binding on and inure to the benefit of the

successors and assigns of the parties, except that, this Agreement may be terminated by Water User, upon written notice to District, only if and upon a final decision of a court of competent jurisdiction, that District has no appropriative right to the waters of Clear Lake.

12. After December 31, 2020, this Agreement shall automatically be renewed for a successive ten year term or terms, until such time as either party shall give notice to the other party of its desire not to renew. Such notice shall be made in writing no less than 90 days in advance of the scheduled renewal date.

COUNTY OF LAKE
BOARD OF SUPERVISORS:

YOLO COUNTY FLOOD CONTROL AND
WATER CONSERVATION DISTRICT:

By D. W. Merriman
Chairman, Board of Supervisors

By Curtis M. Miller
Curtis M. Miller, Chairman

Attest: Kelly F. Cox
Clerk, Board of Supervisors

Attest:

By James F. Eagan

By James F. Eagan
James F. Eagan, Secretary

Approved As To Form:
Cameron L. Reeves
County Counsel

The within instrument is a correct
copy of the Document on file in
this office.

ATTEST: 5-2-95

KELLY F. COX
Clerk of the Board of Supervisors of
the State of California in and for the
County of Lake.

By James F. Eagan

