

MEMORANDUM
OFFICE OF THE
COUNTY EXECUTIVE
COUNTY OF PLACER

TO: Honorable Board of Supervisors

FROM: David Boesch, County Executive Officer
By: Brett Storey, Senior Management Analyst

DATE: October 8, 2013

SUBJECT: Agreement with Placer County Water Agency to provide for annual costs of County services for supporting the operations of the Middle Fork Project.

ACTION REQUESTED

Authorize the Board Chair to sign an agreement with Placer County Water Agency to provide funding to the County of Placer for incurred costs associated with providing County services necessary for supporting the operations of the Middle Fork Project.

BACKGROUND

Placer County (County) staff have been working with Placer County Water Agency (PCWA) staff for the past seven years to formulate the economic and environmental studies, relicensing agreements, power system upgrades, power purchase agreements, budgets, and policies which will determine the operations of the Middle Fork Project (Project) for the duration of the new Federal Energy Regulatory Commission (FERC) operating license. In that process, a variety of critical operations that support PCWA, other state and federal agencies, and the public were identified to be operational costs of the Project. A nexus study was conducted utilizing all County departments affected by the Project regarding the planned new license conditions and facilities and current and expected visitor growth. This study was the basis for determining the type and quantity of County personnel time required to perform the necessary services to protect and enhance the area for our citizens and visitors to the project. Both PCWA and County staff and management have agreed upon the tasks and allocations of funding for County personnel and operations. In addition to this Agreement, County staff works to support the strategic relationship of the business planning, energy marketing, legislative, regulatory, legal and overall integration of the power operations of the Middle Fork Project. County staff annually submits its support service budget requests, as does our partner PCWA, via the Middle Fork Project Finance Authority Budget process and procedures.

County Counsel has supported staff in developing this agreement to fund vital services such as:

- Public Safety Services: Protection of the public, emergency response, arrest and incarceration and other law enforcement services, fire suppression and emergency communication and response and other fire protection services, prosecution, defense and other criminal justice services related to Project operations and activities.
- Public Accessibility Services: Road repair, maintenance and rehabilitation and other services, fire risk reduction, fuels maintenance and other public safety services,

telecommunications maintenance and development and other communications services in an around the Project area.

- Impact on County Revenues: Compensation to the County on an annual basis in lieu of possessory interest property taxes for revenue lost resulting from the removal of the Project from the property tax rolls.

The agreement will provide annual funds to cover these operations and has a built-in escalation factor to ensure the full support of the County in the future. The proceeds of the sale of energy of the Project will be the source of all funding. PCWA is the owner and operator of the Project and this service agreement is an operating cost of the Project. PCWA has executed similar service agreements with the US Forest Service, Bureau of Land Management, and Bureau of Reclamation to remunerate those entities for services they render in support of the Project on lands they manage. The Agreement will be provided to the Middle Fork Project Finance Authority (MFPFA) Board as information and the associated cost will be placed annually into the PCWA operating budget for approval by the MFPFA. The estimated annual amount for two-thirds of this year (\$1,093,775 - PCWA began commercial operation of the Project on May 1, 2013) was budgeted for and approved for FY2013 by the MFPFA Board at their board meeting last November 2012.

Annual documentation of activities and services rendered to PCWA is included as a term of the Agreement. The Agreement will be reviewed every 5 years to review costs and cost accounting methodologies.

FISCAL IMPACT

Placer County will receive one million six hundred thirty-two thousand five hundred dollars (\$1,632,500) annually (with an escalation) through the term of the new Project license, which is expected to run 30 to 50 years. The amount will be included in the requested PCWA Power Division operating budget each year. The amount for 2013 will be reduced by one third due to the short operating year and be for \$1,093,775.

Attachment:

Memorandum of Agreement between Placer County and Placer County Water Agency for Middle Fork costs

cc: Holly Heinzen, Chief Assistant CEO
Gerald Carden, Chief County Counsel

MEMORANDUM OF AGREEMENT
BETWEEN THE COUNTY OF PLACER
AND THE PLACER COUNTY WATER AGENCY
TO PROVIDE FOR PAYMENT OF COUNTY OF PLACER COSTS
RELATED TO THE MIDDLE FORK PROJECT

THIS AGREEMENT, is entered into this ___ day of _____, 2013, by and between the COUNTY OF PLACER ("County"), a political subdivision of the State of California and PLACER COUNTY WATER AGENCY ("Agency"), a political subdivision of the State of California, duly organized pursuant to Chapter 81 of the California Water Code Appendix. County and the Agency are sometimes referred to collectively as the Parties.

RECITALS

WHEREAS, the Agency is the owner and operator of the Middle Fork Project ("Project"), a water supply and hydroelectric generation project located on the Middle Fork of the American River; and,

WHEREAS, the Project includes numerous recreational facilities required by the terms and conditions of Federal Energy Regulatory Commission (FERC) License No. 2079 which gives rise to an increased need for public services related to the health and safety of citizens who reside near or use the public lands within the Project; and,

WHEREAS, the County is responsible for providing public services and responding to the health and safety needs of citizens who reside near or utilize the public lands within the Project area for recreation activities and will incur certain costs associated thereto; and,

WHEREAS, the Agency, in cooperation with County staff, recently undertook a thorough analysis of the County's costs associated with responding to public access and public safety issues in the project area; and,

WHEREAS, the Agency wishes to take advantage of the public services provided by the County and to fairly compensate the County for performance of these services;

NOW THEREFORE, in consideration of the covenants herein contained, it is mutually agreed by the parties hereto as follows:

1. Incorporation of Recitals. The above recitals are hereby incorporated herein as if set forth below.

2. Term. This Agreement shall remain in effect for the term of the new long-term operating license when granted under the Agency's application pending before FERC, or such other date as may be mutually agreed to in writing by the Parties. The parties agree to meet and confer at least once every five (5) years through the term of the Agreement, beginning in 2018, to reassess the services needed and provided, and the costs and cost methodologies outlined in this Agreement.

3. County Costs. The Agency agrees to pay the County for the following services as operating costs of the Project:

(a) Public Safety Services related to Project operations: Protection of the public, emergency response, arrest and incarceration and other law enforcement services provided by or through the Placer County Sheriff's Department; fire suppression and emergency communication and response and other fire protection services provided by or through Placer County; prosecution, defense and other criminal justice services provided by or through the Placer County District Attorney and Probation Department. Total annual payment amount for these services shall be Eight Hundred and Seven Thousand Dollars (\$807,000.00) beginning in 2013, adjusted thereafter annually for inflation.

(b) Public Accessibility Services related to Project operations: Road repair, maintenance and rehabilitation and other services provided by or through the Placer County Department of Public Works; fire risk reduction, fuels maintenance, and other public safety services provided by or through Placer County; and telecommunications maintenance and development, and other communications services provided by or through the Placer County Department of Administrative Services. Total annual payment amount shall be Five Hundred

and Twenty-Five Thousand Five Hundred Dollars (\$525,500.00) beginning in 2013, adjusted annually thereafter for inflation.

(c) Impact on County Revenues: To compensate the County on an annual basis in lieu of possessory interest property taxes for revenue lost resulting from the removal of the Project from the property tax rolls, including the value of all improvements and personal property consistent with customary assessment procedures used by the County Assessor and the State Board of Equalization, and subject to the customary assessment, auditing, and collection practices utilized by the County. Total annual payment shall be Three Hundred Thousand Dollars (\$300,000) beginning in 2013, adjusted annually thereafter for inflation.

Total annual payment amount for County costs in this agreement shall be One Million, Six Hundred Thirty-Two Thousand, Five Hundred Dollars (\$1,632,500.00) beginning in 2013, adjusted annually thereafter for inflation.

4. County Support Services. The Agency, pursuant to the Cash Process Flow and Procedures approved by the MFP Finance Authority, will continue to pay the County for its administrative and other support services related to the Project.

5. Annual Documentation and Reporting. On or before April 1 following each fiscal year the County shall provide to Agency a written report on the activities performed under this Agreement to ensure that all services are conducted in the best interests of the Project.

6. Source of Funding. The sole source of funding for payments to the County by the Agency as specified in Sections 3 and 4, above, shall be from the revenues from contract(s) for the sale of the energy, capacity, and ancillary products services or attributes that are or can be produced by the Project after payment of Agency operation and maintenance costs. The Agency shall have no obligation to make payment to County from any other source.

7. Payment and Adjustment for Inflation

(a) Payment for 2013: The above provisions define the annual cost of services to be provided by the County beginning in 2013. However, in the year 2013 the County will only be reimbursed for providing those services for the portion of the year during which the Project will be operated under the new Power Purchase Contract, which took effect on May 1, 2013. Therefore, in 2013, the payments for each of the services described above shall be two thirds (2/3) of the defined full year amount and shall be paid in one lump sum of One Million, Ninety-Three Thousand, Seven Hundred Seventy-Five Dollars (\$1,093,775) by October 30, 2013.

(b) Payment for subsequent years: The total annual payment to the County for all services in subsequent years (2014 through end of contract) shall be subject to annual adjustment based on the November U.S. Gross Domestic Product - Implicit Price Deflator, as published by the U.S Department of Commerce. Each year's payment shall be paid in twelve (12) equal payments commencing on January 31 of each year and then on the last day each month thereafter, up through and including December 31.

8. Miscellaneous Provisions. This Agreement shall be governed by the Miscellaneous Provisions (except for Section 8.06, Enforcement by Authority) contained in Article VIII of the Joint Exercise of Powers Agreement for the Middle Fork Project Finance Authority between the Parties dated January 10, 2006.

NOW, THEREFORE, the parties have executed this Agreement on the dates listed below.

COUNTY OF PLACER

Jim Holmes, Chair
Board of Supervisors

Date: _____, 2013

Attest:

Approved as to form:

Ann Holman
Clerk of the Board

Gerald O. Carden
County Counsel

PLACER COUNTY WATER AGENCY

Gray Allen, Chair
Board of Directors

Date: _____, 2013

Attest:

Approved as to form:

Cheri Sprunck
Clerk to the Board

Agency Counsel

