



ORDINANCE NO. 5096

**AN ORDINANCE REPEALING EL DORADO COUNTY ORDINANCE
4385 AND REPEALING AND REPLACING ORDINANCE NO. 4325 –
PROVIDING FOR PUBLIC WATER PLANNING**

**THE BOARD OF SUPERVISORS OF THE COUNTY
OF EL DORADO DOES ORDAIN AS FOLLOWS:**

THIS ORDINANCE HEREBY REPEALS ORDINANCE 4385 AND REPEALS AND REPLACES EL DORADO COUNTY ORDINANCE NO. 4325 – PROVIDING FOR PUBLIC WATER PLANNING, TO READ AS FOLLOWS:

Section 1. New Parcels.

Purchase of a water meter is mandatory prior to approval of all new residential final parcel or subdivision maps or development projects which require public water service.

Section 2. State Statutes.

Projects shall comply with all applicable state statutes.

Section 3. Posting of Water Management Plans

Preparation and posting of the Countywide Water Management Plan and updates and Urban Water Management plans shall be as provided for in a Memorandum of Understanding between the County of El Dorado and the El Dorado County Water Agency.

Section 4. Severability.

If any section, subsection, sentence, clause, phrase, part or portion of this ordinance is for any reason held to be invalid or unconstitutional by a final judgement of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. It is hereby declared that this measure, and each section, subsection, sentence, clause, phrase, part or portion thereof would have been adopted or passed irrespective of the fact that one or more sections, subsections, sentences, clauses, phrases, parts or portions be declared invalid or unconstitutional.

Section 5. Tahoe Regional Planning Agency Exclusion.


This ordinance shall not apply to any projects or parcels within the jurisdiction of the Tahoe Regional Planning Agency.

Section 6. By adoption hereby the Board of Supervisors has authorized the filing of a Notice of Exemption for purposes of the California Environmental Quality Act.

This ordinance shall take effect and shall become effective thirty (30) days following the adoption hereof.

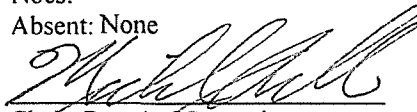
PASSED AND ADOPTED by the Board of Supervisors of the County of El Dorado at a regular meeting of said Board, held on the 4th day of Dec., 2018 by the following vote of said Board:

ATTEST
JAMES S. MITRISIN
Clerk of the Board of Supervisors


By 
Deputy Clerk

Ayes: Hidahl, Frentzen, Veerkamp, Ranalli, Novasel

Noes: None
Absent: None


Chair, Board of Supervisors
Michael Ranalli

APPROVED AS TO FORM
MICHAEL J. CICCOTZI, County Counsel

By 
Kathleen Markham,
Sr. Deputy County Counsel

ORIGINAL

MEMORANDUM OF UNDERSTANDING

Between El Dorado County Water Agency and County of El Dorado

This Memorandum of Understanding (hereinafter referred to as "Memorandum") made and entered into by and between the County of El Dorado, a political subdivision of the State of California (hereinafter referred to as "County"), and El Dorado County Water Agency, an agency created pursuant to the El Dorado County Water Agency Act (Water Code App. 96.1 et seq.) (hereinafter referred to as "EDCWA").

I. PURPOSE:

The purpose of this Memorandum is to outline the roles and responsibilities of the parties in the preparation of a Countywide Water Management Plan that will serve as a planning and decision-making tool in determining projected water supply and demand needs through buildout of the County's General Plan. The development of a Countywide Water Management Plan is intended to facilitate coordination amongst EDCWA, County, and the various County water purveyors to ensure alignment between the various entities' work products. It is intended that the Countywide Water Management Plan be completed in coordination with the various water purveyors' Urban Water Management Plan (UWMP) updates, which are required by State statutes to be produced every five [5] years.

II. BACKGROUND:

In 1995, County Board of Supervisors (Board) took a proactive approach to long-term water supply planning by adopting County Ordinance No. 4325 to ensure the Board's land use decisions were based on adequate information regarding water supply availability for anticipated land development projects.

Since 1995, State legislative requirements have caught up with the Ordinance's requirements. The following table compares County Ordinance No. 4325 with the various State legislative requirements; it shows that current legislation now mandates the objectives of County Ordinance No. 4325.

No.	Ordinance No. 4325 Requirement	UWMP §10610-10610.4	SB610/ SB221	WATER CODE §525-529.7	
1	Water Meters Required on new connections			X	
2a	Annually collect water supply and demand data	X			UWMP updated every 5 years or sooner if necessary.
2b	Require public review of the data	X	X		
2c	Public Hearings Prior to Acceptance of the Water Data				
	Water Provider	X			
	Board of Supervisors		X		
3a	Prepare a Long- Term Public Water Plan to be Updated Annually	X	X	X	
3.a.i	Inventory of the Projects and Parcels Being Processed by the County	X			

3.a.ii	Inventory of All Existing And Unserved Parcels and Projects Within Each Public Water District and Estimates of Potential Public Water Needs	X			
3.a.iii	Water Availability Assessment for 20 Year Projection	X	X		Water Code allows for 5 to 20 year projections

Because County and EDCWA can rely on analyses and reports currently being produced pursuant to existing State statutes to meet the objectives of County Ordinance No. 4325, the Ordinance has been amended. However, to facilitate the development of a Countywide Water Management Plan, the responsibilities of the parties to that end are set forth herein and this Memorandum is intended to work in concert with County Ordinance No. 4325, as amended.

The following outlines the governance and general roles between the County and EDCWA:

- Land Use Planning: County has police power to protect the public health, safety, and welfare of its residents. Land use and zoning regulations are a derivative of County’s police power. This power allows counties to establish land use and zoning laws which govern the development and use of the community. County has the responsibility to maintain an adequate General Plan pursuant to state law and the authority to consider, and ultimately approve or deny, land use development proposals within its jurisdiction.
- Countywide Water Planning: EDCWA is authorized by Chapter 96 of the 1959 Water Agency Act. The establishment of the EDCWA allows the agency to develop a Countywide Water Plan and to participate in statewide water planning. The agency is empowered to negotiate contracts with the Department of Water Resources, the U.S. Bureau of Reclamation, and other local, state, and federal agencies for water management and facility construction. In its role to prepare the Countywide Water Plan, EDCWA works with the existing water purveyors in El Dorado County regarding the availability of water supplies in the respective service areas and the unrepresented areas of the County. El Dorado County is currently served by six (6) public water purveyors: El Dorado Irrigation District (EID), Georgetown Divide Public Utility District (GDPUD), Grizzly Flats Community Services District (GFCSD), South Lake Tahoe Public Utility District (STPUD), Tahoe City Public Utility District (TCPUD), and City of Placerville (Placerville).

III. STATEMENT OF MUTUAL BENEFIT AND INTEREST:

The parties agree that it is to their mutual benefit and interest to have a Countywide Water Management Plan to evaluate existing water demand and needs; to determine planned future water demand and needs; and to identify existing and planned future water supplies in order to meet existing and planned future water demand.

The goals of the parties include, but are not limited to:

- i. Preparation of a Countywide Water Management Plan with updates and revisions occurring at least every five (5) years to reflect significant changes in growth, state or federal regulations, and/or water supplies and demands.

- ii. Preparation of a current water availability assessment for the County in the existing service area boundaries of the water purveyors and in the unrepresented areas of the County.
- iii. Coordination, as needed, with the water purveyors within the County to ensure that baseline facts and assumptions for water planning are consistent.
- iv. Posting the approved Countywide Water Management Plan and updates on the County and EDCWA's websites.

IV. COUNTY RESPONSIBILITIES INCLUDE THE FOLLOWING:

- A. Provide EDCWA an inventory of all active projects and parcels being processed by County within the boundaries of each public water purveyor. County will provide the inventory to EDCWA at least one (1) year prior to the Countywide Water Management Plan, or update, due date;
- B. Provide EDCWA an estimated inventory of all projected projects and parcels within the boundaries of each public water purveyor that may be processed by County within the five (5) year period for the Countywide Water Management Plan. County will provide the inventory to EDCWA at least one (1) year prior to the Countywide Water Management Plan, or update, due date;
- C. Provide EDCWA General Plan updates that involve and/or impact water and related infrastructure. County will provide the updates to EDCWA at least one (1) year prior to the Countywide Water Management Plan, or update, due date;
- D. Provide EDCWA Agricultural Department Annual Crop Reports and related irrigation forecasts. County will provide the report to EDCWA at least one (1) year prior to the Countywide Water Management Plan, or update, due date;
- E. Review and provide comments to EDCWA on the Countywide Water Management Plan or update;
- F. Post the Countywide Water Management Plan and updates prepared by the EDCWA and the Urban Water Management Plans and updates prepared by County water purveyors on County's Website upon their completion and adoption; and
- G. Coordinate, as necessary, with County water purveyors in order to provide data or input during their development of Urban Water Management Plans.

V. EDCWA RESPONSIBILITIES INCLUDE THE FOLLOWING:

- A. EDCWA will prepare a Countywide Water Management Plan, which includes projected water supply and demand needs based on the approved current El Dorado County General Plan growth projections and the Urban Water Management Plans as prepared by the County water purveyors. The Countywide Water Management Plan will be prepared concurrently with the UWMPs and will be updated by EDCWA at least every five (5) years;
- B. EDCWA may update the Countywide Water Management Plan more frequently than stated above, as necessary to reflect significant changes in growth, state or federal regulations or water supplies and demands;

- C. EDCWA will coordinate with the County's water purveyors to provide a water availability assessment for each public water purveyor that determines the adequacy of existing and planned future public water supplies to meet existing and planned future demand on these water supplies. Planned future water demand shall be based on factors that impact the projected water demand needs such as, but not limited to: the adopted General Plan; changes in growth within the County; state or federal regulations; changes to water supplies; and notable changes to water demand patterns for all types of growth and development including residential, commercial, and agricultural; and
- D. Coordinate, as necessary, with County water purveyors to provide data or input during their development of Urban Water Management Plans.

VI. IT IS MUTUALLY AGREED AND UNDERSTOOD BY AND BETWEEN THE PARTIES THAT:

- A. Either party may terminate this Memorandum, without cause, upon thirty (30) days written notice to the other.
- B. All notices to be given by the parties hereto shall be in writing and served by depositing same in the United States Post Office, postage prepaid, and return receipt requested. Notices to County shall be in duplicate and addressed as follows:

To County:

County of El Dorado
 Community Development Services
 Planning and Building Department
 Long Range Planning
 2850 Fairlane Court
 Placerville, California 95667

Attn.: Principal Planner

or to such other location as County directs.

With a copy to:

County of El Dorado
 Community Development Services
 Administration and Finance Division
 2850 Fairlane Court
 Placerville, California 95667

Attn.: Administrative Services Officer
 Contracts & Procurement Unit

Notices to EDCWA shall be addressed as follows:

El Dorado County Water Agency
 4330 Golden Center Drive, Suite C
 Placerville, California 95667


Attn.: General Manager

or to such other location as EDCWA directs.

- C. It is mutually understood and agreed that no alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the parties hereto, and that no oral understandings or agreements not incorporated herein, and no alterations or variations of the terms hereof unless made in writing between the parties hereto shall be binding on either of the parties hereto.
- D. This Memorandum is to be governed by and construed in accordance with the laws of the State of California. Any dispute resolution action arising out of this Memorandum, including, but not limited to, litigation, mediation, or arbitration, shall be brought in El Dorado County, California.
- E. County Officer or employee with responsibility for administering this Memorandum is Brendan Ferry, Principal Planner, Community Development Services, Planning and Building Department, Long Range Planning, or successor.
- F. EDCWA Officer or employee with responsibility for administering this Memorandum is the General Manager or designee, or successor.
- G. Neither this Memorandum, nor any part thereof, may be assigned by EDCWA without the express written approval of County.
- H. Neither this Memorandum, nor any part thereof, may be assigned by County without the express written approval of EDCWA.
- I. Neither County nor any officer or employee thereof is responsible for any injury, damage, or liability occurring by reason of anything done or omitted to be done by EDCWA under or in connection with any work, authority, or jurisdiction conferred upon EDCWA or arising under this Memorandum. It is understood and agreed that, EDCWA will fully defend, indemnify, and save harmless County and all its officers and employees from all claims, suits, or actions of every name, kind, and description brought forth under, including, but not limited to, tortuous, contractual, inverse condemnation, or other theories or assertions of liability occurring by reason of anything done or omitted to be done by EDCWA under this Memorandum.
- J. Neither EDCWA nor any officer or employee thereof is responsible for any injury, damage, or liability occurring by reason of anything done or omitted to be done by County under or in connection with any work, authority, or jurisdiction conferred upon County or arising under this agreement. It is understood and agreed that, County will fully defend, indemnify, and save harmless EDCWA and all its officers and employees from all claims, suits, or actions of every name, kind, and description brought forth under, including, but not limited to, tortuous, contractual, inverse condemnation, or other theories or assertions of liability occurring by reason of anything done or omitted to be done by County under this Memorandum.
- K. The parties to this Memorandum represent that the undersigned individuals executing this Memorandum on their respective behalf are fully authorized to do so by law or other appropriate instrument and to bind upon said parties to the obligations set forth herein.


In witness whereof, the parties hereto have executed this Memorandum on the dates indicated below:

-- COUNTY OF EL DORADO --

By: 
Board of Supervisors
"County"

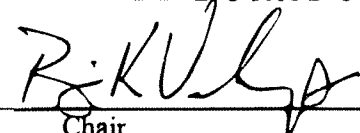
Dated: 11/20/2018

Attest:
James S. Mitrison
Clerk of the Board of Supervisors

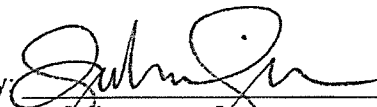
By: 
Deputy Clerk

Dated: 11/20/2018

-- EL DORADO COUNTY WATER AGENCY --

By: 
Chair
"EDCWA"

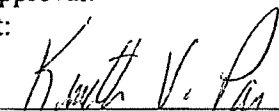
Dated: 10/10/2018

Attest:
By: 
Julianne van Leeuwen
Clerk of the Board of Directors

Dated: 10/10/2018

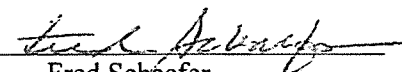
Recommended for Approval:

As to Content:


Kenneth V. Payne, P.E.
General Manager

Dated: 10/10/18

As to Form:


Fred Schaefer
EDCWA General Counsel

Dated: 10/10/18