

REGIONAL SEWAGE SERVICE ORDINANCE

ORDINANCE NO. 111

AN ORDINANCE OF THE BOARD OF DIRECTORS OF INLAND EMPIRE UTILITIES AGENCY, A MUNICIPAL WATER DISTRICT, ESTABLISHING REGULATIONS GOVERNING THE COLLECTION, TREATMENT, AND DISPOSAL OF SEWAGE TO THE REGIONAL SEWERAGE SYSTEM IN THE INLAND EMPIRE UTILITIES AGENCY, SAN BERNARDINO COUNTY, STATE OF CALIFORNIA.

BE IT ORDAINED by the Board of Directors of the Inland Empire Utilities Agency as follows:

DRAFT

Table of Contents

SECTION 1 - GENERAL PROVISIONS 1

SECTION 2 - RIGHTS AND OBLIGATIONS 7

SECTION 3 - COMMUNITY SEWER SYSTEMS..... 7

SECTION 4 - RESERVED..... 7

SECTION 5 - RESERVED..... 7

SECTION 6 - REGIONAL SEWERAGE SYSTEM; PROBHITED DISCHARGES..... 7

SECTION 7 - REGIONAL PRETREATMENT PROGRAM..... 9

SECTION 8 - RESERVED..... 9

SECTION 9 - CAPITAL FINANCING OF REGIONAL SEWERAGE SYSTEM 9

SECTION 10 - FORECASTING AND PLANNING..... 14

SECTION 11 - RESERVED..... 16

SECTION 12 - EXTRA-TERRITORIAL SEWER SERVICE 17

SECTION 13 - DELIVERY POINTS: CONNECTION COSTS..... 18

SECTION 14 - DETERMINATION OF SEWAGE DELIVERIES: COSTS OF
MEASURING EQUIPMENT..... 19

SECTION 15 - CONTROL, PRODUCTION, AND DISPOSITION OF RECYCLED
WATER 19

SECTION 16 - RESERVED..... 19

SECTION 17 - SERVICE CHARGES FOR MAINTENANCE AND OPERATION OF
THE REGIONAL SEWERAGE SYSTEM..... 20

SECTION 18 - RESERVED..... 21

SECTION 19 - REGIONAL SEWERAGE SYSTEM BUDGETS 21

SECTION 20 - BILLING AND PAYMENT OF SERVICE CHARGES 23

Table of Contents

(continued)

SECTION 21 - RESERVED.....	25
SECTION 22 - RESERVED.....	25
SECTION 23 - RESERVED.....	25
SECTION 24 - REGIONAL POLICY COMMITTEE.....	25
SECTION 25 - REGIONAL TECHNICAL COMMITTEE	26
SECTION 26 - ADMINISTRATIVE ENFORCEMENT REMEDIES.....	27
SECTION 27 - JUDICIAL ENFORCEMENT REMEDIES.....	28
SECTION 28 - EFFECTIVE DATE.....	29

DRAFT

SECTION 1 - GENERAL PROVISIONS

1.1 PURPOSE AND POLICY

This Ordinance is enacted under the authority of the Municipal Water District Law of 1911, California Water Code §71000 et. seq., California Health and Safety Code §5470 et. seq., and sets forth uniform requirements for users of the Regional Sewerage System, a Publicly Owned Treatment Works (POTW), in the Inland Empire Utilities Agency (IEUA) in San Bernardino County, State of California. This Ordinance is enacted in contemplation of the termination of the Chino Basin Regional Sewage Service Contract As Amended in 1994 which expires under its terms on January 2, 2023. This Ordinance enables the IEUA to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code [U.S.C.] Section 1251 et. seq.), and the California Water Code as amended. The objectives of this Ordinance are:

To define the terms and conditions for use of the Regional Sewage System of IEUA within its service area including for the Cities of Chino, Chino Hills, Fontana, Montclair, Ontario, Upland, and the Cucamonga Valley Water District, collectively henceforth known as Sewage Collection Agencies (SCAs) which services includes, but are not limited to, the collection, treatment, and disposal of sewage;

To recognize that IEUA under its National Pollutant Discharge Elimination System permit conditions, has authority to administer the Regional Pretreatment Program over wastewater Discharges within its service area;

To adopt the terms and conditions to compute the uniform financial obligations for users of the Regional Sewage System;

To comply with the continuing service provisions of Section 29 of the Chino Basin Regional Sewage Service Contract As Amended in 1994.

1.2 SEVERABILITY

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason found to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the remaining portion of this Ordinance. The IEUA Board of Directors declares that it would have

approved this Ordinance by section, subsection, sentence, clause, or phrase irrespective of the fact that any one or more of the sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

1.3 ADMINISTRATION

Except as otherwise provided herein, the General Manager of the IEUA shall administer, implement, and enforce the provisions of this Ordinance. Any powers granted to or duties imposed upon the General Manager may be delegated by the General Manager to a Duly Authorized IEUA Employee.

1.4 RIGHT OF REVISION

IEUA reserves the right to amend this Ordinance, as it deems appropriate.

1.5 PROTECTION FROM DAMAGE

No person shall maliciously, willfully, or negligently break, damage, destroy, impair the usefulness, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the Regional Sewerage System.

1.6 NOTICE PROCEDURE

Unless otherwise provided herein, any notice required to be given by the General Manager under this Ordinance shall be in writing and served in person or by certified mail, return receipt requested. The notice shall be served upon a duly authorized representative of the SCA, at the last address known to the General Manager.

1.7 DEFINITIONS

Unless otherwise required by the context, various terms used in this Ordinance, including the recitals, shall have the meanings set forth in this section. The singular number includes the plural and the plural the singular.

“Capacity Demand” means the volume and strength (i.e., biochemical oxygen demand and suspended solids) of sewage discharged from the Community Sewer System of a SCA into the Regional Sewerage System.

“Capital Capacity Reimbursement Account” means the accounts established and maintained by the SCAs and to which are deposited or credited Capital Capacity Reimbursement Payments.

“Capital Capacity Reimbursement Payment” means a deposit or credit made to the Capital Capacity Reimbursement Account of a SCA for new connections to its Community Sewer System.

“Chino Basin” means that area underlain by the Chino and Cucamonga groundwater basins and that portion of the Claremont Heights groundwater basin within San Bernardino County which groundwater basins are described in Bulletin No. 53 of the California Division of Water Resources, dated March, 1947, and entitled “South Coastal Basin Investigation - Overdraft on Groundwater Basins.”

“Commercial Unit” means a building, establishment or premises where businesses selling goods or providing professional or other services to the public or governmental offices are or will be located.

“Community Sewer System” means all facilities owned, controlled or operated by a Sewage Collection Agency for the purpose of collecting and conducting sewage to a delivery point, including collector sewers conducting sewage from the originating premises, trunk sewers conducting sewage from tributary collector sewers or other trunk sewers and any facilities appurtenant to the foregoing.

“Demand Deficit” means the difference between the aggregate total Forecasted Demand of a SCA and the total aggregate Equivalent Dwelling Units connected to its Community Sewer System during an eight-year period commencing with the fifth fiscal year preceding the fiscal year for which IEUA is at the time of the determination of such difference preparing a Ten-Year Sewer Capital Forecast, and including the initial three fiscal years of such Ten-Year Sewer Capital Forecast.

“Delivery Point” means the transfer point at which Sewage is delivered from a Community Sewer System into the Regional Sewerage System.

“Dispose” or “Disposal” means any process or method for the elimination or beneficial use of Sewage and any Effluent or solid waste residuals thereof, including exportation from the Chino Basin.

“Effluent” means the liquid outflow at the discharge point of any Regional Treatment Plant.

“Equivalent Dwelling Unit” or “EDU” means a measure of sewage flow equivalent in quantity and strength to the daily flow of an average single-family household determined by resolution of the Board of Directors of IEUA and referred to as Exhibit “J” .

“Expansion” means the acquisition or construction of new facilities for the Regional Sewerage System and the making of any replacements, betterments, additions or extensions of the Regional Sewerage System.

“Facilities” means any pipelines, buildings, structures, works, improvements, fixtures, machinery, equipment, or appliances and any real property, or interests therein, necessary or convenient for the construction, maintenance and operation of any of the Regional Sewerage System.

“Fiscal Year” means a 12-month period commencing on July 1 and ending on the following June 30.

“Forecasted Demand” means the yearly forecasted or estimated volume and strength of sewage discharged from the Community Sewer System of a SCA into the Regional Sewerage System as set forth in a Ten-Year Sewer Capital Forecast.

“IEUA” means the Inland Empire Utilities Agency, a municipal water district.

“Industrial Unit” means a building, establishment, or premises where manufacturing, fabrication or assembly operations or industrial or chemical processes are conducted.

“Industrial Waste” means any wastewater and any water borne solid, liquid, or gaseous wastes resulting from any producing, manufacturing, or processing operations of whatever nature as more particularly defined, from time to time, by any federal, state, or regional agency authorized by law to prescribe quality standards for the discharge of sewage effluent and industrial waste effluent within the Chino Basin.

“Non-Domestic Waste” means waste or wastewater discharged into the Community Sewer System of a SCA which has a greater concentration of total dissolved solids or biochemical oxygen demand or any other constituents limited by IEUA than the waste or wastewater discharged from the typical single family domestic household in the SCA’s Service Area.

“Recycled Water” means as defined in Title 22, Division 4, Chapter 3, Water Recycling Criteria, Section 60301.050 et seq., of the California Code of Regulations; water which is available as a result of the treatment of wastewater. Also as described in subdivision (n) of Section 13050 of the Water Code of the State of California, treated wastewater that is suitable for direct beneficial use or a controlled use that would not otherwise occur.

“Regional Interceptor” includes, but is not limited to, pipelines, facilities and appurtenances which receive sewage from the most downstream trunk or collector sewer of a Community Sewer System, or a portion thereof, for the purpose of transmitting the sewage to a Regional Treatment Plant or to any other point of disposal, and any facilities appurtenant thereto, or any sewer which is utilized for the transmission of the sewage of two or more SCAs to such a plant or point of disposal.

“Regional Policy Committee” means the committee provided for in Section 24 hereof

“Regional Sewerage System” means all facilities owned, controlled, or operated by IEUA and any interest or capacity rights of IEUA in facilities owned, controlled, or operated by others, for the purpose of transmitting, treating and/or disposing of Sewage, including interceptor sewers, sewage treatment and disposal plants, facilities for the Disposal of Effluent and solid waste residuals and any facilities appurtenant to the foregoing. The Regional Sewerage System does not include the recycled water system which is owned, operated, managed, and maintained by IEUA. The Regional Sewerage System shall include all other disposal facilities which are required to meet the requirements of the National Pollutant Discharge Elimination System Permit or permits or Waste Discharge Requirements issued to IEUA by the Regional Water Quality Control Board, Santa Ana Region, for the operation of the Regional Treatment Plants.

“Regional Technical Committee” means the committee provided for in Section 25 hereof.

“Regional Treatment Plant” means a sewage and wastewater treatment plant operated by IEUA as part of the Regional Sewerage System.

“Regional Wastewater Capital Improvement Fund” means the fund of IEUA into which is deposited all Supplemental Capital Outlay Funds received by IEUA from the SCAs for the acquisition, construction, improvement, and expansion of the Regional Sewerage System.

“Residential Unit” means a single-family residence, a condominium unit, an apartment unit or other such structure or portion thereof which is equipped and suitable for human habitation or a mobile home space in a mobile home park, not including, however, transient lodging rooms in motels or hotels which are considered to be commercial units.

“Service Area” means all territory now or hereafter served by the Community Sewer System owned, controlled or operated by any SCA. The IEUA service area includes the Cities of Chino, Chino Hills, Fontana, Montclair, Ontario, Upland, and the Cucamonga Valley Water District.

“Sewage” means any liquid waste and water borne solid waste resulting from residential, commercial, industrial, or institutional activities or uses.

“Sewage Collection Agency” (SCA) means any county, city or special district, other than IEUA, which is located in whole or in part within the IEUA Service Area and which is authorized to own, control and operate a Community Sewer System.

“Sewer” means any pipeline conducting sewage, either by gravity or by pressure, and any facilities appurtenant thereto.

“Sewer User Charge” means any charge, fee, rental, or rate, excluding property taxes and Capital Capacity Reimbursement Payments, which is imposed on and collected from the owner, lessee, or occupant of property for providing services and facilities of any Community Sewer System or the Regional Sewerage System, or both.

“Supplemental Capital Outlay Funds” means contributions by a SCA from its Capital Capacity Reimbursement Account reserves to IEUA to supplement the funding of the planning, design and construction of Regional Sewerage System capital improvement projects.

“Transmit” or “Transmission” means the conducting (i) of Sewage from any Delivery Point to a Regional Treatment Plant or other point of Disposal or (ii) of Effluent from a Regional Treatment Plant to a point of Disposal;

“Treat” or “Treating” or “Treatment” means any process or method for altering the quality of Sewage and/or Effluent to meet applicable regulatory standards for Disposal or beneficial reuse.

SECTION 2 - RIGHTS AND OBLIGATIONS

A SCA shall have the right to deliver all Sewage collected by its Community Sewer Systems to the Regional Sewerage System and IEUA shall have the obligation to receive into the Regional Sewerage System all Sewage so delivered by the SCA subject to the provisions of this Ordinance.

SECTION 3 - COMMUNITY SEWER SYSTEMS

Each SCA shall be responsible for all costs and expenses of the acquisition, construction, operation, and maintenance of its Community Sewer System.

A. Inspection of Facilities

Any authorized officer or employee of IEUA may enter and inspect any part of the Community Sewer System of any SCA during normal working hours on regular business days and upon the giving of not less than 24 hours prior notice of the inspection, except during emergencies.

SECTION 4 - RESERVED

SECTION 5 - RESERVED

SECTION 6 - REGIONAL SEWERAGE SYSTEM; PROHIBITED DISCHARGES

IEUA shall own and operate a Regional Sewerage System for the Transmission, Treatment and Disposal of Sewage delivered by any SCA. The Regional Sewerage System, including any interests or capacity rights of IEUA in facilities owned, controlled or operated by others, shall be as shown or described in the IEUA Wastewater Facilities Master Plan, as amended from time to time, and is intended to accept domestic waste.

Use of the Regional Sewerage System by industrial users discharging process wastewater shall be governed by Ordinance No. 109, or any successors thereof.

Except as may be specifically provided on a temporary basis, no SCA shall discharge or cause to be discharged in the Regional Sewerage System any waste which exceeds or results in the inability of the wastewater treatment plant effluent to meet the wastewater discharge requirements presently established by any State or Federal regulatory agency, or which may be adopted in the future.

A SCA shall not discharge wastewater, in quantities or concentrations, alone or in conjunction with a discharge or discharges from other sources that cause the pH of the wastewater entering the headworks of any Regional Treatment Plant to decrease below 6.0 Standard Units at any time.

A SCA shall not discharge wastewater, in quantities or concentrations, alone or in conjunction with a discharge or discharges cause an increase in temperature of a Regional Treatment Plant's influent to be above 90 degrees Fahrenheit, which normally occurs during the period of June through October, nor above 78 degrees Fahrenheit during the remainder of the year.

IEUA shall pay all costs and expenses incurred in the acquisition, construction, maintenance, and operation of the Regional Sewerage System. Each SCA shall, as provided in Section 17 hereof, pay to IEUA service charges representing a pro rata share of all net audited costs incurred by IEUA in the maintenance and operation of the Regional Sewerage System, and each SCA shall contribute Supplemental Capital Outlay Funds to IEUA for the improvement and expansion of the Regional Sewerage System as provided in Section 9 hereof.

Expansion of the Regional Sewerage System is done to accommodate growth and development within the respective SCA's service area and is based largely on growth projections and requests for expansion from the SCAs. Accordingly, voluntary withdrawal of wastewater flows by one or more SCAs could be detrimental to the Regional Sewerage System by creating stranded assets and resulting in increased costs to the remaining SCAs and IEUA would contest such withdrawal as unauthorized by law. Nevertheless, should a voluntary withdrawal of flows from the Regional Sewerage System occur, the impact of the withdrawal will be calculated by IEUA and an impact fee will be assessed against the withdrawing SCA[s].

SECTION 7 - REGIONAL PRETREATMENT PROGRAM

IEUA owns and operates the Regional Sewerage System facilities that are regulated by National Pollutant Discharge Elimination System (NPDES) permits issued by the Regional Water Quality Control Board, and which are subject to numerical discharge limitations and requirements. Those permit regulations and discharge limitations require the control and restrictions to the discharge of industrial wastewater on Significant Industrial Users (SIUs). Furthermore, the permit regulations require IEUA to implement pretreatment regulations in all jurisdictions tributary to IEUA's service area. The regional pretreatment program requirements between IEUA and the SCAs shall be established by resolution of the Board of Directors of IEUA and in Ordinance No. 109 and any successors thereof.

SECTION 8 - RESERVED

SECTION 9 - CAPITAL FINANCING OF REGIONAL SEWERAGE SYSTEM

A. General

The Regional Sewerage System and any improvement or expansion of that system will provide benefits to the entire territory served by that system in that the entire territory will be benefited by the protection of public health, the protection of the quality of water sources, the improvement of water management through integrated use of all sources of water supply, including sewage treatment plant effluent, the improvement of general conditions for individual, residential, commercial and agricultural development and the reduction in costs for the Transmission, Treatment, and Disposal of Sewage by the pro rata sharing of all costs incurred by IEUA in the maintenance and operation of the Regional Sewerage System.

The acquisition, construction, improvement, and expansion of the Regional Sewerage System shall be financed with real property tax revenues, revenues from capital capacity fees, sewage service charges levied by the Board of Directors of IEUA, grants and other financial assistance which may be available from any federal, state, local or other source, Supplemental Capital Outlay Funds contributed by the SCAs.

B. Taxes, Sewage Service Standby or Availability Charges

The Board of Directors of IEUA may fix, levy, and collect sewage service standby or availability charges for the purpose of financing the acquisition, improvement, and expansion of the Regional Sewerage System.

C. Capital Capacity Reimbursement Account and Capital Capacity Reimbursement Payments

1. General

As a condition to sewage treatment service and for the purpose of providing Supplemental Capital Outlay Funds to IEUA, each SCA shall establish and maintain a Capital Capacity Reimbursement Account to which the SCA shall deposit or credit its Capital Capacity Reimbursement Payments. The amounts so deposited or credited by a SCA to its said account shall be used by the SCA only for the purpose of providing Supplemental Capital Outlay Funds to IEUA; provided that interest earned on such amounts shall not be so restricted and may be used by the SCA for any lawful purpose. The source of Capital Capacity Reimbursement Payments shall be at the discretion of each SCA.

2. Capital Capacity Reimbursement Payments

Each SCA shall have deposited or credited to its Capital Capacity Reimbursement Account a Capital Capacity Reimbursement Payment for each connection which has been or will be made to its Community Sewer System or for each change in use of an existing commercial or industrial connection in an amount determined as follows:

- a. The amount of the Capital Capacity Reimbursement Payment for each new connection to a SCA's Community Sewer System and for each change in use of any existing Commercial Unit or Industrial Unit which results in an increase in volume or strength of Sewage therefrom shall be determined by computing the number of Equivalent Dwelling Units therefor as provided in that document approved by Resolution of the Board of Directors and identified as "Exhibit J" and made a part hereof and applying the then current Capital Capacity Reimbursement Payment amount as established by the IEUA Board to each such EDU.

- b. Notwithstanding the preceding provisions, the amount which a SCA is required to have deposited in or credited to its Capital Capacity Reimbursement account for any such new connection or change of use shall be reduced by payments, if any, made by the SCA to IEUA for the new connection or change of use to support Supplemental Capital Outlay Payments, made at IEUA's request.
- c. A Capital Capacity Reimbursement Payment shall be deposited or credited to a SCA's Capital Capacity Reimbursement Account for such a new connection or change of use at the time of the issuance of a building permit or a sewer connection permit, or for changes in the use of existing Commercial Units and Industrial Units, or the permits required therefor. Upon request by a SCA, IEUA will review, with support and consultation as needed from the Building Activity Report (BAR) Subcommittee, fee calculations and collections by any SCA for any errors, within 30 days from the receipt of the monthly building activity report, as further described herein, unless a more expedited review is requested by SCA. In the event a SCA fails to deposit Capital Capacity Reimbursement Payments into the SCA's Capital Capacity Reimbursement Account by the applicable deadlines, the SCA shall be required to make late payments in amounts which correspond to the adopted EDU rate in place at the time that said payments first became due and owing.

3. Capital Capacity Reimbursement Reports

- a. Each SCA shall report monthly to IEUA, at such time as IEUA shall designate, the balance of the funds in its Capital Capacity Reimbursement Account as of the last day of the preceding month. Such monthly reports shall be in writing and shall include the calculation sheets and also contain the number of building permits and sewer permits which were issued in the SCA's Service Area during the preceding month and estimated volume of Sewage flows for all residential, commercial, and industrial connections within the SCA's Service Area for the current month and the cumulative total thereof. Commercial and industrial sewer connection permits shall be listed by individual permit with the number of fixture units and expected volume and

strength of sewage for each permit. IEUA shall have 30 days from receipt of said reports to contact the applicable SCA with any questions or requests for clarification regarding the connection fee calculations reflected in said report.

- b. IEUA shall maintain a summary accounting of the Capital Capacity Reimbursement Account reserves of all SCAs and shall make written semiannual reports to the SCAs on or before 1) July 15 (with actuals up to March 31) and January 15, (with actuals up to September 30) of each fiscal year. The reports shall include: (i) the amounts of the Capital Capacity Reimbursement Account reserves of all SCAs as of the last day of March and September respectively, (ii) the amount of the Regional Wastewater Capital Improvement Fund reserves as of the last day of March and September respectively, (iii) a summary of all expenditures from said fund incurred up to March and September respectively for each Regional Sewerage System capital improvement project then in progress, (iv) an estimate of the amounts to be expended from said fund for each such project during the quarter then commencing or in progress (the “current quarter”), (v) the estimated amount of Supplemental Capital Outlay Funds, if any, which will be necessary for the SCAs to contribute to IEUA during the current quarter in order to provide a working capital balance in said fund which shall not exceed \$1,000,000 on the last day of the quarter next succeeding the current quarter, and (vi) the amount, if any, of the contribution of Supplemental Capital Outlay Funds for each SCA for the current quarter, determined as provided in subparts E and F of this Section.

D. Determination of Demand Deficits

At the time of the preparation of each Ten-Year Sewer Capital Forecast, pursuant to Section 10 hereof, IEUA shall determine each SCA's Demand Deficit, if any. The determination of Demand Deficits pursuant to this subpart is for the sole purpose of allocating shortages in Supplemental Capital Outlay Fund payments as provided in subpart F of this Section. Except as provided in said subpart F, such determinations shall not result in the creation of an obligation or indebtedness on the part of any SCA to IEUA or other SCAs.

E. Supplemental Capital Outlay Fund Payments

On July 15, and January 15, of any fiscal year IEUA may require payment by each SCA from its Capital Capacity Reimbursement Account of Supplemental Capital Outlay Funds for the planning, design and construction of Regional Sewerage System capital improvement projects in the amount, if any, set forth for the SCA in the semiannual report due from IEUA on such date. Upon receiving such a demand from IEUA, each SCA shall pay the amount demanded to IEUA within 45 days of receipt of such demand. The amount of each SCA's proportionate share of the total amount of Supplemental Capital Outlay Funds demanded by IEUA from all SCAs shall be determined based on the percentage which the amount of Supplemental Capital Outlay Funds demanded by IEUA from all SCAs is to the total amount of the current Capital Capacity Reimbursement Account reserves of all SCAs set forth in the semiannual report upon which the demand is based. The amount demanded by IEUA from each SCA on any such date shall be an amount determined by applying the percentage thus obtained to the balance of the reserves, not including interest, in the SCA's Capital Capacity Reimbursement Account set forth in the semiannual report upon which the demand is based. All amounts received by IEUA from the SCAs as Supplemental Capital Outlay Funds shall be deposited in or credited to the Regional Wastewater Capital Improvement Fund. All such amounts together with all interest earned thereon shall be available and utilized by IEUA solely for the purpose of financing the acquisition, improvement and expansion of the Regional Sewerage System.

F. Allocation of Supplemental Capital Outlay Fund Shortages

If at the time of any demand by for Supplemental Capital Outlay Funds, pursuant to subpart E of this Section, there are not sufficient funds deposited or credited to the Capital Capacity Reimbursement Accounts of all SCAs to pay the full amount of the demand, each SCA which has a Demand Deficit shall pay the full balance then deposited or credited to its Capital Capacity Reimbursement Account plus an amount determined based on the percentage which the amount of its Demand Deficit is of the total Demand Deficit for all SCAs. The amount to be paid by each such SCA shall be determined by multiplying the difference between, the Supplemental Capital Outlay Fund demand and the total amount of the Capital Capacity Reimbursement Account balances of all SCAs by the percentage thus determined.

G. Audit Process

The audit process for collection of connection fees by SCAs is intended to verify accuracy and uniformity in practices regionwide and to improve future performance. The audit and BAR review processes may result in IEUA and the SCAs working collaboratively to reconcile any discrepancies in connection fees from the Residential, or Commercial or Industrial Unit. SCAs may be audited by IEUA on an annual basis, as well as periodically through the Building Activity Reports Subcommittee as described below.

H. Building Activity Reports and Building Activity Reports Subcommittee

There shall be created a Building Activity Reports (“BAR”) Subcommittee comprised of a staff/employee representative from IEUA and also from of each SCA who elects to participate. The SCA representative may be changed by the applicable SCA at any time. IEUA will convene the BAR Subcommittee quarterly to complete a more extensive review of a percentage of applications for which connection fees have been calculated and collected. The percentage of applications to be reviewed will be determined by the BAR Subcommittee. The review by the BAR Subcommittee may include such reviews as, but not limited to, an in-depth look at the collection fee calculation methodology, approach for calculating connection fees for similar facilities (e.g. - facilities that have an embedded restaurant and other services), monthly sewer fee collections, for region wide consistency.

SECTION 10 - FORECASTING AND PLANNING

A. SCA Reports

1. Monthly Reports

On such date as IEUA may designate, each SCA shall submit to IEUA monthly reports of sewered building activity. Each such report shall contain the following information in a format which will allow tracking through the development process:

- a. The number of building permits issued during the month for structures which will contribute sewage to the Regional Sewerage System;
- b. Estimate volume of sewage and EDUs for such building permits;

- c. The tract number and number of lots for each tentative tract map approved during the month;
- d. The tract number and number of lots or dwelling units for each final tract map recorded during the month;
- e. The number of final inspections or certificates of occupancy issued during the month for structures which will contribute sewage to the Regional Sewerage System;
- f. The estimate volume of sewage and EDUs for all such structures.

B. IEUA Reports

1. Annual Forecast

IEUA shall work collaboratively with the individual SCAs to ensure they are using the most recent planning and other documents and incorporating agency knowledge about their service area into the Annual Forecast. On a biennial basis, prior to the first regularly scheduled Regional Technical Committee meeting of that calendar year, IEUA shall provide to the Regional Technical Committee and the Regional Policy Committee the Regional Annual Forecast from the Regional Wastewater Demand Forecast Model or other mutually agreed upon forecasting methodology.

2. Ten-Year Sewer Capital Forecast

On a biennial basis, by no later than the end of June, IEUA shall prepare and deliver to the Regional Technical Committee and the Regional Policy Committee a Ten-Year Sewer Capital Forecast which includes dates of commencement and completion of capital improvement projects necessary to enable the Regional Sewerage System to meet the forecasted Capacity Demands of all SCAs. Such forecasts, hereinafter referred to as the “Ten-Year Sewer Capital Forecast,” shall include:

- a. Projected dates for the commencement and completion of design and construction of capital improvement projects necessary to meet forecasted Capacity Demands;
- b. Estimates for each Regional Treatment Plant of the Capacity Demand of each SCA which received sewerage service the previous Fiscal Year;
- c. An estimate of the amount of available treatment capacity at the IEUA

Regional Treatment Plants;

- d. An estimate of the amount of treatment capacity to be added, if any;
- e. Projected annual expenditures for the design and construction of such projects;
- f. The Demand Deficit, if any, of each SCA;

C. Review by Regional Committees

1. Annual Forecast

To ensure accurate forecasting, upon receipt of the Regional Annual Forecast, the Regional Committees shall review the proposed Capacity Demands and provide input to IEUA within 30 days regarding anticipated development.

2. Ten-Year Sewer Capital Forecast

Upon receipt of the Ten-Year Sewer Capital Forecast, the Regional Committees will have 30 days to review and provide input and the Forecast will be placed on the agenda of both committees to provide recommendations to IEUA. IEUA shall consider the recommendations of the Regional Policy Committee.

D. Reclaimable Industrial Waste

Proposed new industrial connections to Community Sewer Systems which are expected to discharge more than 25,000 gallons per day of reclaimable industrial waste shall be approved based on the conditions set forth in the Ordinance No. 109 and any successors thereof. The determination of permit requirements and discharge limitations of the reclaimable industrial waste to be discharged into the Regional Sewerage System through an appropriate connection point in a SCA's Community Sewer System shall be made by IEUA through the regional pretreatment program, resolution of the Board of Directors of IEUA, and Ordinance No. 109 and any successors thereof.

SECTION 11 - RESERVED

SECTION 12 - EXTRA-TERRITORIAL SEWER SERVICE

12.1 SERVICE OUTSIDE THE BOUNDARIES OF IEUA SERVICE AREA

A. Upon the Effective Date of this Ordinance

Any SCA which, upon the effective date of this Ordinance was furnishing sewer service to any territory outside the boundaries of the IEUA Service Area, may continue to furnish such service and shall be entitled to the services and facilities of the Regional Sewerage System for that purpose. Each SCA providing sewer service to any such outside territory shall file a map or maps with the secretary of IEUA showing the boundaries of all such territory.

B. After the Effective Date of this Ordinance

Any SCA, after the effective date of this Ordinance, may furnish sewer service to additional territory outside the boundaries of the IEUA Service Area. Prior to furnishing such sewer service, the SCA shall file a written request with IEUA. IEUA may consider the question of authorizing sewer service to the additional territory, subject to the authorization of the Local Agency Formation Commission for San Bernardino County, and the IEUA Board of Directors shall by resolution authorize sewer service to all or any part of the additional territory by the applicant or applicants unless it determines that such service is not in the public interest. Annual Capital Outlay Charge for Territory Outside IEUA and the Service Area.

In addition to the payment of service charges, each SCA providing the services and facilities of the Regional Sewerage System to territory outside the IEUA Service Area shall be obligated to pay IEUA special capital outlay charges for such territory, as provided in subpart C or D of this Section or both such subparts, if both are applicable. Monies received by IEUA in payment of special capital outlay charges shall be deposited or credited to the Regional Wastewater Capital Improvement Fund and utilized, together with all interest earned thereon, solely for the purpose of financing the acquisition, improvement, and expansion of the Regional Sewerage System.

C. Annual Capital Outlay Charge

The SCA shall annually pay IEUA a special capital outlay charge in an amount equivalent to the amount of the property tax and other revenue which IEUA would have received during the fiscal year if such property were within the IEUA Service Area. Such charge shall be payable by the

SCA during each fiscal year in the amounts and at the times specified by IEUA.

D. Extraordinary Capital Outlay Charge

If any SCA furnishes sewer service to any additional territory outside the IEUA Service Area after the effective date of this Ordinance, the SCA shall pay to IEUA an extraordinary capital outlay charge with respect to such territory. Such charge shall be in an amount equal to total of (i) all past capital outlay taxes which would have been imposed by IEUA prior to July 1, 1978 upon taxable property within such territory had it been subject to taxation by IEUA for capital outlay taxes, (ii) an amount equivalent to the total property tax revenue which would have been received by IEUA pursuant to Sections 96 through 99 of the Revenue and Taxation Code for all fiscal years subsequent to July 1, 1978, and (iii) and an amount equal to all other revenues which IEUA would have received, had such territory been within the IEUA Service Area. IEUA may authorize any extraordinary capital outlay charges to be paid in deferred installments plus interest over a period not exceeding 25 years from the commencement of sewer service to the extra-territorial territory.

SECTION 13 - DELIVERY POINTS: CONNECTION COSTS

Each SCA shall deliver sewage from its Community Sewer System into the Regional Sewerage System at such delivery points as may, from time to time, be requested by the SCA and approved by IEUA. The delivery point request may be made by the SCA or on behalf of a third party. In all delivery point requests, the SCA or third party shall pay applicable plan review and hydraulic/load modeling costs for the evaluation of the impact of the delivery point to the Regional Sewerage System. The SCA or third party may also be required to submit a resolution confirming the authorization of annexation from the Local Agency Formation Commission for San Bernardino County or a resolution confirming an irrevocable annexation agreement to the SCA. Upon consideration of the information submitted, IEUA may authorize the new delivery point. All costs and expenses of making the connection between the Regional Sewerage System and the Community Sewer System of any SCA shall be borne by the SCA and/or third party.

SECTION 14 - DETERMINATION OF SEWAGE DELIVERIES: COSTS OF MEASURING EQUIPMENT

IEUA shall determine the amount of sewage delivered to the Regional Sewerage System by all SCAs and shall maintain accurate and complete records thereof. The amount of sewage delivered to the Regional Sewerage System by each SCA shall be determined by IEUA based on a standard daily measurement or contribution per Equivalent Dwelling Unit methodology established by IEUA from time to time.

If required by IEUA, a SCA shall install and maintain and operate at its expense, measuring devices and equipment for measuring the flow of sewage from the SCA's Community Sewer System into the Regional Sewerage System. Prior to installation, IEUA shall approve the design of such measuring devices and equipment and shall inspect and approve their installation. Such measuring devices and equipment shall be examined, tested and serviced regularly, but not less than once a year, by IEUA to ensure their accuracy. At any time IEUA or any SCA may inspect any such measuring device and equipment and all records and measurements taken therefrom.

The determination of sewage flow or contribution methodology per Equivalent Dwelling Unit contributed by each SCA shall be reviewed and updated if needed, or as requested by IEUA, but not less than every ten (10) years.

SECTION 15 - CONTROL, PRODUCTION, AND DISPOSITION OF RECYCLED WATER

IEUA holds exclusive right to Recycled Water generated by the treatment of Sewage through the Regional Sewerage System. The terms and conditions regulating the sale, delivery, and use of Recycled Water shall be governed by IEUA Ordinance No. 112 and subsequent iterations thereof.

SECTION 16 - RESERVED

SECTION 17 - SERVICE CHARGES FOR MAINTENANCE AND OPERATION OF THE REGIONAL SEWERAGE SYSTEM

All SCAs shall pay service charges for all sewage delivered to the Regional Sewerage System. Each SCA shall pay its pro rata share of all net audited costs incurred by IEUA in the maintenance and operations of the system. Net audited costs consist of:

A. Maintenance and Operation

Costs of maintenance and operation of all transmission and treatment facilities comprising the Regional Sewerage System; and

B. Other Costs

Any other costs reasonably related to the maintenance and operation of the system; and

C. Replacement and Unforeseen Costs

Based upon generally accepted engineering and accounting principles, reasonable reserves for the estimated costs and expenses of:

1. Replacement of any facilities where the costs and expenses of replacement are customarily considered a part of the costs and expenses of extraordinary maintenance which adds to the normal service life of facilities; and
2. Unforeseen contingencies; and
3. Actual costs and expenses incurred by IEUA for the Transmission, Treatment and Disposal of any byproduct resulting from the treatment of the Sewage delivered by a SCA.

D. Cost Of Service Study (“COSS”)

IEUA may, from time to time, conduct a COSS which shall be conducted in accordance with procedures normally utilized in the public rate setting process and in accordance with applicable law.

E. Proposed Service Charge Rate Adjustment (“Adjustment”)

Prior to the imposition of a rate adjustment, IEUA shall conduct a rate workshop wherein SCAs may express comments and feedback on the matter for consideration by IEUA. Rate adjustments for each fiscal year shall be within the discretion of the IEUA Board of Directors and shall conform to the COSS and applicable law.

SECTION 18 - RESERVED

SECTION 19 - REGIONAL SEWERAGE SYSTEM BUDGETS

A. Fiscal Year Budgets

For each fiscal year, or on a biennial basis if utilized by IEUA, the IEUA Board of Directors shall cause to be prepared and shall adopt a budget, which includes the Regional Sewerage System budget.

B. Form and Content of Budgets

The budget shall contain a plan of financial operations for the Regional Sewerage System and shall contain an estimate of the requirements for expenditures, including provisions for any reserves, and the means of financing such requirements. The budget shall be itemized and shall show in reasonable detail the nature and purpose of each item of revenue and expense and the actual or estimated amount thereof. The budget shall include a plan of financial operations for the capital costs of the acquisition and construction of the Regional Sewerage System, and a plan of financial operation for the maintenance and operation of the system, prepared as follows:

1. Capital Improvement Fund Budget. The costs of the acquisition and construction of the Regional Sewerage System shall show:
 - a. The various items and amounts of capital costs and the total thereof;
 - b. The total amount in the Regional Wastewater Capital Improvement Fund and the available and unencumbered balance of such fund as of the commencement of the fiscal year and an estimate of the amount therein and the unencumbered balance thereof as of the end of the fiscal year;
 - c. The amounts, if any, of IEUA revenues from sources other than property taxes

- which are or will be available for payment of capital costs and the total thereof;
- d. The estimated amount of property taxes to be received during the fiscal year;
 - e. The projected amount of Supplemental Capital Outlay Fund contributions required from each SCA during the fiscal year and the total thereof.
2. Maintenance and Operations Fund Budget The part covering the maintenance and operation of the Regional Sewerage System shall show:
- a. The various items and amounts of maintenance and operation expenses, including replacement and rehabilitation, and the total thereof;
 - b. The total amount in any reserves theretofore established, and the available and unencumbered balance in such reserves as of the commencement and end of the fiscal year;
 - c. The amount of service charges payable by each SCA and the total paid or payable by all SCAs;
 - d. The amounts, if any, of revenue from sources other than services charges which will be available for payment of maintenance and operation expenses and the total thereof;
 - e. The total amount required to be raised from service charges for payment of maintenance and operations expenses;
 - f. The rate of the service charge for the fiscal year(s);
 - g. The amount of any surplus of service charges received by IEUA during the fiscal year preceding the fiscal year in progress in excess of the cost of maintenance and operation of the Regional Sewerage System for that year which was transferred to the Regional Sewerage System Operation and Maintenance Fund reserve for replacement of Regional Sewerage System facilities for such preceding fiscal year, or the amount, if any, of any shortage in the amount of service charges received by IEUA during such preceding fiscal year less than the cost of maintenance and operation of the Regional Sewerage System for that year which was transferred from said reserve during the year then in progress for such preceding fiscal year;

C. Preparation and Approval of Proposed Budgets

Not later than April 1 of each budgeting year, the IEUA Board of Directors shall direct its General Manager, or such other person or persons as the Board may designate, to prepare and submit to the Board a proposed budget for the next fiscal year(s). Said budget and the rate of service charge for the next fiscal year will be considered and adopted by IEUA no later than June 30 of each fiscal year. If the Board of Directors fails to adopt a budget by June 30 then, until such time as the Board shall adopt such budget, the budget last adopted shall constitute the budget for such fiscal year.

D. Adoption of Separate Budgets

Notwithstanding the preceding provisions of this section, the Board of Directors of IEUA may elect for any fiscal year to separately prepare and adopt a Capital Improvement Fund Budget and a Maintenance and Operation Fund Budget. If said Board elects to so proceed, each such separate budget shall be prepared in accordance with the provisions of this section which are applicable thereto. Both said budgets shall be processed and adopted in accordance with the procedures and pursuant to the time schedule set forth in this section.

SECTION 20 - BILLING AND PAYMENT OF SERVICE CHARGES

A. Monthly Billing Statements of Service Charges

Not later than 20 days after the end of each month, each SCA shall provide to IEUA a report with the number of billable Equivalent Dwelling Units billable to each SCA. IEUA shall provide a billing statement of service charges to each SCA, setting forth the number of billable Equivalent Dwelling Units during such month for the service charge rate applicable thereto and the total service charge due and payable to IEUA for said month. Monthly service charges shall be based on the service charge rate adopted by the IEUA Board.

B. Payment of Statements; Interest on Overdue Payments

Each SCA shall pay the amount of the service charge set forth in any statement on or prior to its due date, namely, the thirtieth day following the date of the delivery of such statement. In the event that a SCA is delinquent in payment of bills for service charges, a penalty of ten (10) percent of the original unpaid invoice amount shall be added to any fee or charge that becomes delinquent.

Interest at the maximum rate provided by California Government Code Section 926.10 as may be amended from time to time, shall accrue on the total of all delinquent fees or charges.

Additional charges provided herein for delinquent payments may be waived by the Board of Directors upon written request by the IEUA Customer upon a finding that the delinquency was caused by excusable neglect or circumstances beyond the control of the SCA, provided that the delinquent SCA reimburses IEUA for all costs and penalties actually incurred by IEUA as a result of the delinquent payment.

Interest paid upon any delinquent amount shall be credited to the Regional Sewerage System Maintenance and Operation Fund unless, by reason of such delinquency, IEUA shall have advanced the amount of the delinquency from other sources, in which case, the interest shall be credited to such fund as the IEUA Board of Directors may designate. A SCA shall not be entitled to withhold payment, in whole or in part, of the amount of any statement for service charges pending action pursuant to part C of this Section 20.

C. Adjustment for Overpayment or Underpayment

Upon disagreement between any SCA and IEUA over the amount of service charges or the discovery of an error in computation of service charges for a SCA, which is not resolved within 30 days of communication, IEUA shall request a recommendation from the Regional Technical committee. The IEUA Board of Directors shall consider the recommendation by the Regional Technical Committee and make its determination on service charge adjustments, due dates and any interest due, and shall provide for the appropriate credit to or debit of any affected SCA's service charge account.

D. Deposit of Payments in Maintenance and Operation Fund

All monies received by IEUA in payment of service charges shall be deposited in and credited to a separate fund or account in the treasury of IEUA, to be known as the "Regional Sewerage System Maintenance and Operation Fund." All monies in said fund and interest earned thereon shall be used and expended only for payment of maintenance and operation expenses paid or incurred by IEUA under the provisions, of this contract.

SECTION 21 - RESERVED

SECTION 22 - RESERVED

SECTION 23 - RESERVED

SECTION 24 - REGIONAL POLICY COMMITTEE

There shall be a Regional Policy Committee to advise IEUA of the needs and views of the SCAs concerning IEUA's policies and activities in the financing, acquisition, construction, maintenance and operation of the Regional Sewerage System, to make reports and recommendations with respect thereto, and to inform the SCAs concerning such policies and activities. Committee membership shall be voluntary.

Each participating SCA shall appoint one regular member and one alternate member to the Regional Policy Committee. Such members shall be members of the SCA's governing body. The regular and alternate members so appointed shall serve at the pleasure of the appointing agency. Each participating SCA shall give the secretary of IEUA immediate notice of all appointments and removals made by it, and of the name and contact information of each appointee. IEUA shall appoint one regular member and one or more alternates to the Regional Policy Committee. The members so appointed shall be members of the IEUA Board of Directors of IEUA and shall serve at the pleasure of IEUA. The IEUA member shall be entitled to participate at all regular and special meetings of the committee.

The Regional Policy Committee shall be chaired by a regular member of the Regional Policy Committee and shall rotate among its regular members on a biennial basis through all the SCAs. A Vice Chair shall also be designated to act in the Chair's absence. The Vice Chair shall be selected by a majority vote of the regular members. A quorum made up of a majority of members shall be required to conduct business.

Each regular member of the Regional Policy Committee or the SCA's alternates, shall have one vote. A majority of members voting shall be required to carry any matter before the committee.

The Regional Policy Committee shall hold a regular meeting quarterly or as needed in the determination of IEUA. The Regional Policy Committee may adopt such procedures and rules as it deems advisable concerning its officers, meetings and the manner and method of making its reviews, reports and recommendations on any matter affecting the acquisition, construction, maintenance and operation of the Regional Sewerage System.

IEUA shall, if requested by the Regional Policy Committee, provide the Regional Policy Committee with a meeting place and with the services, advice, and assistance of members of its staff. All records, reports, and other information of IEUA pertaining to the financing, acquisition, construction, maintenance and operation of the Regional Sewerage System shall be available for inspection by members of the Regional Policy Committee. IEUA agrees to maintain and make available to the Regional Policy Committee accurate records of all of its costs, disbursements, and receipts with respect to activities under this Ordinance.

SECTION 25 - REGIONAL TECHNICAL COMMITTEE

There shall be a Regional Technical Committee to advise the Regional Policy Committee on technical matters related to the Regional Sewerage System. Participation shall be voluntary. The members and alternate members of the Regional Technical Committee shall be appointed by their respective SCAs and IEUA shall be entitled to appoint one member and alternate members with the same right of participation as other members. The committee shall hold regular meetings quarterly or as needed in the determination of IEUA. Appointments and the number of alternates shall be determined in the sole discretion of each SCA and IEUA as applicable.

The committee may, and upon request by the Regional Policy Committee or IEUA shall, review and make recommendations concerning any of the following technical matters: the acquisition, design, construction, maintenance, operation, or financing of sewer facilities, sewage treatment, reclamation, or disposal facilities, sewage and effluent measuring devices and equipment, Community Sewer Systems and the Regional Sewerage System; sewer user charges; service charges; quality standards for sewage and any effluent; and any other technical matter related to any of the foregoing.

SECTION 26 - ADMINISTRATIVE ENFORCEMENT REMEDIES

A. Notice of Violation/Order for Corrective Action

IEUA will serve any SCA found to be violating any provision of this Ordinance, or any applicable Federal, State, District or local statutes, regulations, guidelines, ordinances, or other requirements with a written notice of non-compliance. The notice of non-compliance will state the nature of the violation and provide a reasonable time limit, as determined by IEUA, for the satisfactory correction thereof. IEUA may require the submittal of a plan to satisfactorily correct the violation or require any other action which, IEUA determines is appropriate to correct the violation. The SCA served with the notice of violation shall, within the period of time stated in such notice, cease all violations. This provision is in addition to, and not by way of derogation of, any other remedies or procedures available to IEUA by law, regulation, or pursuant to any of the provisions of this Ordinance. This notice of violation procedure shall be in addition to any other remedies available to IEUA under Section 71000 et. seq. of the Water Code of the State of California.

B. Right to Inspect Documents and Property

IEUA retains the right, upon reasonable notice, to audit all public records and accounts of any SCA, to ensure ongoing compliance and enforcement of this ordinance. Additionally, pursuant to California Water Code §71601, IEUA may enter upon the private property of any person to investigate possible violations of this ordinance, including, but not limited to the verification of meter connections previously issued by IEUA to verify that no unauthorized or non-permitted meter change has occurred.

C. Penalty for Violation

A SCA not in compliance with any portion of this Ordinance will be notified of the IEUA's intention of enforcement, with an explanation of the violation or infraction committed. A SCA notified shall have thirty (30) calendar days to respond before any action will be taken by the IEUA. However, no such notice to afford an opportunity to comply need be given in those instances in which the non-compliance may cause conditions dangerous and detrimental to public health, safety and welfare, or are in violation of State law or applicable section of the California Penal Code. These violations include, but are not limited to trespass, assault, water theft, cross connection, and water system damage.

SECTION 27 - JUDICIAL ENFORCEMENT REMEDIES

A. Remedies Nonexclusive

The remedies provided for in this Ordinance are not exclusive. The General Manager may take any, all, or any combination of these actions against a non-compliant user. Enforcement of pretreatment violations will generally be in accordance with IEUA's enforcement response plan. However, the General Manager may take other action against any user when the circumstances warrant. Further, the General Manager is empowered to take more than one enforcement action against any non-compliant user.

DRAFT

SECTION 28 - EFFECTIVE DATE

Upon the effective date of this Ordinance No. 111, the Ordinance shall be in full force and effect immediately following its passage, approval, and publication, as provided by law. This Ordinance shall take effect on January 3, 2023.

ADOPTED, this ____ day of _____, 2022.

Steven J. Elie
President of Inland Empire Utilities
Agency*, and of the Board of Directors thereof

ATTEST:

Marco Tule
Secretary of the Inland Empire Utilities
Agency* and the Board of Directors thereof

*A Municipal Water District

