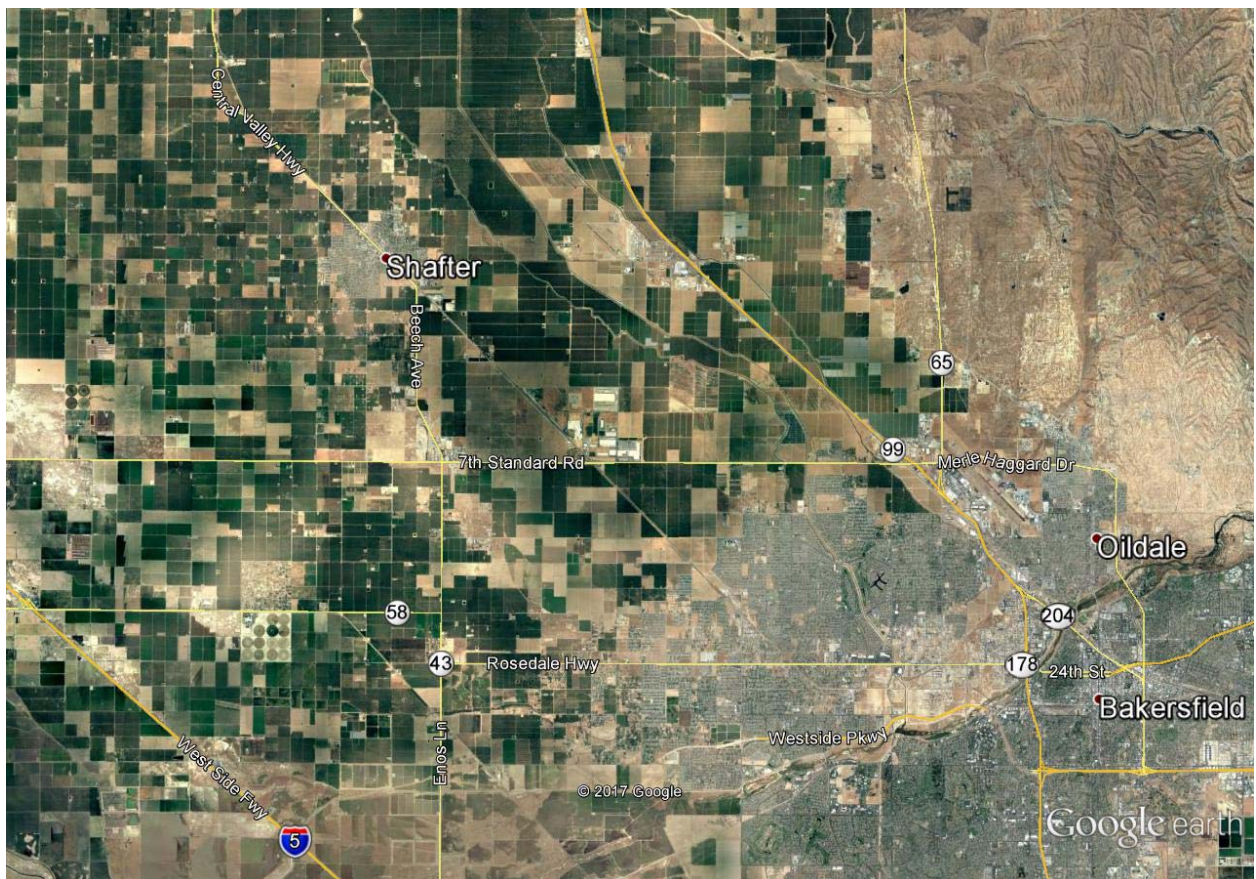


# MUNICIPAL SERVICE REVIEW

## North of River Sanitary District No. 1

### Sphere of Influence Update and Amendment

April 2019



*For Submittal to:*

*Kern County Local Agency Formation Commission  
5300 Lennox Avenue, Suite 303  
Bakersfield, California 93309*

# **MUNICIPAL SERVICE REVIEW**

## **North of River Sanitary District No. 1**

Sphere of Influence Update and Amendment

April 2019

**Prepared For:**

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# Section 1

## Introduction

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### 1.1 Background

Existing California law (per Government Code Section 56430) requires that in order to update a Sphere of Influence (SOI), Local Agency Formation Commissions (LAFCOs) must first conduct a Municipal Service Review (MSR) within the appropriate designated area. As a part of this review, LAFCOs are required to prepare a written statement of determination with respect to the each of the following:

1. Growth and population projections for the affected area;
2. The location and characteristics of any disadvantaged unincorporated communities within or contiguous to the sphere of influence;
3. Present and planned capacity of public facilities, adequacy of public services, and infrastructure needs or deficiencies including needs or deficiencies related to sewers, municipal and industrial water, and structural fire protection in any disadvantaged unincorporated communities within or contiguous to the sphere of influence;
4. Financial ability of agencies to provide services;
5. Status of, and opportunities for, shared facilities; and
6. Accountability for community service needs, including governmental structure and operational efficiencies.

This MSR has been prepared in accordance with Government Code Section 56430 to evaluate wastewater collection, treatment, and disposal services within the proposed SOI update for the North of River Sanitary District (NORSD or District). The District is proposing to amend its SOI as a result of property owner requests to be within the District and also to bring into the SOI a few properties that are currently receiving wastewater service from the District. Information in support of the above determinations is presented in **Section 2**.

### 1.2 Introduction

The NORSD is located to the north and west of the City of Bakersfield and was formed in 1940 to provide wastewater collection, treatment and disposal services to the unincorporated community of Oildale. The District's boundaries have since expanded to the west to include the northern portion of Kern County Service Area 71 (CSA-71). Its SOI now encompasses an area of approximately 54 square miles.

The original service area was confined to Oildale north of the Kern River. By the 1980s the original WWTP was becoming surrounded by encroaching development. In addition, the WWTP, which was constructed in the early 1950s, was approaching its treatment capacity and the available treated effluent disposal area was inadequate.

A Joint Powers Agreement (JPA) was executed in 1990, between NORSD, Kern County (County Service Area 71 [CSA-71]), and the City of Shafter which provided for the construction and operation of a shared trunk sewer pipeline and wastewater treatment plant.

In 1991, the District constructed a trunk sewer to its proposed WWTP site five miles west of Enos Lane on 7<sup>th</sup> Standard Road. This sewer is hereafter referred to as the Outfall Sewer. Under the JPA, City of Shafter acquired 3 million gallons per day (MGD) of the average day capacity of the outfall sewer between Shafter Avenue and the WWTP site. Treated wastewater storage ponds were built at the new site and treated effluent from the existing WWTP was conveyed to the new ponds. The original WWTP continued to operate for approximately 10 years.

The District and the City of Shafter entered into an agreement in 1998 under which the City of Shafter purchased one-third of the “actual maximum capacity” of the WWTP (which was constructed several years later).

An agreement with the City of Bakersfield was executed in 2000 which set forth the areas to be provided sewer service by the City of Bakersfield and NORSD.

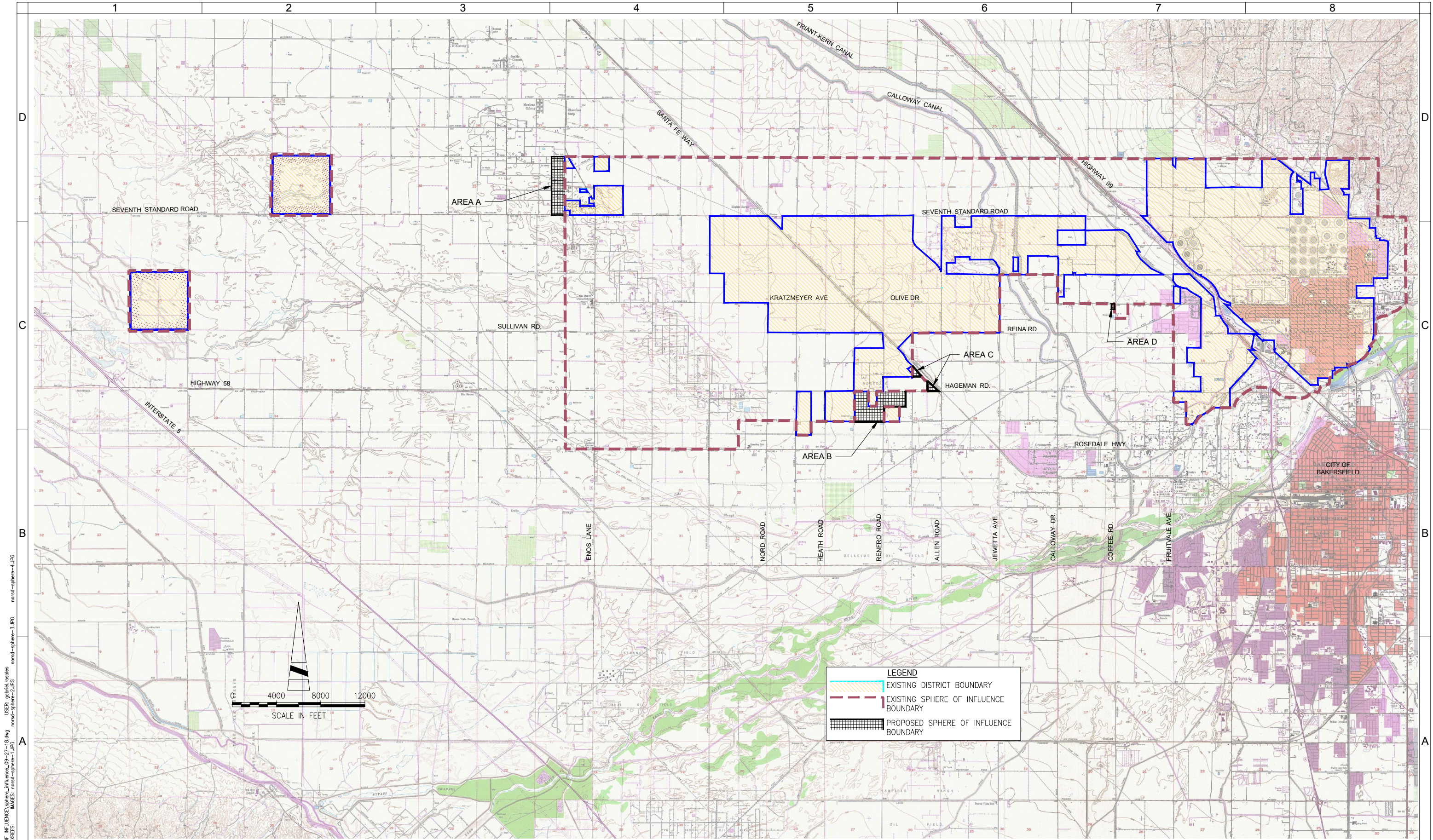
In June 2004, NORSD entered into another agreement under which the City of Shafter’s cost is established as ¼ of the total cost of the Shafter Reach (i.e. from Shafter Avenue to the WWTP) and thereby the City of Shafter’s capacity in the Outfall Sewer is ¼ of the capacity of the Outfall Sewer in 7<sup>th</sup> Standard Road from Shafter Avenue to Santa Fe Way.

In 2015, NORSD and City of Shafter executed a Cooperative Agreement which requires Shafter and NORSD to continue to coordinate and discuss the future needs of the Sewer Facilities under the JPA. Under this agreement Shafter owns one-third (or 2.5 MGD) of the increased WWTP capacity of 7.5 MGD.

The District’s existing boundary and sphere of influence are shown on **Figure 1-1**. The proposed additions to the District’s SOI (labeled as Areas A through D) are also shown on **Figure 1-1** and together contain approximately 360 acres, or approximately 1% of the District’s current SOI.

The District has been in consultation with the County of Kern and the City of Bakersfield regarding proposed changes to the wastewater service areas for each of the entities. The areas included within the NORSD’s proposed SOI update are in conformance with the discussions between these agencies. Copies of the referenced agreements as well as email correspondence with City of Bakersfield and Kern County staff regarding the proposed SOI changes are included in **Appendix A**.

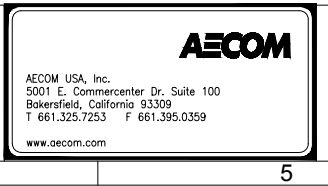
The District completed a Master Sewer Plan Update in March 2018 where it analyzed its existing facilities in relation to the needs of its service area through the year 2030. Facility improvements were recommended along with cost estimates and projected scheduling. Much of the information presented in this MSR is taken from the District’s 2018 Master Sewer Plan Update.



REV	DATE	DESCRIPTION	APPR

**VERIFY SCALES**  
 BAR IS ONE INCH ON ORIGINAL DRAWING  
 IF NOT ONE INCH ON THIS SHEET, ADJUST SCALES ACCORDINGLY

DESIGNED BY	PROJECT ENGINEER
DRAWN BY	REG NUMBER
CHECKED BY	EXP DATE
DATE	PROJECT NUMBER
	CADD STANDARDS



**NORTH OF RIVER  
 SANITARY DISTRICT NO. 1**  
 204 UNIVERSE AVENUE  
 BAKERSFIELD CA. 93308

**FIGURE 1.1  
 PROPOSED SPHERE OF INFLUENCE ADDITIONS**

DRAWING	
SHEET	1
OF 1 SHEETS	

### 1.3 Land Use and Zoning

Land use planning and zoning within the District’s SOI and update areas is governed by the City of Bakersfield and County of Kern for the areas within their respective jurisdictions. No changes to existing land uses and zoning are included as a part of the SOI update. A summary of the existing land uses, general plan designations, and zoning for the areas within the SOI update are provided in **Table 1-1**.

**Table 1-1 Existing Land Use and Zoning**

<b>Area</b>	<b>Existing Land Uses</b>	<b>Jurisdiction</b>	<b>General Plan Designation</b>	<b>Zoning</b>
A	Mineral and Petroleum, Vacant, Industrial	Kern County	Mineral and Petroleum, Service Industrial	Heavy Industrial, Mineral Resource, Agriculture
B	Estate Residential, Vacant	Kern County	Urban Estate Residential, Suburban Residential, Rural Residential, General Commercial	Agriculture, Estate Residential, Commercial, Drilling Island
C	Vacant, School District Maintenance Yard	Kern County	Suburban Residential, Agriculture, Open Space/Parks	Agriculture
D	Water Treatment Facility	City of Bakersfield	Suburban Residential	R-1 One Family Dwelling

### 1.4 CEQA Review

The MSR and SOI update are exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines. The MSR and SOI update do not include any land use changes or land disturbance activities. A Notice of Exemption has been determined to be appropriate for the project based on Section 15061(b)(3) General Rule, where it can be seen with certainty that there is no possibility that the activity will have a significant impact on the environment. Additionally, the MSR is exempt from CEQA pursuant to Section 15362 of the CEQA Guidelines (feasibility or planning studies).

# Section 2

## Municipal Service Review Analysis

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### 2.1 Growth and Population Projections

The NORSD service area includes the unincorporated community of Oildale and the northern portion of CSA 71, some of which is now within the City of Bakersfield. The District also provides wastewater services to the City of Shafter through connections to the District’s trunk sewer line. **Table 2-1** provides a summary of population projections for the NORSD and the City of Shafter. The values in **Table 2-1** represent the population connected to the District’s wastewater facilities.

The 2017 population estimates for the NORSD are based on its 2017 special assessment data and applicable data from the Oildale Mutual Water Company 2015 Urban Water Management Plan. Population estimates for the City of Shafter came from the California Department of Finance Demographic Research Unit’s *Population Estimates for City, County, and State January 1, 2016 and 2017*. A population growth projection of 2% for the NORSD is assumed per the Kern Council of Governments *2018 Regional Transportation Plan*. The population growth projection was increased to 3% for the City of Shafter based on advice from the City of Shafter.

**Table 2-1 Population Projections**

Year	NORSD (Oildale & CSA-71)	City of Shafter	Total Population
2017	43,610	18,868	62,478
2020	46,279	20,618	66,897
2025	51,096	23,901	74,997
2030	56,414	27,708	84,122

The timing of recommended wastewater facility improvements in the 2018 Master Sewer Plan Update is based on the population projections shown in **Table 2-1**. Since the addition of 360 acres is approximately 1% of the District’s current SOI, this is not anticipated to significantly modify the population projections shown above.

#### 2.1.1 Determinations

- Population growth is anticipated to be about 2% annually for the NORSD SOI and SOI Update areas. The 2017 population for the NORSD is estimated to be about 43,610.
- Population growth for the City of Shafter is estimated to be about 3% annually. The California Department of Finance estimates the City of Shafter’s population to be 18,868 in 2017.



## **2.2 Disadvantaged Unincorporated Communities**

The District provides wastewater service to the majority of the disadvantaged unincorporated community of Oildale. However, there is an area located northwest of Golden State Highway and Airport Drive that is currently developed with mobile homes and is outside of the District's service area boundary. The District would provide wastewater service to this area if the owners request annexation and follow the District's established policies and procedures. There are no other unincorporated disadvantaged communities within or contiguous to the District's proposed SOI update.

### **2.2.1 Determinations**

- The NORSD is the wastewater service provider for the disadvantaged unincorporated community of Oildale.
- There are no other unincorporated disadvantaged communities within or contiguous to the District's proposed SOI update.

## **2.3 Public Facilities, Service Adequacy, and Infrastructure**

The District's 2018 Master Sewer Plan Update (Plan) evaluated the present and planned capacity of its wastewater collection, treatment, and disposal facilities. A brief description of the District's facilities, current capacities and adequacy to meet current demands, and recommended improvements for current and future needs from the Plan are provided below.

### Collection System:

The collection system consists of approximately 174-miles of sewers ranging from 6-inch to 54-inch and five lift stations. The collection system serves approximately 23,400 sewer connections plus the outfall connection from the City of Shafter. All pipelines within the collection system drain to the 54-inch Outfall Sewer which discharges at the wastewater treatment plant. The average day flow within the Outfall Sewer per the Plan was estimated at 5.5 MGD, which is well within the 12 MGD average day flow capacity of the Outfall Sewer. Based on a model of the District's sewer collection system, locations of possible deficiency were identified and recommended for further evaluation.

### Treatment Plant and Disposal Facilities:

The treatment capacity of the District's WWTP is 7.5 MGD and the permitted capacity is 7.5 MGD. Effluent from the WWTP is undisinfected secondary. Treated effluent is currently used for irrigation of feed and fodder crops. The permitted effluent disposal area covers 2,500 acres. Of this amount, 1,860 acres are owned by local farmer Sill Properties Inc. (Sill) and 640 acres are owned by NORSD. The effluent disposal areas are sufficient to dispose of flows up to 7.5 MGD. The average day flow to the treatment plant per the Plan is 5.5 MGD.

Recommended Improvements:

The Plan provided recommended facility upgrades, improvements, and timing (based on the population growth rates in **Table 2-1**) so that the District’s facilities would remain adequate to meet the needs within its service area. While the Plan conducted a review of land use at “build out” of the study area, the focus of the Plan was to provide for the future needs of the District’s wastewater collection system and treatment plant through the year 2030. The major facility improvements identified in the Plan are presented in **Table 2-2**.

**Table 2-2 Recommended Master Plan Improvements**

<b>Year</b>	<b>Facility Improvement Project</b>
2025	WWTP Upgrade and Expansion to 12 MGD
2035	Parallel Trunk Sewer Reach 1: Norris Road—Begin Outfall Sewer to Renfro Rd
2045	Parallel Trunk Sewer Reach 2: Santa Fe Way—Norris Rd at Renfro Rd to 7 <sup>th</sup> Std Rd
2050	WWTP Expansion to 18 MGD
2055	Parallel Trunk Sewer Reach 3: 7 <sup>th</sup> Standard Road—Santa Fe Way to Shafter Ave
2060	Parallel Trunk Sewer Reach 4: 7 <sup>th</sup> Standard Road—Shafter Ave to WWTP

According to the Plan, improvements required to serve individual developments (collector sewers) or development areas (interceptor sewers) will be funded by the developers within the respective development areas. Preliminary sizing and locations of the interceptor sewers, along with potential locations of sewer pumping stations required for the interceptor sewers, were included as a part of the Plan.

The District has adopted standards that govern the design and construction of developer funded improvements and regularly revises and updates the standards so that they are in conformance with current codes and regulations. The District conducts ongoing routine maintenance operations and plans for the replacement of aging facilities.

**2.3.1 Determinations**

- The NORSD completed a 2018 Master Sewer Plan Update (Plan) that evaluated the present and planned capacity of its wastewater collection, treatment, and disposal facilities.

- The Plan included recommended facility upgrades, improvements, and timing (based on population growth rates) to meet the District’s projected growth through the year 2030.
- Developer funded improvements are subject to District review and approval for conformance to the Plan and NORSD standards.

## **2.4 Financial Ability of Agency to Provide Services**

The NORSD regularly assesses its financial needs and revenue sources. The District completed a Sewer Capacity Fee Study and a Sewer Service Charge Study in March 2018 that reviewed its rates and charges in relation to the recommended improvements identified in the 2018 Master Sewer Plan Update. The revised rates and charges proposed in these studies were adopted by District and will be in effect for the 2018-19 fiscal year and the following four fiscal years.

### **2.4.1 Determinations**

- The District conducts regular reviews of its financial needs and revenue sources. A Sewer Capacity Fee Study and a Sewer Service Charge Study were completed in March 2018 in conjunction with its 2018 Master Sewer Plan Update.
- The District adopted revised rates and charges to fund the facility improvements recommended in the 2018 Master Sewer Plan Update which will be in effect for the 2018-19 fiscal year and the following four fiscal years.

## **2.5 Status of, and Opportunities for, Shared Facilities**

The District has coordinated its services and operations with the wastewater service providers in the surrounding areas (see **Appendix A**). A Joint Powers Agreement (JPA) was executed in 1990, by NORSD, Kern County (County Service Area 71 [CSA-71]), and the City of Shafter which provided for the construction and operation of a shared trunk sewer pipeline and wastewater treatment plant (WWTP) referenced as “project facilities”. Page 14 of the JPA states “...*NORSD shall administer, operate, and maintain the project facilities, and administer and supervise the construction and installation of the project facilities...*”

In 1991, the District constructed a trunk sewer to its proposed WWTP site five miles west of Enos Lane on 7<sup>th</sup> Standard Road. Under the JPA, the City of Shafter acquired 3 million gallons per day (MGD) of the average day capacity of this sewer between Shafter Avenue and the WWTP site. This was modified by a June 2004 agreement between NORSD and whereby the City of Shafter acquired ¼ of the capacity of the NORSD trunk sewer in 7<sup>th</sup> Standard Road from Shafter Avenue to Santa Fe Way.

In January 1998, the District and the City of Shafter entered into an agreement under which the City of Shafter purchased one-third of the “actual maximum capacity” of the WWTP (which was constructed several years later). In 2015, NORSD and City of Shafter executed a Cooperative

Agreement which requires Shafter and NORSD to continue to coordinate and discuss the future needs of the Sewer Facilities under the JPA. Under this agreement Shafter owns one-third (or 2.5 MGD) of the increased WWTP capacity of 7.5 MGD.

In 2000, an agreement with the City of Bakersfield was executed which set forth the areas to be provided sewer service by the City of Bakersfield and NORSD. The District continues to meet with the City of Bakersfield and County of Kern to coordinate the limits of service area boundaries for the agencies. The District's proposed SOI update is in accordance with discussions between these agencies. Future opportunities for shared facilities exist and are anticipated to be evaluated through feasibility studies as development in the area occurs.

### **2.5.1 Determinations**

- The District administers and operates shared trunk sewer and WWTP facilities through a JPA and associated agreements with the City of Shafter and Kern County CSA 71.
- The City of Bakersfield, CSA-71, and the District through a 2004 agreement and subsequent discussions continue to coordinate wastewater services and service areas. NORSD's proposed SOI update is in accordance with discussions between these agencies.
- Future opportunities for shared facilities exist and are anticipated to be evaluated through feasibility studies as development in the area occurs.

## **2.6 Accountability, Governmental Structure and Operational Efficiencies**

The NORSD was formed in 1940 under the Sanitary District Act of 1923, Health and Safety Code Section 6400, et seq. The District is governed by a five member board of directors that meets monthly. Directors are elected on an at large basis from within the District's boundaries. As a result, the District is directly accountable to its customers for providing wastewater services. The District maintains a website with links for various forms, documents, information on board members and meetings, public notices, and emergency information. The District has entered into agreements for coordinated operations and provides wastewater services to the City of Shafter, and portions of the City of Bakersfield and CSA-71.

### **2.6.1 Determinations**

- The NORSD is accountable to its customers through regular public meetings of its elected board of directors.
- The District was established under the California Health and Safety Code.
- The District provides operational efficiency by coordinating with and providing wastewater services to the City of Shafter and portions of CSA-71 and the City of Bakersfield.

**Appendix A**  
**Agreements between City of Shafter,**  
**Kern County, City of Bakersfield, and**  
**NORS**

JOINT EXERCISE OF POWERS AGREEMENT  
BETWEEN  
NORTH OF RIVER SANITARY DISTRICT NO. 1,  
COUNTY OF KERN,  
AND  
CITY OF SHAFTER

PARTIES AND DATE

This Agreement is made this 10<sup>th</sup> day of February 1990 between the CITY OF SHAFTER, a municipal corporation (hereinafter referred to as "SHAFTER"), the NORTH OF RIVER SANITARY DISTRICT NO. 1, a special district of the State of California (hereinafter referred to as "NORS"), and the County of Kern, a political subdivision of the State of California (hereinafter referred to as "COUNTY").

R E C I T A L S

WHEREAS, SHAFTER, NORS, and COUNTY, are empowered to acquire, construct, operate and maintain sewerage systems that include, but are not limited to, sewer lines, sewage lift stations, wastewater treatment plants and treated wastewater effluent disposal areas; and

WHEREAS, COUNTY established County Service Area 71, also known as "CSA 71", to provide for the collection, treatment, and disposal of wastewater produced within its boundaries and the construction and maintenance of facilities therefor; and,

WHEREAS, it has been shown that a regional sewerage system, as hereinafter described, is needed to serve a portion of CSA 71; and

WHEREAS, NORSD has determined that it is in NORSD's best interest to relocate its wastewater treatment plant and disposal facilities from its present location to a site farther to the west and remote from present or planned development; and,

WHEREAS, SHAFTER has determined that its present wastewater treatment plant and disposal facilities need to be replaced in a new location remote from present and planned future development; and,

WHEREAS, under the provisions of California Government Code sections 6500 through 6583, and California Health and Safety Code sections 6512, 6515, 6520.3, and 6522, NORSD, COUNTY, and SHAFTER may join in a Joint Exercise of Powers Agreement, hereinafter referred to as "JPA" or "Agreement",

THEREFORE, NORSD, COUNTY, and SHAFTER have determined that it is in their best interest to enter into this JPA to plan, design, construct, operate and maintain sewerage improvements to meet sewer needs of all of the parties to this JPA.

SECTION 1: PROJECT FACILITIES:

The sewerage facilities, hereinafter referred to as "Project facility (ies)", covered by this JPA include trunk sewers, a wastewater treatment plant, and treated wastewater disposal facilities. The approximate alignments of the trunk sewers and the locations of the wastewater treatment plant and disposal areas are shown on Exhibit "A" attached hereto. The alignments and locations shown are preliminary and subject to change.

NORRIS/SEVENTH STANDARD SEWER:

The NORRIS/SEVENTH STANDARD SEWER will extend from NORSD's present wastewater treatment plant to the site of the wastewater treatment plant proposed herein. That portion of the NORRIS/SEVENTH STANDARD SEWER located west of Jenkins Road is part of the project facilities.

SHAFTER SEWER:



The SHAFTER SEWER will extend from Shafter's present wastewater treatment plant to a point of connection with the NORRIS/SEVENTH STANDARD SEWER. The SHAFTER SEWER is not part of the project facilities.

SECTION 2: PROJECT CONSTRUCTION PHASING:

It has been determined by each of the three parties to this agreement that the project facilities be constructed and placed into operation as quickly as possible. Due to financial limitations, it is the parties intent that the improvements be constructed in two or more phases. The goal for completion of construction of the NORRIS/SEVENTH STANDARD SEWER is January 1, 1991.

The wastewater treatment plant and disposal facilities may be constructed in one or more phases depending on the flows to be treated and the financing available. The goal for completion of construction of the first phase of the wastewater treatment plant is January 1, 2000.

If the first phase of the wastewater treatment plant is not constructed and operational by January 1, 2010, the COUNTY may request that NORSD return the amount of money which the COUNTY paid, for the construction of the NORRIS/SEVENTH STANDARD SEWER pursuant to this JPA, including but not limited to the initial \$2,500,000

payment, plus the amount of interest that that money would have earned if it had been invested by the Kern County Treasurer. Upon such request, NORSD shall remit the amount requested to COUNTY.

If the first phase of the wastewater treatment plant is not constructed and operational by January 1, 2000, SHAFTER may request that NORSD return the amount of money which SHAFTER paid, for the construction of the NORRIS/SEVENTH STANDARD SEWER pursuant to this JPA, plus the amount of interest that that money would have earned if it had been invested by the Kern County Treasurer. Upon such request, NORSD shall remit the amount requested to SHAFTER.

SECTION 3: CAPACITY RIGHTS:

NORRIS/SEVENTH STANDARD SEWER:

Except as noted below, ownership of the NORRIS/SEVENTH STANDARD SEWER shall be vested solely in NORSD. Both SHAFTER and COUNTY shall have capacity rights in the NORRIS/SEVENTH STANDARD SEWER in the amounts indicated below. Those capacity rights are based on the total costs to be paid by SHAFTER and COUNTY for each "reach" of the NORRIS /SEVENTH STANDARD SEWER.

A "reach" is an identifiable portion of the sewer.

"Total Cost" shall include all costs associated with a reach, including, but not limited to, construction contract costs (including change orders), right-of-way costs, land costs, legal costs, administrative costs, financing costs (including interest), insurance costs and engineering costs.

"Capacity Right" is the share of the actual capacity of the sewer after the sewer is placed in service.

For the reach of the NORRIS/SEVENTH STANDARD SEWER from the SHAFTER sewer westerly, the capacity rights and total costs shall be allocated as follows:

NORSD = 1/2 (est. 6 mgd)  
CSA 71 = 1/4 (est. 3 mgd)  
SHAFTER = 1/4 (est. 3 mgd)

For the reach of the NORRIS/SEVENTH STANDARD SEWER from the SHAFTER SEWER easterly to Jenkins Road, the capacity rights and total costs shall be allocated as follows:

NORSD = 2/3 (est. 6 mgd)  
CSA 71 = 1/3 (est. 3 mgd)

For the reach of the NORRIS/SEVENTH STANDARD SEWER easterly of Jenkins Road, the capacity rights and total costs shall be allocated entirely to NORSD.

SHAFTER SEWER:

The SHAFTER SEWER shall be owned solely by Shafter. The entire capacity of this sewer shall likewise be owned solely by Shafter.

WASTEWATER TREATMENT PLANT AND DISPOSAL FACILITIES:

The wastewater treatment plant and disposal facilities will be jointly owned by NORSD and Shafter. Ownership, and capacity in the facilities, shall be vested in NORSD and Shafter in direct proportion to the fraction of the total cost of the treatment and disposal facilities paid for by each. "Total Cost" shall include all costs associated with the wastewater treatment plant and disposal facilities, including, but not limited to, construction contract costs (including change orders), right-of-way costs, land costs, legal costs, administrative costs, financing costs (including interest), insurance costs and engineering costs. Capacity rights owned by NORSD and SHAFTER shall be based on the total actual capacity of the wastewater treatment plant and disposal facilities. As between NORSD and SHAFTER, the capacity rights for the wastewater treatment plant and disposal facilities which are used by or reserved for COUNTY shall be considered as being included in the ownership and capacity rights vested in NORSD.

COUNTY shall be permitted to use wastewater treatment plant capacity upon payment of a Connection Fee as each sewer user in CSA 71 is connected to the public sewer herein described. The connection fees

to be paid to NORSD shall be in the same amount as NORSD charges to equivalent sewer users in its own District for the purchase of capacity in the wastewater treatment plant and disposal facilities which are the subject of this JPA. The connection fees to be paid to NORSD for sewer users in CSA 71 shall not include any other amounts, including, but not limited to, the amount which NORSD charges for purchase of capacity in the sewer trunk or sewer collection system. It shall be the responsibility of NORSD to maintain adequate reserve capacity in the wastewater treatment plant for users in CSA 71. However, it shall be the responsibility of COUNTY to monitor and control the rate at which new sewer connections are made so as to allow NORSD adequate response time in which to expand the wastewater treatment plant capacity accordingly.

TRANSFER OF CAPACITY RIGHTS:

With respect to the NORRIS/SEVENTH STANDARD SEWER, the capacity rights of NORSD, Shafter, and COUNTY are as previously defined in this Section.

With respect to the treatment and disposal facilities, each party to this JPA will negotiate in good faith prior to initial design and construction as to what capacity it wishes to have.

It is probable that at sometime in the future one or more of the parties to this JPA may find that it (they) have excess capacity in the sewer, treatment plant, or disposal facility. In such an event, the party with the excess capacity may transfer its excess capacity, or capacities, to one of the other parties to this JPA provided the other party agrees to accept the transfer. Such transfer may be permanent or for a limited period of time.

SECTION 4: CONSTRUCTION OF WASTEWATER TREATMENT PLANT AND DISPOSAL FACILITIES:

NORS D or Shafter may construct or expand treatment plant and disposal facilities as they determine are necessary to meet their needs. Either party can expand the treatment plant and/or disposal facilities at no cost to the other. It is the intent of this JPA that any such construction be a cooperative, joint effort of NORS D and SHAFTER. However, it may occur that only one of the parties desires to construct or expand the facilities. In such a case, the non-participating party shall cooperate with the party proposing the construction. Construction of improvements shall be done in such a manner so as not to interfere with the safe and continuous operation of any existing facilities.

SECTION 5: TECHNICAL ADVISORY COMMITTEE:

Of the three Parties to this Joint Powers Agreement, NORSD shall be the lead agency and have responsibility and authority for operating and maintaining the NORRIS/SEVENTH STANDARD SEWER and the wastewater treatment and disposal facilities. To facilitate planning and design, and for later administration, there shall be formed, upon execution of this Agreement, a Technical Advisory Committee (TAC) consisting of at least one member from each Party to this Agreement. The NORSD representative will assume the chairmanship of the TAC and the SHAPTER representative will serve as secretary. The primary purpose of the TAC is to review, discuss and evaluate the ongoing impact of the Joint Powers Agreement on the respective parties and make recommendations to NORSD, and to the parties' respective governing bodies. Secondly, the TAC shall assist NORSD in formulating and implementing such matters as sewer use ordinances, rate structures and future expansion of facilities. The chairman shall keep members informed of important project events and shall convene meetings when so requested by any of the Parties to this Agreement. The secretary shall keep minutes of the major discussion items for the TAC meetings and distribute those minutes to the Parties.

#### SECTION 6 - FINANCING CONSTRUCTION

The construction cost of the NORRIS/SEVENTH STANDARD SEWER, presently proposed to be in operation by January 1, 1991, is approximately \$15 million. The County of Kern has allocated to CSA 71 the sum of

\$2,500,000 for constructing the sewer. NORSD has on hand a like or greater sum to fund construction of the sewer. Shafter's share of the sewer is estimated to be \$1,000,000. The remainder of NORSD's share required for construction of the sewer will be obtained by debt financing. NORSD will arrange for said debt financing used to implement the construction of the NORRIS/SEVENTH STANDARD SEWER. Within 30 days of the date of execution of this Agreement, COUNTY shall contribute \$2,500,000 to NORSD as an initial payment toward CSA 71's share of the total cost of that portion of the sewer in which CSA 71 has capacity rights. If NORSD fails to obtain sufficient financing within three (3) years following the execution of the JPA to construct the NORRIS/Seventh STANDARD SEWER, NORSD shall upon the request of the County return the \$2,500,000 initial payment to COUNTY plus the amount of interest the \$2,500,000 would have earned if it had been invested by the Kern County Treasurer.

After the commencement of the construction of the NORRIS/SEVENTH STANDARD SEWER, COUNTY shall pay NORSD COUNTY'S share of the total costs of the sewer as allocated pursuant to Section 3 of this JPA less the sum of the \$2,500,000 initial payment plus the amount of interest the \$2,500,000 would have earned if it had been invested by the Kern County Treasurer. COUNTY shall pay this difference over a period of time, not to exceed ten (10) years, as provided below for "advanced fund". COUNTY, in its sole discretion, can at any time prepay the amount due without penalty.



COUNTY has appropriated the initial payment of \$2,500,000 noted above for the construction of the NORRIS/SEVENTH STANDARD SEWER. Prior to paying any of COUNTY'S other financial obligations under this JPA, the Board of Supervisors of County must appropriate sufficient funds to meet those obligations. Accordingly, notwithstanding any other term or condition of this JPA, if the Board of Supervisors of COUNTY fails to appropriate sufficient funds to meet any of its financial obligations under this JPA, COUNTY shall not be obligated to meet those obligations and shall not pay any penalties or incur any liability or expense as a result of the Board of Supervisor's failure to appropriate sufficient funds. However, shall the Board of Supervisors not appropriate sufficient funds to reimburse NORSD for services provided under the terms of this agreement, NORSD reserves the right to discontinue services not paid for.

The treatment plant and disposal facilities shall be built as required and as financing becomes available. As with the NORRIS/SEVENTH STANDARD SEWER, NORSD may arrange for any debt financing used to fund construction of the treatment plant and disposal facilities. However, Shafter, at its election, may fund its share of any portion of these facilities through methods separate from NORSD and/or COUNTY.

It is anticipated that construction of a significant portion of the project facilities will be funded with monies received from the sale of NORSD's present treatment plant and disposal site. NORSD's

present site will be finally totally disposed of after the proposed wastewater treatment plant and disposal facilities specified herein become available to treat and dispose NORSD's wastewater flows.

The cost of abandonment of NORSD's present facilities, or any expense related to the NORSD's presently owned property, shall be borne solely by NORSD. Any income or revenue from the sale of NORSD's property shall be considered solely the income or revenue of NORSD although such income or revenue may be used, at the sole discretion of NORSD, to fund construction of the project facilities described herein.

If funds from one party to this JPA are used to fund the construction or operation and maintenance of facilities that benefit one or both of the other parties to this agreement, then such "advanced funds" shall be repaid by the benefiting party, or parties, to the party advancing the "advanced funds". The total repaid shall include the cost of the funds borrowed or otherwise advanced.

When funds are advanced from cash on hand, the amount repaid shall be equal to the principal sum advanced plus the interest that would have been earned had the funds been allowed to accumulate in an interest bearing account. The interest rates that would have been earned had the funds been invested with the Kern County Treasurer will be used to calculate the amount of interest due the advancing party.

SECTION 7 - NORSD TO ACT AS OPERATING ENTITY

NORSD shall administer, operate and maintain the project facilities, and administer and supervise the construction and installation of the project facilities, subject to the terms and conditions of this JPA. NORSD expressly accepts responsibility and liability for any operation or maintenance task necessary to maintain the project facilities in an operational condition. NORSD shall perform all of its obligations under this JPA in a reasonable, competent, and diligent manner and shall comply with all laws and regulations pertaining to the project facilities.

NORSD shall prepare preliminary and final JPA budgets for the year following execution of this agreement and every year thereafter for review by the three Parties to this agreement. The preliminary budget shall be submitted to Shafter and COUNTY no later than the 1st day of February prior to the fiscal year and the proposed final budget shall be submitted no later than three weeks prior to the start of budget hearings of any of the three Parties. Included in the budget submissions shall be estimates of O&M and capital charges to each Party. Where Equivalent Single Family Dwellings (ESFD), or other such factors, are used as a basis for charges, the current ESFD for each Party shall be included in the budget submissions. Any party to this agreement with objections to the final budget may seek resolution of the disagreement pursuant to the arbitration conditions of this agreement.

NORS D shall have the authority and the right to meet budgeted O&M expenses without further approval or concurrence by COUNTY or SHAF TER. NORS D agrees to abide by financial policies and procedures generally applicable to sanitary districts of similar size and operation.

For purposes of this agreement, "Year" shall be defined as a fiscal year beginning on the 1st day of July.

In the event of an emergency requiring immediate action to rectify a condition endangering the public health and safety, or damage to the project facilities, NORS D may incur unbudgeted expenses on behalf of the three parties to this JPA. In the event of such an emergency, reasonable effort will be made to obtain the approval of the TAC committee members prior to taking action. NORS D's spending authority in an emergency shall be limited to \$25,000 per incident unless approved otherwise by the participants' governing bodies, except where the Health and Safety Code or Government Code of the State of California allow or require some other limit.

Quarterly, at the start of each quarter of each fiscal year, NORS D shall present a billing to each Party for one-fourth (1/4) of each respective Party's share of the annual budget. Said billing may be paid monthly, due the 1st of each month. Upon receipt of the audit for a given fiscal year, NORS D shall reconcile payments made as

compared to actual expenditures and shall make whatever added billing or credit is indicated by the reconciliation. Such payments to NORSD shall be made within 45 days of the billing by NORSD if paid quarterly or 20 days if paid monthly. Payments made thereafter or reimbursement of disputed payments under this agreement shall include interest payments at the rate of 8 percent per annum for the period of late payment or dispute. Upon notification in writing to NORSD of a dispute concerning the amount of payment by a party hereto, scheduled payments shall be made to NORSD pending settlement of the dispute.

NORSD agrees to indemnify and to hold COUNTY and SHAFTER and their agents, officers, directors, servants, employees and each of them, harmless from and against all liability or claims for loss or damage to property to whomever belonging or injury to or death of any person proximately caused in whole or in part by any negligence of NORSD or its agents, officers, directors, servants or employees, and each of them, in connection with the rights and duties granted in this agreement to NORSD or in connection with the operation and or maintenance of NORSD's separate sewerage systems.

COUNTY agrees to indemnify and to hold NORSD and SHAFTER and their agents, officers, directors, servants, employees and each of them, harmless from and against all liability or claims for loss or damage to property to whomever belonging or injury to or death of any person

proximately caused in whole or in part by any negligence of COUNTY or its agents, officers, directors, servants or employees, and each of them, in connection with the rights and duties granted in this agreement to COUNTY or in connection with operation and or maintenance of COUNTY's separate sewerage systems.

SHAFTER agrees to indemnify and to hold COUNTY and NORSD and their agents, officers, directors, servants, employees and each of them, harmless from and against all liability or claims for loss or damage to property to whomever belonging or injury to or death of any person proximately caused in whole or in part by any negligence of SHAFTER or its agents, officers, directors, servants or employees, and each of them, in connection with the rights and duties granted in this agreement to SHAFTER or in connection with operation and or maintenance of SHAFTER's separate sewerage systems.

NORSD shall maintain sufficient insurance against loss or damage to the project facilities as is customarily maintained with respect to such facilities in the State of California. In addition, NORSD shall maintain sufficient workers' compensation and public liability insurance as is customarily maintained with respect to such facilities in the State of California. Said public liability insurance shall name COUNTY and SHAFTER and their respective officers, officials and employees as additional named insureds and shall insure NORSD for its contractual obligations under this JPA.

All insurance under this JPA shall be underwritten by responsible insurers authorized to do business in the State of California.

No party to this agreement or any officer or employee thereof, shall be responsible for any damage or liability by reasons of anything done or omitted to be done by another party to this agreement, or any officer or employee thereof, in connection with any work, authority or jurisdiction delegated to another party under this agreement.

#### SECTION 8 - OPERATION AND MAINTENANCE COST ALLOCATION

The O&M costs will be allocated to NORSD, COUNTY, and SHAFER annually on the following basis for each separate and identifiable facility, ie., sewer, treatment plant and disposal facilities.

FIXED COSTS - fixed costs are those costs not directly related to flow including, but not limited to:

1. Liability and property insurance
2. Repairs to project facilities
3. Replacement

It is probable that some part, or parts, of the project facilities will begin operation part way through a calendar year. In such an instance, an estimate will be made as to the "startup" date of the new facility and the "fixed costs" for the new facility allocated to

the entities (NORSB, COUNTY, or SHAFER) that will own capacity in the new facility. The calculation will be based on the fraction of the calendar year the new facility will be in operation and the estimated "fixed costs" for that fraction of the fiscal year the new facility will be in operation.

Fixed costs shall be allocated to each party based on their capacity rights in each of the facilities.

With respect to the fixed costs for the NORRIS/SEVENTH STANDARD SEWER which are not specifically related to a particular "reach" (e.g. liability and property insurance and cost of annual audits), such fixed costs shall be allocated to each "reach" identified in Section 3 of this JPA based on the length of each "reach". The parties will bear the fixed costs for each "reach" based on the allocated capacity rights defined in Section 3 of this JPA.

VARIABLE COSTS - Variable costs are those directly related to flow including, but not limited to:

1. Power for operations (variable component)
2. Chemicals
3. Labor



Variable costs shall be allocated to each party based on their prorata share of the solids-weighted flow conveyed, treated, or disposed of, as applicable, by each of the several project facilities. Testing of each parties' flow shall be done to determine the percentage of solids to be disposed of and charged accordingly.

To facilitate O&M variable cost allocation among NORSD, COUNTY, and SHAFTER, there shall be three flow meters installed at any or all of the following locations (see Exhibit A):

1. At Jenkins Road on the NORRIS/SEVENTH STANDARD SEWER (Meter No. 1);
2. In the Shafter Sewer where it connects to the NORRIS/SEVENTH STANDARD SEWER (Meter No. 2);
3. At the headworks to the proposed wastewater treatment plant (Meter No. 3).

The flows upon which the O&M costs shall be allocated to NORSD, COUNTY, and SHAFTER shall be calculated as follows:

1. NORSD - the flow measured by Meter No. 1;
2. SHAFTER - the flow measured by Meter No. 2;
3. CSA 71 - the flow measured by Meter No. 3 less the sum of the flows measured by Meter Nos. 1 and 2. However, COUNTY shall have the option of submitting actual flow measurements

of CSA 71 flow for use by the TAC to calculate flow distribution.

It is the intent of the parties that the O&M costs be allocated based on the actual flows generated by the respective parties.

The total O&M cost to be paid by each party to this JPA shall be the sum of the fixed and variable O&M costs.

#### SECTION 9 - FINANCIAL ACCOUNTING

NORSB, as the "operating entity" (refer to Section 7), shall establish separate accounts for capital and O&M costs associated with the project facilities. The accounts and procedures followed in administering the accounts shall conform to the recommendations of the State of California's UNIFORM SYSTEM OF ACCOUNTS FOR WASTE DISPOSAL DISTRICTS.

Within six months after the end of NORSD's fiscal year, the financial accounts referred to in the preceding paragraph shall be audited by an accounting firm independent of and acceptable to each of the three parties to this JPA. The audit shall establish whether or not expenses and revenues have been properly allocated to each party and shall cover both capital expenditures, if any, and O&M costs. The

audit shall be submitted to the governing bodies of NORSD, COUNTY, and SHAFTER for acceptance and filing.

The cost of the annual audits shall be allocated amongst NORSD, COUNTY and SHAFTER as a "fixed cost" as described in Section 8.

#### SECTION 10 - TRANSFER OF RIGHTS AND RESPONSIBILITIES

Any party to this JPA may assign its rights and delegate its duties to another political entity. Such assignment and delegation shall be "in toto" only and the political entity to which the transfer is made shall be bound by this JPA in its entirety including any amendments thereto, and all policies, ordinances, rules, and regulations applicable to the facilities covered under this JPA. Where, because of annexation, only a portion of the service area of a Party herein is transferred to another political entity, that other political entity shall not thereupon become a Party to this JPA but, rather, shall achieve representation through the original political entity that is a signatory to this agreement.

#### SECTION 11 - SEWER USE MODEL ORDINANCE

The TAC shall develop a Sewer Use Model Ordinance, hereinafter called ORDINANCE, for adoption by each party's "governing body". Following approval by the governing bodies of NORSD, COUNTY, and SHAFTER, of separate sewer ordinances which meet or exceed the requirements of

the ORDINANCE, the conditions within the ORDINANCE shall be applied to all dischargers whose wastewater flows into the project facilities. The ORDINANCE shall establish acceptable discharge standards and appropriate surcharges for the commercial/industrial users and any other items as are customarily included in such ordinances.

After adoption, the ORDINANCE may only be modified with unanimous consent of the parties to this JPA.

SECTION 12 - NON-PROJECT FACILITIES

NORSB, COUNTY, and SHAFER shall each separately operate and maintain their sewerage facilities which connect to but are not a part of the PROJECT FACILITIES. However, this requirement shall not prevent by separate agreement one or more of the parties to this JPA from contracting for maintenance and operation of their separate facilities.

SECTION 13 - LIQUIDATION, EXPANSION, AND REPLACEMENT OF PROJECT FACILITIES:

If any portion of the PROJECT FACILITIES is sold, the revenues from such sale shall be distributed to the parties to this JPA in proportion to each Party's share of the capacity of the facility

sold. For purposes of this Section, COUNTY shall be considered to have a share of capacity and capacity rights in the facility for any such capacity for which COUNTY has paid through direct payment, connection fees or other means.

If PROJECT FACILITIES are expanded, the capital cost of such expansion shall be borne by the entities which will own capacity in the expansion in proportion to each entities' capacity rights in the expansion.

If any PROJECT FACILITY is replaced or bettered, the capital cost of such replacement or betterment shall be borne by the parties to this JPA in proportion to each entities' capacity right in the facility replaced or bettered. The residual value of the replaced or bettered facility to each entity shall be mutually agreed to and proportionately applied to the capital cost of said replacement or betterment. Residual value shall include but not be limited to the remaining useful life of said facility.

#### SECTION 14 - DEPRECIATION OF PROJECT FACILITIES

Depreciation of fixed assets is a recognized and legitimate O&M expense and shall be included in the preparation of the annual O&M budget. However, because of the varying requirements of the Parties, depreciation and any construction reserve fund shall be the responsibility of each individual Party and not of the JPA.

SECTION 15 - SETTLEMENT OF DISAGREEMENTS:

Any disagreements resulting from this agreement shall be submitted to nonbinding advisory arbitration pursuant to the rules of the American Arbitration Association.

SECTION 16 - SEVERABILITY:

If any section, subsection, sentence, clause, phrase or word of this agreement, or the application thereof, to any party, or to any other person or circumstance, is for any reason held invalid, it shall be deemed severable and the validity of the remainder of the agreement or the application of such provision to the other party, parties, or to any other persons or circumstance shall not be affected thereby. Each Party hereby declares that it would have entered into this agreement and each section, subsection, sentence, clause, phrase and work thereof irrespective of the fact that one or more section, subsection, sentence, clause, phrase or word, or the application

thereof to either or several Parties or any other person or circumstance be, is or was held invalid.

SECTION 17 - AMENDMENTS AND SUPPLEMENTS:

This contract is an integrated agreement containing the entire agreement between these contracting parties. This agreement may only be modified, amended, rescinded, terminated, or supplemented by a duly executed written agreement which is authorized by the governing bodies of the respective Parties hereto.

This JPA shall continue in effect until it is rescinded or terminated by the parties hereto.

SECTION 18 - NOTICES:

Any notices to be given by either party to the other may be effected either by personal delivery in writing to the addresses noted below or by mail, registered or certified, postage pre-paid with return receipt requested, to the addresses noted below. Each party may change addresses only by written notice in accordance with this section. Notices delivered personally shall be deemed communicated as of the day of actual receipt; mailed notices shall be deemed communicated as of the day of mailing.





CITY OF SHAFTER:

APPROVED AS TO FORM:

By John Brown S/S  
City Attorney

APPROVED AS TO CONTENT:

By J. D. Guinn  
John D. Guinn  
Public Works Director

By Cathy L. Prout  
Cathy L. Prout  
Mayor

COUNTY OF KERN:

APPROVED AS TO FORM:

By J. L. A. A.  
Deputy-County Counsel

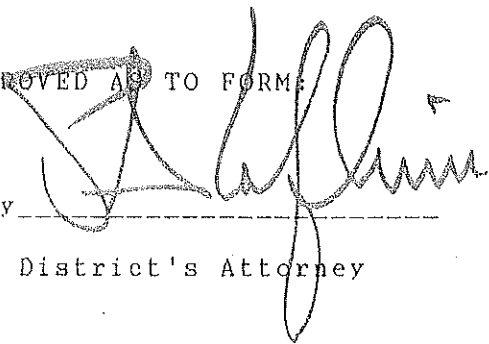
APPROVED AS TO CONTENT:

By [Signature]  
Director of Public Works

By [Signature]  
Chairman Board of Supervisors

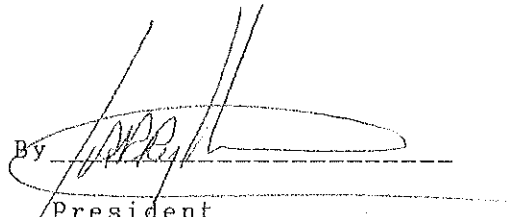
NORTH OF RIVER SANITARY DISTRICT:

APPROVED AS TO FORM:

By   
-----  
District's Attorney

APPROVED AS TO CONTENT:

By   
-----  
General Manager

By   
-----  
President



~~EXTRA~~

AGREEMENT OF UNDERSTANDING AS TO  
OBLIGATION TO MAKE PAYMENT

THIS AGREEMENT OF UNDERSTANDING AS TO OBLIGATION TO MAKE PAYMENT (the "Agreement") is entered into this 26<sup>th</sup> day of January, 1998 by and between North of River Sanitary District, No. 1 (the "NORS D") and the City of Shafter ("Shafter").

RECITALS

A. On or about February 6, 1990, NORS D, Shafter and the County of Kern entered into a joint Powers Agreement (the "JPA") to address the planning, design construction, operation and maintenance of a regional sewer system (the "Sewer System).

B. The Sewer System embodied within the JPA included, among other components, provision for the design, construction, operation and maintenance of a water treatment plant (the "Plant") to be built on designated property jointly owned by NORS D and Shafter.

C. Pursuant to Section 3 of the JPA, ownership of the Plant and the right to use a designated interest in the Plant's capacity is to be allocated among NORS D and Shafter based upon the fractional share which each entity pays for the planning, design, construction, operation and maintenance of the Sewer System.

D. NORS D and Shafter now wish to memorialize their agreed-upon allocation of costs for the construction of the Plant.

NOW, THEREFORE, Incorporating Herein By Reference The Foregoing Recitals, the Parties Agree as Follows:

1. Allocation of the Cost of the Plant.

A. The construction cost of the Plant is to be funded through: (i) a loan (the "Loan") from the State Revolving Fund ("SRF") maintained by the California State Department of Water Resources (the "State"); and (ii) other funds to be provided by NORS D and Shafter in order to fund all costs not funded by the Loan. NORS D and Shafter agree that the actual cost of the Plant is unknown at this time. Costs necessary to facilitate construction of the Plant have been budgeted according to various tasks. Certain tasks have been completed and those costs are known at this time. Other tasks remain to be completed and are estimated at this time. The following table indicates all tasks necessary to facilitate construction of the Plant as well as either the actual cost or estimated cost for each task:

<u>Incidental Expenses</u>	<u>Amount</u>
Planning (Actual Cost)	\$276,141.00
Design (Actual Cost)	\$544,056.00
Construction /Plant Start-Up (Estimated Cost)	\$1,028,049.00
Administration (Actual + Estimated Cost)	\$101,412.00
Subtotal - Incidental Expenses	\$1,949,658.00
Construction Contract Bid Amount	<u>\$11,379,500.00</u>
<b>TOTAL ESTIMATED COST ELIGIBLE FOR SRF FUNDING</b>	<b>\$13,329,158.00</b>

Planning and design costs are actual costs incurred for those services, and subject only to final audit. Construction/Plant Start-Up costs are engineering, testing and Plant start-up cost estimates with actual costs not known until the construction and start-up of the Plant are completed. Administration cost is previously incurred actual administrative costs plus anticipated administrative costs to be incurred during construction and start-up of the Plant. The above table represents only those actual and estimated costs which are eligible for SRF funding. NORSD and Shafter agree the final amount funded by the SRF may be more or less than what is indicated, depending upon actual construction costs and final approval by the State.

B. NORSD and Shafter anticipate that the terms of the Loan will be for a period of twenty (20) years, and that the loan will require total annual payments of approximately \$876,465.00 ("Total Annual Payment"). Pursuant to the terms of this Agreement, Shafter hereby agrees to pay NORSD an annual payment equal to the lesser of: (i) 33.33% of the Total Annual Payments, or (ii) \$285,000.00 ("Shafter's Allocable Share"). Any remaining balance must be paid by NORSD.

C. Shafter's percentage ownership in the Plant and the Plant's capacity shall be equal to the ratio which Shafter's Allocable Share represents of the Total Annual Payments required to be made under the terms of the Loan. To illustrate, should the actual Total Annual Payments be \$876,465.00, Shafter's percentage ownership in the Plant would be 32.52%. Shafter would then have a capacity right to 32.52% of the actual maximum capacity of the Plant. Nothing herein shall preclude Shafter, with prior written notice to NORSD as indicated below, from making annual payments greater than \$285,000.00, in order to assure a 33.33% percent ownership of the Plant and a 33.33% right in the Plant's capacity. Shafter shall be required to notify NORSD of Shafter's desire to pay more than \$285,000.00 annually in order to secure up to a 33.33% ownership of the Plant and a 33.33% right in the Plant's capacity prior to NORSD making the first payment under the Loan. NORSD shall notify Shafter at least thirty (30) days in advance of the date on which it will make the

first payment under the loan. In the event NORSD does not provide such notice to Shafter, Shafter shall have thirty (30) days from the date of such actual notice to indicate its intent to NORSD.

D. NORSD and Shafter agree that the actual maximum capacity of the plant is not known at this time. Capacity rights owned by NORSD and Shafter shall be based on the total actual capacity of the Plant which may be more or less than design capacity. Ownership, and capacity in the Plant, shall be vested in NORSD and Shafter in direct proportion to the fraction that their total actual annual payments represent to the Total Annual Payments.

E. NORSD and Shafter acknowledge that change orders to construction contracts funded by the Loan are not eligible for future funding from the SRF. NORSD and Shafter agree to pay their proportionate share of change order costs, if any, based on and in direct proportion to the fraction of the Total Annual Payments paid for by each. The parties hereto acknowledge that the Total Annual Payments will not be known until Plant construction and start-up are completed. As an estimate of Shafter's proportionate share of authorized change orders, Shafter agrees to pay to NORSD 32.52% of all change orders approved by Shafter from the date a Notice to Proceed is issued to the first contractor until the date a Notice of Completion is recorded in the Office of the County for the Plant's construction. Shafter shall not be required to pay any portion of a change order issued to a contractor which was not previously approved by the City Manager of Shafter. The maximum aggregate of Shafter's share of all change orders shall not exceed a total sum of \$300,000.00. Shafter agrees to pay NORSD the estimated 32.52% share of approved change order costs within 30 days of receipt of the invoice from NORSD for each such change order. NORSD agrees not to invoice Shafter for change orders until such time as NORSD is required to pay the contractor. NORSD shall attach a copy of the contractor's pay request containing the approved change order, with all necessary approvals indicated thereon, to the invoice requesting payment from Shafter. \$111,469.00 of the amount of the construction bid of \$11,379,500 has been deemed ineligible for SRF funding. Both parties agree that the \$111,469.00 will be treated for purposes of cost sharing as a Shafter approved change order. Shafter's share will be approximately \$36,249.00 as per the example stated herein.

F. Upon completion of construction and start-up, a final financial audit of costs and change orders shall be conducted to the satisfaction of both NORSD and Shafter. The audit shall be conducted by a person mutually agreeable to both parties. Within 30 days of determining the actual Total Annual Payment, a final reconciliation of Shafter's share of change orders shall be made. Based on said reconciliation and financial audit, Shafter agrees to promptly pay NORSD any underpayment which may have occurred as the result of the above-mentioned 32.52% share of estimated change order paid by Shafter, subject to the maximum aggregate sum in paragraph E. NORSD agrees to promptly reimburse Shafter any overpayment which may have occurred as the result of the above-mentioned 32.52% share of estimated change orders paid by Shafter. Any dispute regarding any potential underpayment or overpayment, or the audit itself, shall be settled pursuant to terms and conditions mutually agreeable to both parties.

G. Within 10 days prior to the date on which the annual Loan payment to the State is due, Shafter shall pay NORSD the full amount of Shafter's Allocable Share of the Total Annual Payment. Unless otherwise advised, in writing, by NORSD, the annual payment will be

assumed to be payable on January 1 of each year commencing in the year 2000. Shafter shall not be required to begin making annual Loan payments prior to January 1, 2000.

2. Failure to Make Payment. In the event Shafter fails to pay Shafter's Allocable Share of the Total Annual Payment due on the Loan or Shafter's Allocable share of any cost for construction of the Plant not funded through the Loan, Shafter agrees to reimburse NORSD the full amount of such payment, together with interest, calculated on a daily basis, in an amount equal to the amount of interest which is then being paid by the Kern County Treasurer for funds then being invested. The same reimbursement and interest obligation shall apply to any payment owed by NORSD to Shafter pursuant to the terms of this Agreement.

3. Pledge of Net Revenues.

A. Pledge. Shafter hereby agrees that the payments it is obligated to make under this Agreement ("Obligated Payments") shall be secured by a pledge, charge and lien upon the Net Revenues, as defined herein. The Obligated Payments shall be, and hereby are, secured by a pledge, charge and first and prior lien upon the Net Revenues, and all of the Net Revenues are hereby pledged, charged, assigned, transferred and set over by Shafter to NORSD and its assignee for the purpose of securing such Obligated Payments, and the Net Revenues and any interest earned on the Net Revenues shall constitute a trust fund for the security and payment of such Obligated Payments. Shafter further agrees that none of the Net Revenues shall be transferred or paid into its general fund unless and until the then required Obligated Payments, or payments on any Parity Debt which may be authorized in the future on the Net Revenues, have been made. Shafter hereby further covenants that it will not further encumber or create a lien on Net Revenues superior to the pledge of the Net Revenues created hereunder or take any other action to impair NORSD's right to the Net Revenue pledged herein.

B. Net Revenues. As used herein, "Net Revenues" means Gross Revenues, as defined below, less Operation and Maintenance Expenses.

C. Gross Revenues. As used herein, "Gross Revenues" means all income, rents, rates, fees, charges and other moneys derived by Shafter from the ownership or operation of the Sewer System, as defined below, including, without limiting the generality of the foregoing, (i) all income, rents, rates, fees, charges, or other moneys derived from the furnishing and supplying of sewer and other related services, facilities, and commodities sold or furnished or supplied through facilities of the Sewer System, (ii) the earnings on and income derived from the investment of such income, rents, rates, fees, charges or other moneys to the extent that the use of such earnings and income is limited by or pursuant to law to the Sewer System, and (iii) the proceeds derived by Shafter directly or indirectly from the sale, lease or other disposition of a part of the Sewer System; provided that the term "Gross Revenues" shall not include customers' deposits or any other deposits subject to refund until such deposits have become the property of Shafter.

D. Operation and Maintenance Expenses. As used herein, "Operation and Maintenance Expenses" means all expenses and costs of management, operation, maintenance and

repair of the Sewer System, and all incidental costs, fees and expenses properly chargeable to the Sewer System (but excluding debt service or other similar payments on Parity Debt, as defined below, or other obligations and depreciation and obsolescence charges or reserves therefor and amortization of intangibles and interfund transfers or other bookkeeping entries of similar nature).

E. Parity Debt. As used herein, "Parity Debt" means indebtedness or other obligations (including leases and installment sale agreements) issued or incurred by Shafter and secured by a pledge of and lien on Net Revenues equally and ratably with the Obligated Payments under this Agreement.

F. Sewer System. As used herein, "Sewer System" means all properties and assets, real and personal, tangible and intangible, of Shafter now or hereafter existing, used or pertaining to the collection, storage, transmission, treatment and delivery and sale of sewage, including all additions, extensions, expansions, improvements and betterments thereto, and equipping thereof, provided, however, that to the extent Shafter is not the sole owner of an asset or property, only Shafter's ownership interest in such asset or property shall be considered a part of its Sewer System.

4. Allocation of Operation and Maintenance Costs of the Plant. Operation and maintenance costs will be prorated to each party based on flow into the plant as described in the JPA. Likewise, any revenue realized from the sale of treated wastewater for use as agricultural irrigation water, for example, will also be prorated to each party's benefit based on flow into the plant.

5. Modifications; Successors and Assigns. This Agreement may be amended or modified only by a writing signed by both parties. This Agreement shall be binding on the successors and assigns of the parties.

6. Further Cooperation. Each of the parties hereto shall perform any and all lawful acts which are reasonably necessary to accomplish the purposes of this Agreement.

7. Attorneys' Fees and Other Expenses. If either party commences an action against the other party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing party in such action shall be entitled to have and recover from the losing party reasonable attorney's fees and all other costs of such action.

8. Entire Agreement. This Agreement constitutes the final written expression of all of the terms and provisions of the agreement between the parties, and is a complete and exclusive statement of those terms. Any and all oral or written representations, promises, warranties or statements by any of the parties or their agents which differ in any way from the terms and provisions of this Agreement shall be given no force or effect whatsoever.

9. Governing Law. This Agreement shall be governed by and construed in accordance with both Federal and California State laws. Waste Discharge Requirements issued by the State RWQCB includes provisions regarding hazardous or toxic wastes, limits on BOD



(Biochemical Oxygen Demand), SS (Suspended Solids), and EC (Electrical Conductance). There are also regulations concerning such things as heavy metal concentrations allowable in sludge that apply to the proposed plant. Therefore, it is agreed that each party represents and warrants that their respective wastewater qualities do not and will not exceed the State and Federal regulations as stated and referred to herein. And further, it is agreed that each party represents and warrants a BOD not to exceed 300 parts per million and a SS not to exceed 300 parts per million. That entity failing to comply with any such law regarding waste discharge or with the limitation contained herein, shall be responsible for any and all damages caused by or resulting from such violation. This warranty shall be in effect until both parties adopt those portions of an ordinance now being drafted for NORSD that discuss the allowable limits of certain constituents on wastewater discharged to public sewers that convey wastewater to the proposed Plant from residential, commercial, and industrial dischargers.

10. Accounting Records. NORSD Shall maintain complete and accurate records with respect to all costs and expenses incurred under this Agreement. All such records shall be clearly identifiable. NORSD shall allow a representative of Shafter during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement. NORSD shall allow inspection of all work, data, documents, proceedings, and activities related to the agreement for a period of three (3) years from the date of final payment under this Agreement.

11. Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

12. Insurance and Indemnification. NORSD shall require all contractors performing work on the Plant to maintain commercial general liability, business automobile liability, workers' compensation and builders'/all risk insurance to insure against damages to persons or property which may arise from or in connection with the construction of the Plant as contained in the plans and specifications previously reviewed by SHAFTEER dated December 1991, revised February 1996. NORSD shall require all such contractors to name Shafter, its officials, officer, employees and agents as additional insured on their commercial general liability and business automobile liability policies. Finally, NORSD shall require all contractors performing work on the Plant to defend, indemnify and hold harmless Shafter its officials, officers, employees and agents to the same extent and under the same conditions as such contractors do for NORSD.

DATED: February 3, 1998

NORTH OF RIVER SANITARY DISTRICT NO. 1  
("NORS")

By: Donald J. Lillis

Its: President

Attest: By: Donald O. Young

Its: Manager

Dated: Jan 29, 1998

CITY OF SHAFTER ("Shafter")

By: J. D. [Signature]

Its: City Manager

Attest: By: Salvatore Robinson

Its: City Clerk

AGREEMENT NO. 00-11

**SEWER SERVICE BOUNDARY AGREEMENT  
BETWEEN THE CITY OF BAKERSFIELD AND  
NORTH OF THE RIVER SANITARY DISTRICT  
NO. 1**

**THIS AGREEMENT** is made and entered into on JAN 12 2000, by and between the **CITY OF BAKERSFIELD**, a Charter city and municipal corporation, ("CITY" herein) and **NORTH OF THE RIVER SANITARY DISTRICT NO. 1**, a special district in the County of Kern, State of California, ("NOR" herein).

**RECITALS**

**WHEREAS**, both CITY and NOR are empowered to acquire, construct, operate, and maintain sewerage systems that include, but are not limited to, sewer lines, sewer lift stations, wastewater treatment plants and treated wastewater effluent disposal facilities; and

**WHEREAS**, CITY and NOR believe it would benefit both to establish a mutually agreed upon sewer service boundary understanding so both CITY and NOR can effectively plan for facilities required in their respective sewer service areas; and

**NOW, THEREFORE**, incorporating the foregoing recitals herein, CITY and NOR mutually agree as follows:

1. **SEWER SERVICE AREA.** CITY and NOR agree to the following sewer service area principles:

1.1 If the property is annexed to NOR, such areas within NOR shall be served by NOR;

1.2 If property is served by County through NOR and is annexed to CITY, such areas that are currently in the County which are being served by NOR would remain under NOR's jurisdiction and receive service from NOR after annexation;

1.3 Undeveloped property the County intends to serve through NOR, shown on Exhibit "A" as "proposed NOR Service Area Boundary", shall continue to be served by NOR should the City annex that property, and said property shall be required to be concurrently annexed to NOR. Undeveloped property within the "City Service Area"

as shown on Exhibit "A" shall be served by the City.

1.4 NOR will collect connection fees, line charges, and service charges placed on the county tax rolls from NOR's service area as shown on Exhibit "A". City will collect connection fees, line charges, and service charges placed on the county tax rolls from City's service area as shown on Exhibit "A".

**2. MAINTENANCE AND ROADS.** Should NOR provide sewer service to an annexed area, NOR shall be solely responsible for all maintenance and repair of the sewer, sewer lines, wastewater treatment facilities and all materials and equipment related thereto. Should NOR excavate in CITY streets or rights-of-way in repairing or maintaining the above-listed facilities, *then the restoration of the street, right-of-way, or any damaged CITY-owned facility resulting from NOR's activities shall be repaired by NOR to the satisfaction of the City Engineer or, if not repaired by NOR, then repaired by CITY and billed to NOR. In restoring the street, right-of-way or other CITY facility, NOR shall use a contractor licensed in the State of California, with the appropriate speciality.* The CITY Engineer shall determine the level of restoration or repair required under this Agreement. NOR shall not be required to pay for any damage or repair unrelated to their activities. NOR shall indemnify and defend the CITY against all suits brought by third parties as a result of NOR's excavation activities as set forth in the indemnity provisions of this Agreement.

**3. SYSTEMS STAND ALONE.** CITY and NOR will provide sewerage service by maintaining completely separate systems. If CITY serves a local area, the sewerage shall be delivered to CITY for treatment. The same will apply to NOR.

**4. LEVEL OF SERVICE.** NOR agrees all sewer systems installed for CITY residents will meet or exceed CITY specifications. NOR agrees the level of service given to CITY residents will meet or exceed commonly accepted engineering standards. Where it is probable that areas will annex into the CITY, NOR agrees all sewers shall be installed to CITY specifications at a minimum, provided NOR has the jurisdiction to do so.

**5. FAILURE OF SEWER.** Should an NOR installed sewer line fail within the corporate boundaries of the CITY of Bakersfield for reasons related to or growing out of the installation or operation of said sewer line by NOR or its employees, agents, or independent contractors, NOR shall take immediate steps to repair and/or replace the same at the sole cost and expense of NOR. All roads and road surfaces, rights-of-way and CITY property damage shall be *repaired by NOR to the satisfaction of the City Engineer, or shall be repaired by CITY and charged to NOR.* CITY and NOR shall coordinate repair operations. Should CITY or its employees, agents, or independent contractors, damage NOR's sewer lines, facilities or property, CITY shall immediately repair, and/or replace same *to the satisfaction of NOR* at the sole cost and expense of CITY, *and if not repaired by CITY, then repaired by NOR and billed to CITY.*

6. **ACCEPTANCE OF WORK OR SERVICES.** The acceptance of work or services, or payment for work or services, by CITY shall not constitute a waiver of any provisions of this Agreement.

7. **ASSIGNMENT.** Neither this Agreement, nor any interest in it, may be assigned or transferred by any party without the prior written consent of all the parties. Any such assignment will be subject to such terms and conditions as CITY may choose to impose. CITY shall not unreasonably withhold its consent.

8. **BINDING EFFECT.** The rights and obligations of this Agreement shall inure to the benefit of, and be binding upon, the parties to the Agreement and their heirs, administrators, executors, personal representatives, successors and assigns.

9. **CITY INSURANCE.** CITY represents it is self-insured and will, throughout the term of the this Agreement, maintain its insurance program. CITY warrants that, at all times during the term of this Agreement, it shall have and maintain workers' compensation insurance in compliance with the Labor Code of the State of California.

10. **COMPLIANCE WITH ALL LAWS.** NOR and CITY shall, at their respective sole costs, comply with all of the requirements of Municipal, State, and Federal authorities now in force, or which may hereafter be in force, pertaining to this Agreement, and shall faithfully observe in all activities relating to or growing out of this Agreement all Municipal ordinances and State and Federal statutes, rules or regulations, and permitting requirements now in force or which may hereafter be in force.

11. **AUTHORITY.** Each individual signing this Agreement on behalf of entities represent and warrant that they are, respectively, duly authorized to sign on behalf of the entities and to bind the entities fully to each and all of the obligations set forth in this Agreement.

12. **EXECUTION.** This Agreement is effective upon execution. It is the product of negotiation and all parties are equally responsible for authorship of this Agreement. Section 1654 of the California Civil Code shall not apply to the interpretation of this Agreement.

13. **EXHIBITS.** In the event of a conflict between the terms, conditions or specifications set forth in this Agreement and those in exhibits attached hereto, the terms, conditions, or specifications set forth in this Agreement shall prevail. All exhibits to which reference is made in this Agreement are deemed incorporated in this Agreement, whether or not actually attached.

14. **FORUM.** Any lawsuit pertaining to any matter arising under, or growing out of, this Agreement shall be instituted in Kern County, California.

**15. FURTHER ASSURANCES.** Each party shall execute and deliver such papers, documents, and instruments, and perform such acts as are necessary or appropriate, to implement the terms of this Agreement and the intent of the parties to this Agreement.

**16. INSURANCE.** In addition to any other insurance or bond required under this Agreement, NOR shall procure and maintain for the duration of this Agreement the following types and limits of insurance ("basic insurance requirements" herein):

**16.1 Automobile liability insurance,** providing coverage on an occurrence basis for bodily injury, including death, of one or more persons, property damage and personal injury, with limits of not less than One Million Dollars (\$1,000,000) per occurrence; and the policy shall:

**16.1.1** Provide coverage for owned, non-owned and hired autos.

**16.1.2** Contain an additional insured endorsement in favor of the CITY, its mayor, council, officers, agents and employees.

**16.2 Broad form commercial general liability insurance,** ISO form CG00 01 11 85 or 88 providing coverage on an occurrence basis for bodily injury, including death, of one or more persons, property damage and personal injury, with limits of not less than One Million Dollars (\$1,000,000) per occurrence; and the policy shall:

**16.2.1** Provide contractual liability coverage for the terms of this Agreement.

**16.2.2** Contain an additional insured endorsement in favor of the CITY, its mayor, council, officers, agents, employees and designated volunteers.

**16.3 Workers' compensation insurance** with statutory limits and employer's liability insurance with limits of not less than One Million Dollars (\$1,000,000) per occurrence; and the policy shall contain a waiver of subrogation endorsement in favor of the CITY, its mayor, council, officers, agents, employees and designated volunteers.

All policies required of NOR shall be primary insurance as to the CITY, its mayor, council, officers, agents, employees, or designated volunteers and any insurance or self-insurance

maintained by the CITY, its mayor, council, officers, agents, employees, and designated volunteers shall be excess of NOR's insurance and shall not contribute with it. Additional insured endorsement shall use ISO form CG20 10 11 85 (in no event with an edition date later than 1990).

Insurance is to be placed with insurers with a Bests' rating of no less than A:VII. Any deductibles, self-insured retentions or insurance in lesser amounts, or lack of certain types of insurance otherwise required by this Agreement, or insurance rated below Bests' A:VII, must be declared prior to execution of this Agreement and approved by the CITY in writing.

All policies shall contain an endorsement providing the CITY with thirty (30) days written notice of cancellation or material change in policy language or terms. All policies shall provide that there shall be continuing liability thereon, notwithstanding any recovery on any policy.

The insurance required hereunder shall be maintained for the duration of this Agreement.

NOR shall furnish the City Risk Manager with a certificate of insurance and required endorsements evidencing the insurance required. The CITY may withdraw its offer of contract or cancel this contract if certificates of insurance and endorsements required have not been provided prior to the execution of this Agreement.

Full compensation for all premiums which NOR is required to pay on all the insurance described herein shall be considered as included in the prices paid for the various items of work to be performed under the Agreement, and no additional allowance will be made therefor or for additional premiums which may be required by extensions of the policies of insurance.

It is further understood and agreed by NOR that its liability to the CITY shall not in any way be limited to or affected by the amount of insurance obtained and carried by NOR in connection with this Agreement.

Unless otherwise approved by the CITY, if any part of the work under this Agreement is subcontracted, the "basic insurance requirements" set forth above shall be provided by, or on behalf of, all subcontractors even if the CITY has approved lesser insurance requirements for NOR.

## **17. JOINT LIMITATION ON LIABILITIES AND INDEMNIFICATION.**

- 17.1** Neither party shall be liable to the other party for any loss, damage, liability, claim or cause of action for damage to or destruction of property or for injury to or death of persons arising solely from any act or omission of the other party's officers, agents or employees.

17.2 CITY and NOR agree to indemnify and hold each other harmless from any and all claims, demands, liabilities, losses or causes of action which arise by virtue of its own acts or omissions (either directly or through or by its agents, officers, or employees) to such extent and in such part as the respective parties are found by reason of law to have proximately caused the injury or damage.

17.3 The party against whom any claim arising from any subject matter of this Agreement is filed shall give prompt notice of the filing of the claim to the other party.

18. **MERGER AND MODIFICATION.** All prior agreements between the parties are incorporated in this Agreement which constitutes the entire agreement. Its terms are intended by the parties as a final expression of their agreement with respect to such terms as are included herein and may not be contradicted by evidence of any prior agreement or contemporaneous oral agreement. The parties further intend this Agreement constitutes the complete and exclusive statement of its terms and no extrinsic evidence whatsoever may be introduced in any judicial or arbitration proceeding involving this Agreement. This Agreement may be modified only in a writing approved by the CITY Council and NOR and signed by all the parties.

19. **NEGATION OF PARTNERSHIP.** CITY and NOR shall not become or be deemed partners or joint venturers with one another or associate in any such relationship with one another by reason of the provisions of this Agreement. NOR shall not for any purpose be considered an agent, officer or employee of CITY, and CITY shall not for any purpose be considered an agent, officer or employee of NOR.

20. **NO WAIVER OF DEFAULT.** The failure of any party to enforce against another a provision of this Agreement shall not constitute a waiver of that party's right to enforce such a provision at a later time, and shall not serve to vary the terms of this Agreement.

21. **NON-INTEREST.** No officer or employee of the CITY shall hold any interest in this Agreement (California Government Code section 1090).

22. **NOTICES.** All notices relative to this Agreement shall be given in writing and shall be personally served or sent by certified or registered mail and be effective upon actual personal service or depositing in the United States mail. The parties shall be addressed as follows, or at any other address designated by notice:

CITY: CITY OF BAKERSFIELD  
City Hall  
1501 Truxtun Avenue  
Bakersfield, California, 93301



NOR: NORTH OF THE RIVER  
SANITARY DISTRICT NO. 1  
5001 Olive Drive  
Bakersfield, California 93308

**23. TIME OF EFFECTIVENESS.** Unless otherwise provided, this Agreement shall take effect when all of the following events have occurred:

- 23.1** This Agreement has been signed on behalf of NOR by the person(s) authorized to bind NOR hereto;
- 23.2** This Agreement has been approved by the CITY's Council;
- 23.3** This Agreement has been signed by the appropriate CITY Department;
- 23.4** The Office of the CITY Attorney has signed;
- 23.5** The Office of the City Finance Director has signed; and
- 23.6** This Agreement has been signed on behalf of the CITY by the Mayor or Vice-Mayor.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed, the day and year first-above written.

"CITY"

"NOR"


**CITY OF BAKERSFIELD**

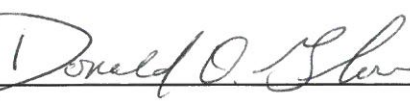
**NORTH OF THE RIVER  
SANITARY DISTRICT NO. 1**

By:   
\_\_\_\_\_  
**BOB PRICE, Mayor**

By:   
\_\_\_\_\_  
President of the Board

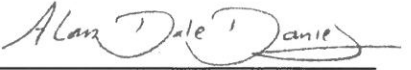
**APPROVED AS TO CONTENT:  
PUBLIC WORKS DEPARTMENT**

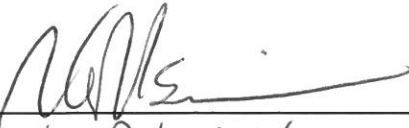
By:   
\_\_\_\_\_  
**RAUL ROJAS**  
Public Works Director

By:   
\_\_\_\_\_  
Manager

More Signatures on Following Page

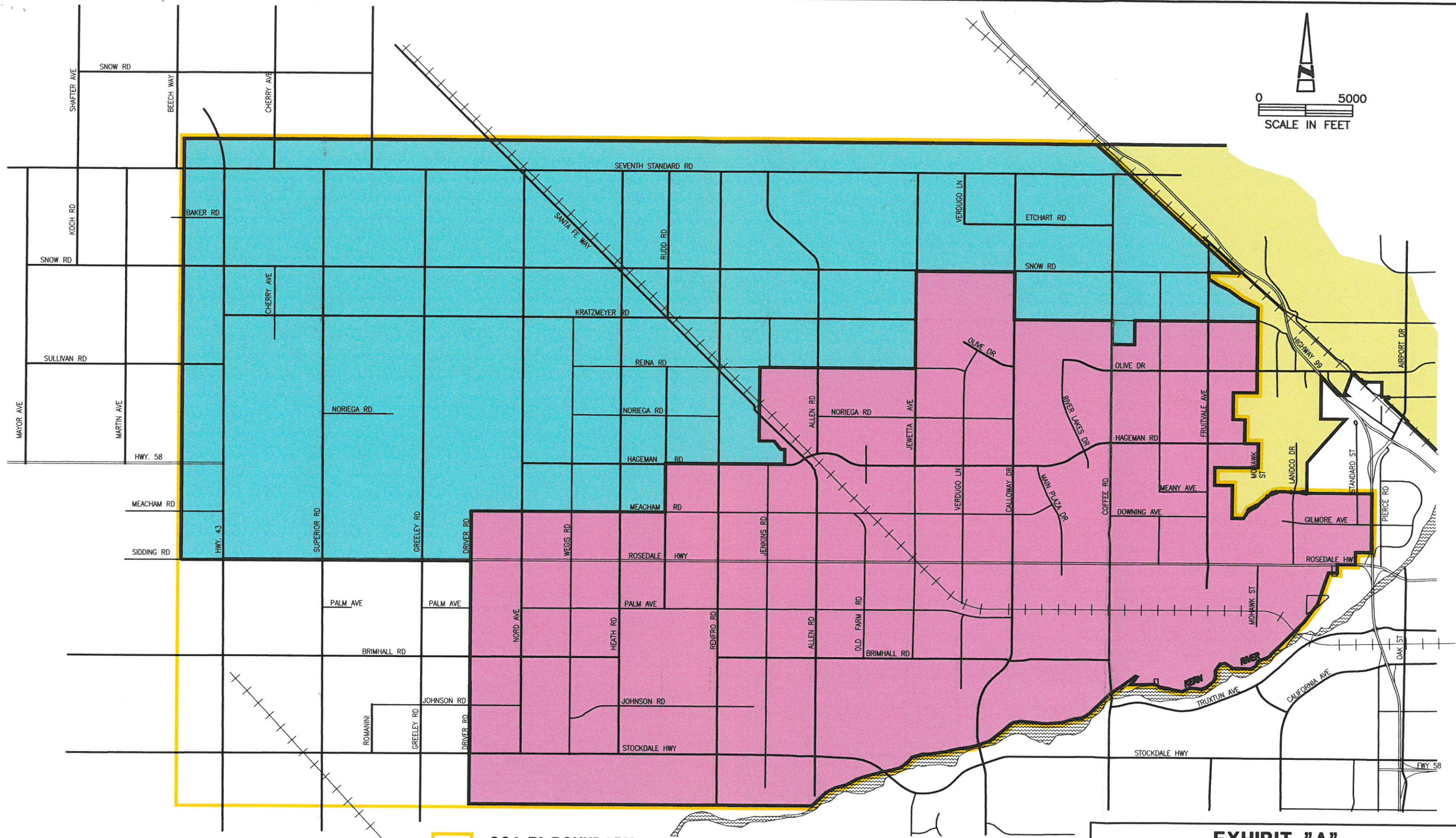
APPROVED AS TO FORM:  
**BART J. THILTGEN**  
City Attorney





By:   
**ALAN D. DANIEL**  
Deputy City Attorney

By:   
*Boston, Petani & Leonard*  
Attorney for North of the River  
Sanitary District No. 1

COUNTERSIGNED:

By:   
**GREGORY J. KLIMKO**  
Finance Director



-  **CSA-71 BOUNDARY**
-  **PROPOSED NOR SERVICE AREA BOUNDARY**
-  **PROPOSED CITY SERVICE AREA BOUNDARY**
-  **EXISTING NOR SERVICE AREA BOUNDARY**

**EXHIBIT "A"**

**NOR/CITY SERVICE AREA BOUNDARY**

*BOYLE ENGINEERING CORPORATION*

## PIPELINE CAPACITY AND METER AGREEMENT

This Agreement is made this 28th day of June, 2004 between the CITY OF SHAFTER, a municipal corporation (hereinafter referred to as "SHAFTER", and NORTH OF RIVER SANITARY DISTRICT NO. 1, a special district of the State of California (hereinafter referred to as "NORS D").

### RECITALS

WHEREAS, SHAFTER and NORS D are owners of certain sewage treatment plant and collection facilities as described by a Joint Powers Agreement ("JPA") dated February 6, 1990, and

WHEREAS, the JPA outlines NORS D and SHAFTER'S share of costs related to the NORS D outfall sewer pipeline located along 7<sup>th</sup> Standard Road west of Shafter Avenue (SHAFTER REACH), and

WHEREAS, SHAFTER'S cost for the SHAFTER REACH is  $\frac{1}{4}$  the total cost and has a capacity estimated at 3,000,000 gallons, and

WHEREAS, the JPA requires SHAFTER to meter their flows at the SHAFTER REACH in order to determine SHAFTER'S portion of flow to the treatment facilities, and

WHEREAS, SHAFTER is desirous of utilizing an additional 4.5 miles of sewer pipeline located along 7<sup>th</sup> Standard Road east of and connecting to the SHAFTER REACH between Santa Fe Way and Shafter Avenue ("SANTE FE REACH") in which SHAFTER has no capacity, and

WHEREAS, SHAFTER is desirous of participating in the Co-Gen currently being installed at the treatment plant, and

WHEREAS, NORS D has installed an upgrade to the raw sewage pumps at the treatment plant. SHAFTER'S cost of said upgrade is  $\frac{1}{3}$  of the cost per the JPA.

THEREFORE, SHAFTER and NORS D agree as follows:

1. SHAFTER shall participate in the costs of the SANTE FE REACH by making semi annual payments to NORS D as shown on "EXHIBIT A" and attached hereto and made a part hereof.
2. SHAFTER'S allocable share for the participation on the cost of the SANTA FE REACH shall be added to SHAFTER'S existing pipeline debt service payments currently made to NORS D due April 15 and October 15 of each year.
3. SHAFTER shall install a meter to record the flows for the SANTE FE REACH in accordance with NORS D approval. The meter shall be connected to the SCADA system at the treatment plant. The meter shall be installed

prior to any additional flows into the SANTE FE REACH other than the ITT facility.

4. SHAFTER shall participate in the Co-Gen Plant and raw sewage pump upgrade as shown on EXHIBIT "A" attached hereto and made a part hereof.
5. SHAFTER'S allocable share for participation in the cost of the upgrade to the raw sewage pumps at the treatment plant is shown on EXHIBIT "A" attached hereto and made a part hereof.

City of Shafter, a municipal corporation,

By JDR

Charles Robinson ATTEST:

North of River Sanitary District,  
a corporation of the State of California

By Donald O. Gh

Donald O. Gh ATTEST:

prior to any additional flows into the SANTE FE REACH other than the ITT facility.

4. SHAFTER shall participate in the Co-Gen Plant and raw sewage pump upgrade as shown on EXHIBIT "A" attached hereto and made a part hereof.
5. SHAFTER'S allocable share for participation in the cost of the upgrade to the raw sewage pumps at the treatment plant is shown on EXHIBIT "A" attached hereto and made a part hereof.

City of Shafter, a municipal corporation,

By JDR

Malcolm Robinson ATTEST:

North of River Sanitary District,  
a corporation of the State of California

By Donald O. Gh

Donald O. Gh ATTEST:

# EXHIBIT "A"

Pipe Capacity:  
1/4- 3 million gal/day

	Total	Shafter's Share
Pipe Capacity- SANTA FE REACH: 3 million gal/day	\$2,939,345.00	\$734,836.25
Co-Gen- 1/3 (Includes Rrebate)	\$392,324.00	\$130,774.67
Raw Sewage Pump Upgrade- 1/3	\$301,834.69	\$100,611.56
Total	<b>\$3,633,503.69</b>	<b>\$966,222.48</b>
Interest		4%
Period- Years		20
Annual Payment		(\$71,096.34)
Semi Annual Payment		(\$35,548.17)
Payments Due: April 15 and October 15		
First Payment Due: April 15,2004		

**NORTH OF THE RIVER SANTA FE REACH  
CITY PORTION**

Loan Amount	\$966,222.48
Interest	4.00%
Term	20 years
Payment	\$35,048.00

Pmt #	Payment Date	Repayment Amount	Interest Amount	Principal Amount	Balance Due
	06/28/04				\$966,222.48
1	10/15/04	\$35,048.00	\$11,541.73	\$23,506.27	942,716.21
2	04/15/05	35,048.00	18,802.67	16,245.33	926,470.87
3	10/15/05	35,048.00	18,580.18	16,467.82	910,003.06
4	04/15/06	35,048.00	18,150.20	16,897.80	893,105.26
5	10/15/06	35,048.00	17,911.04	17,136.96	875,968.30
6	04/15/07	35,048.00	17,471.37	17,576.63	858,391.67
7	10/15/07	35,048.00	17,214.87	17,833.13	840,558.53
8	04/15/08	35,048.00	16,857.23	18,190.77	822,367.76
9	10/15/08	35,048.00	16,492.42	18,555.58	803,812.18
10	04/15/09	35,048.00	16,032.20	19,015.80	784,796.38
11	10/15/09	35,048.00	15,738.93	19,309.07	765,487.31
12	04/15/10	35,048.00	15,267.80	19,780.20	745,707.11
13	10/15/10	35,048.00	14,955.00	20,093.00	725,614.11
14	04/15/11	35,048.00	14,472.52	20,575.48	705,038.64
15	10/15/11	35,048.00	14,139.40	20,908.60	684,130.04
16	04/15/12	35,048.00	13,720.09	21,327.91	662,802.13
17	10/15/12	35,048.00	13,292.36	21,755.64	641,046.49
18	04/15/13	35,048.00	12,785.80	22,262.20	618,784.29
19	10/15/13	35,048.00	12,409.59	22,638.41	596,145.88
20	04/15/14	35,048.00	11,890.25	23,157.75	572,988.14
21	10/15/14	35,048.00	11,491.16	23,556.84	549,431.30
22	04/15/15	35,048.00	10,958.52	24,089.48	525,341.82
23	10/15/15	35,048.00	10,535.62	24,512.38	500,829.44
24	04/15/16	35,048.00	10,044.03	25,003.97	475,825.47
25	10/15/16	35,048.00	9,542.58	25,505.42	450,320.05
26	04/15/17	35,048.00	8,981.73	26,066.27	424,253.78
27	10/15/17	35,048.00	8,508.32	26,539.68	397,714.10
28	04/15/18	35,048.00	7,932.49	27,115.51	370,598.59
29	10/15/18	35,048.00	7,432.28	27,615.72	342,982.87
30	04/15/19	35,048.00	6,840.86	28,207.14	314,775.73
31	10/15/19	35,048.00	6,312.76	28,735.24	286,040.49
32	04/15/20	35,048.00	5,736.48	29,311.52	256,728.98
33	10/15/20	35,048.00	5,148.65	29,899.35	226,829.62
34	04/15/21	35,048.00	4,524.16	30,523.84	196,305.79
35	10/15/21	35,048.00	3,936.87	31,111.13	165,194.66
36	04/15/22	35,048.00	3,294.84	31,753.16	133,441.50
37	10/15/22	35,048.00	2,676.14	32,371.86	101,069.64
38	04/15/23	35,048.00	2,015.85	33,032.15	68,037.50
39	10/15/23	35,048.00	1,364.48	33,683.52	34,353.98
40	04/15/24	35,042.94	688.96	34,353.98	0.00



	TOTAL	SHAFTER'S SHARE
PIPE CAPACITY	\$2,939,345.00	\$734,836.25
CO-GEN 1/3 (INCLUDES REBATE)	392,324.00	130,774.67
RAW SEWAGE PUMP UPGRADE - 1/3	301,834.69	100,611.56
TOTAL	\$3,633,503.69	\$966,222.48

---

Percentage

25.00%

33.00%

33.00%

**COOPERATIVE AGREEMENT BETWEEN THE CITY OF SHAFTER AND NORTH OF RIVER SANITARY DISTRICT REGARDING SEWER CAPACITY**

This COOPERATIVE AGREEMENT (“Agreement”) by and between CITY OF SHAFTER, a municipal corporation (“SHAFTER”) and NORTH OF RIVER SANITARY DISTRICT NO. 1, a special district of the State of California (“NORS”) is made and entered into as of the 17<sup>th</sup> day of March, 2015 (“Effective Date”). SHAFTER and NORS are sometimes individually referred to as “Party” and collectively as “Parties.”

**1. RECITALS**

1.1 WHEREAS, SHAFTER and NORS are owners of a sewage treatment plant and sewage collection facilities (“Sewer Facilities”) as described in a Joint Powers Agreement (“JPA”) dated February 6, 1990; and

1.2 WHEREAS, the JPA outlines NORS’s and SHAFTER’s designated sewer capacity in each of the Sewer Facilities and their share of costs related to improvements to the Sewer Facilities; and

1.3 WHEREAS, in October 2006, NORS installed a ferric chloride chemical feeding system to the Sewer Facilities and, in January 2008, installed a polymer feed system. NORS has also made other historical improvements to the Sewer Facilities for which NORS and SHAFTER must pay their proportionate share of the cost as provided under the JPA. NORS has incurred a total cost of seven million, ninety nine thousand, nine hundred twenty one dollars and seventy cents (\$7,099,921.70) for these improvements (collectively “Improvements”) as of the Effective Date and has delivered to SHAFTER an invoice with supporting documentation for payment of SHAFTER’s share of the costs for the Improvements in the amount of two million, three hundred forty two thousand, nine hundred seventy four dollars and sixteen cents (\$2,342,974.16); and

1.4 WHEREAS, the Improvements increased the total sewer capacity for the sewage treatment plant from 5.5 to 7.5 million gallons per day (“MGD”), which is allocated under the JPA as follows: one-third (1/3 or 2.5 MGD) to SHAFTER and two-thirds (2/3 or 5 MGD) to NORS; and

1.5 WHEREAS, SHAFTER currently utilizes approximately 1.3 MGD and NORS utilizes 4.2 MGD of the sewage treatment plant capacity; and

1.6 WHEREAS, on August 13, 2009, the Central Valley Regional Water Quality Control Board adopted a new Waste Discharge Requirements Permit (“WDR Permit”) for the sewage treatment plant through Order No. R5-2009-0088, recognizing the newly increased capacity; and

1.7 WHEREAS, at present, SHAFTER does not have adequate sewer collection facilities to serve certain new residential developments and NORS may not have adequate sewage treatment plant capacity sufficient to handle the anticipated growth in its service area beyond five (5) years; and

1.8 WHEREAS, although the Parties have considered a number of expensive solutions to manage this situation they have agreed in principle to cooperate and share costs, in accordance with the JPA, to line the ponds at the sewer treatment plant, if ultimately required by the State, as an interim solution to defer the cost of new plant construction and to allow the Parties to build reserves, better utilize their existing assets, and reduce eventual financing costs; and

1.9 WHEREAS, SHAFTER now desires to pay NORS its share of the costs for the installation of the Improvements and to lease a portion of NORS’s excess sewer collection capacity for

its residential developments. SHAFTER will permit NORSD to utilize SHAFTER's excess sewer treatment capacity. No new master sewer plan or associated fee study is expected to be required as a result of this Agreement; and

1.10 WHEREAS, the JPA authorizes the Parties to enter into this Agreement. The parties to the JPA met on December 15, 2014 for a Technical Advisory Committee meeting to discuss this Agreement, at which time the County of Kern expressed no opposition to this Agreement.

NOW, THEREFORE, in consideration of the above recitals and the mutual covenants hereinafter contained and for good and valuable consideration, the receipt of which is hereby acknowledged, the Parties agree as follows:

## 2. TERMS OF AGREEMENT

2.1 Incorporation of Recitals. The Parties hereby affirm the facts set forth in the Recitals above. Said Recitals are incorporated into this Agreement by this reference.

2.2 Improvements. SHAFTER shall participate in the costs of the Improvements, and all current and future improvements to the Sewer Facilities, according to its one-third (1/3) share as provided under the JPA. In exchange, SHAFTER shall be allocated its full one-third (1/3) share in the additional sewer treatment plant capacity as provided under the JPA. The new sewer treatment plant capacity is estimated at 7.5 MGD. As a result, SHAFTER shall possess rights to 2.5 MGD and NORSD shall possess rights to 5.0 MGD of the capacity of the sewer treatment plant. The purpose of this section 2.2 is to confirm the Parties' understanding of the JPA rather than create any new or different obligation or interpretation under the JPA.

2.2.1 SHAFTER acknowledges receipt of NORSD's invoice in the amount of two million, three hundred forty two thousand, nine hundred seventy four dollars and sixteen cents dollars (\$2,342,974.16), and a record of all direct costs associated with that invoice, constituting SHAFTER's one-third (1/3) share of the cost of the Improvements incurred by NORSD prior to the Effective Date. Payment of this sum by SHAFTER to NORSD does not relieve SHAFTER of its ongoing obligation under the JPA to participate in the improvement costs for the Sewer Facilities. The purpose of this payment is to bring current SHAFTER's obligation to pay (and NORSD's obligation to invoice) its proportionate share of the improvement costs for the Sewer Facilities as required under the JPA. The JPA will continue to govern SHAFTER's obligation to participate in those costs arising after the Effective Date.

2.2.2 SHAFTER shall pay said invoice in full within thirty (30) days following the Effective Date.

2.3 WDR Permit. SHAFTER and NORSD will continue to work diligently and cooperatively under the JPA to ensure compliance with the WDR Permit for the sewage treatment plant, issued on August 13, 2009 by the Central Valley Regional Water Quality Control Board through Order No. R5-2009-0088. Particularly, the Parties will monitor the need to address possible nitrogen contamination closely, although presently it is understood that the treatment plant's discharge is not affecting surrounding nitrogen levels.

### 2.4 Sewer Collection Capacity.

2.4.1 NORSD shall lease to SHAFTER the right to utilize up to 0.5 MGD of NORSD's excess sewer collection capacity in the pipeline between the point of connection west of the BNSF railway at Santa Fe Way and 7th Standard Road and the new residential developments north of 7th Standard Road and east of the Calloway Canal. The rate for such lease shall be billed monthly and based

on the average daily flow over the prior month measured by a meter installed pursuant to Section 2.4.2 at a location to be mutually agreed upon by both Parties. The daily flow, measured in thousands of gallons, for each day of the month will be added together and divided by the total number of days in that month. The resulting average daily flow (in thousands of gallons) for that month will then be multiplied by thirty two cents (\$0.32) ("Lease Fee") to determine the amount owed for that month beginning on the Effective Date of this Agreement. NORSD shall submit to SHAFTER a monthly invoice by the 15th of the month immediately following the month for which the average daily flow was calculated. SHAFTER shall then pay said invoice in full within thirty (30) days following its receipt of the invoice provided NORSD has provided information supporting the calculation of the average daily flow. Any amount not paid when due, shall bear interest at the maximum legal rate. Exhibit A, attached hereto and incorporated herein by reference, depicts the stretch of sewer line where SHAFTER may use NORSD's excess collection capacity.

2.4.1.1 Annual Adjustment to Lease Fee. The Lease Fee shall be adjusted on an annual basis on the anniversary date of this Agreement by the same percentage as the then most recent increase, if any, in NORSD's sewer service charge. The annual adjustment of Lease Fee shall be made through official notification letter from NORSD to the SHAFTER stating the new Lease Fee.

2.4.1.2 Responsibility for Operations and Maintenance. The Lease Fee is intended to cover NORSD's operations and maintenance costs for this stretch of pipeline. NORSD remains entirely responsible for the maintenance and operation of this stretch of pipeline and shall not seek any additional compensation or reimbursement from SHAFTER for this purpose. NORSD shall keep the pipeline in a state of good repair at all times and shall expeditiously resolve any problems with the pipeline at its sole cost and expense.

2.4.2 All pipelines south of 7th Standard Road will remain the property of NORSD. SHAFTER's use of pipelines south of 7th Standard Road shall be metered at SHAFTER's cost.

2.5 Sewage Treatment Plant Capacity. SHAFTER shall permit NORSD to utilize up to 0.8 MGD of SHAFTER's excess sewage treatment plant capacity in accordance with NORSD's needs at no cost to NORSD. NORSD will not acquire any ownership interest in the excess capacity by its use of SHAFTER's excess sewage treatment plant capacity. Should NORSD cease its use of any portion of SHAFTER's excess capacity at any time while this Agreement is in force, that excess capacity shall remain the property of SHAFTER.

2.6 Further Cooperation. SHAFTER and NORSD shall continue to coordinate and discuss the future needs of the Sewer Facilities under the JPA, and to assess and discuss the status of the borrowed capacity under this Agreement at least once in every twelve month period. Should the sewer treatment plant's average daily flows reach a combined 6.5 MGD, the Parties shall meet within forty-five (45) days to coordinate future plans for the sewer system. In addition, the Parties agree to meet within forty-five (45) days when the following occur : (1) SHAFTER has utilized 0.2 MGD of NORSD's excess sewer collection capacity in the pipeline south of 7th Standard Road; (2) SHAFTER has utilized 0.4 MGD of NORSD's excess sewer collection capacity in the pipeline south of 7th Standard Road; (3) NORSD has utilized 0.2 MGD of SHAFTER's excess sewer treatment plant capacity; (4) NORSD has utilized 0.4 MGD of SHAFTER's excess sewer treatment plant capacity; and (5) NORSD has utilized 0.6 MGD of SHAFTER's excess sewer treatment plant capacity.

2.7 Term and Termination. This Agreement shall remain in effect as written until January 1, 2027. This Agreement may be terminated sooner, in writing, by mutual agreement of all Parties hereto.

2.8 Party Representatives. SHAFTER hereby designates its Public Works Director, or his or her designee, to act as its representative for the performance of this Agreement ("SHAFTER's Representative"). SHAFTER's Representative shall have the power to act on behalf of SHAFTER for all

purposes under this Agreement. NORSD hereby designates its General Manager, or his or her designee, to act as its representative for the performance of this Agreement (“NORSD’s Representative”). NORSD’s Representative shall have full authority to represent and act on behalf of NORSD for all purposes under this Agreement.

2.9 Indemnification. SHAFTER and NORSD shall defend, indemnify and hold the other Party, its officials, officers, employees, authorized volunteers and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, to the extent arising out of or incident to any intentional or negligent acts, errors or omissions of the indemnifying Party, its officials, officers, employees, authorized volunteers or agents in the performance of any activity pursuant to this Agreement, including and without limitation the payment of all consequential damages and reasonable attorneys’ fees, expert witness fees and other related costs and expenses of defense. The sole exception to the indemnifying Party’s obligation to indemnify shall be for acts of negligence or willful misconduct of the indemnified Party, its officials, officers, employees, authorized volunteers or agents. This is a comparative negligence provision and each Party shall bear its own costs to the extent to which they are each negligent. The indemnifying Party shall defend, at its own cost, expense and risk, with counsel acceptable to the indemnifying Party, any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against the indemnified Party, its officials, officers, employees, authorized volunteers and agents. The indemnifying Party shall pay and satisfy any judgment, award or decree that may be rendered against the indemnified Party, its officials, officers, employees, authorized volunteers and agents in any such suits, actions or other legal proceedings. Each Party’s obligation to indemnify shall not be restricted to insurance proceeds, if any, received by SHAFTER or NORSD, their officials, officers, employees, authorized volunteers and agents.

### 3. MISCELLANEOUS TERMS

3.1 Amendment. This Agreement may be amended at any time by the mutual consent of the Parties by an instrument in writing signed by both Parties.

3.2 Disputes. In the event that any dispute between the Parties arises under this Agreement, the Parties shall first attempt to resolve such dispute at the management level. If the dispute is not resolved at this level within a mutually acceptable period of time (not to exceed 30 calendar days from the date written notice of such dispute is delivered by any Party), the Parties shall attempt to resolve the dispute at the senior management level. If this process and the involvement of senior management does not result in resolution of the dispute within 45 days from the date of referral to upper management, then the dispute shall be referred to and finally resolved through legal proceedings.

3.3 Construction; References; Captions. Since the Parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term referencing time, days or period for performance shall be deemed calendar days and not work days. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Agreement.

3.4 Entire Agreement. This Agreement constitutes the entire and integrated agreement of SHAFTER and NORSD with respect to the subject matter hereof and supersedes any and all prior and contemporaneous oral or written negotiations, representations or agreements.

3.5 Notices, Demands and Communications Between the Parties.

Formal notices, demands and communications between SHAFTER and NORSD shall be deemed

sufficiently given if: (i) by commercial overnight delivery; (ii) by messenger service for immediate personal delivery; or (iii) by electronic transmittal, including electronic mail and/or fax transmissions, subject to written verification of receipt by the receiving party. Such written notices, demands and communications may be sent in the same manner to such other addresses as either Party may from time to time designate by written notice to the other Party.

All notices, demands and communications shall be sent, as follows:

TO SHAFTER:

City of Shafter  
Attn: City Manager  
336 Pacific Avenue  
Shafter, CA 93263

Copy to:

Best Best & Krieger LLP  
Attn: City Attorney – City of Shafter  
2855 E. Guasti Road, Suite 400  
Ontario, CA 91764

TO NORSD:

North of River Sanitary District  
Attn: General Manager  
204 Universe Avenue  
Bakersfield, CA 93308

Copy to:

Klein, DeNatale, Goldner, Cooper,  
Rosenlieb & Kimball, LLP  
Attn: General Counsel – NORSD  
4550 California Avenue  
Second Floor.  
Bakersfield, CA 93309  
P.O. Box 11172  
Bakersfield, CA 93389-1172

Notices shall be deemed effective upon receipt or with respect to electronic transmission, upon receipt of written verification from the receiving Party.

3.6 Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

3.7 Attorneys' Fees. Except as otherwise expressly provided herein, each Party who files any action or brings any action or proceeding against the other arising from this Agreement, seeks resolution of disputes pursuant to this Agreement or is made a party to any action or proceeding brought by any other person or governmental entity, shall bear its own costs and fees.

3.8 Laws and Regulations. Each Party shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of this Agreement, and shall give all notices required by law. Each Party shall be liable for all violations of such laws and regulations in connection with this Agreement. If either Party performs any of its obligations hereunder knowing that its actions are contrary to such laws, rules and regulations and without giving written notice to the other, the violating Party shall be solely responsible for all costs arising therefrom. The violating Party shall defend, indemnify and hold the other, its officials, directors, officers, employees and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules or regulations.

3.9 Approvals. Approvals required of SHAFTER or the NORSD, or any officers, agents or employees of either Party, shall not be unreasonably withheld and approval or disapproval shall be given within a reasonable time.

3.10 Further Actions and Instruments. Each of the Parties shall cooperate with and provide

reasonable assistance to the other to the extent contemplated hereunder in the performance of all obligations under this Agreement and the satisfaction of the conditions of this Agreement.

3.11 Third Party Beneficiaries. This Agreement and the performance of the Parties obligations hereunder are for the sole and exclusive benefit of SHAFTER and NORSD. No person or entity who or which is not a signatory to this Agreement shall be deemed to be benefited or intended to be benefited by any provision hereof, and no such person or entity shall acquire any rights or causes of action against either SHAFTER or NORSD hereunder as a result of a Party's performance or non-performance of its obligations under this Agreement.

3.12 Governing Law. This Agreement shall be governed by the laws of the State of California without regard to conflicts of laws principles. This Agreement shall be deemed to have been made in the County of Kern, California, regardless of the order of the signatures of the Parties affixed hereto. Any litigation or other legal proceedings which arise under or in connection with this Agreement shall be conducted in a federal or state court located within or for Kern County, California. The Parties consent to the personal jurisdiction and venue in federal or state court located within or for the County of Kern, California and hereby waive any defenses or objections thereto including defenses based on the doctrine of forum non conveniens.

3.13 Waiver. No delay or omission in the exercise of any right or remedy of a non-defaulting Party on any default shall impair such right or remedy or be construed as a waiver. Either Parties' consent or approval of any act by the other Party requiring its consent or approval shall not be deemed to waive or render unnecessary its consent to or approval of any subsequent act of the other Party. Any waiver by either Party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

3.14 Rights and Remedies are Cumulative. Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the Parties are cumulative and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other Party. All warranties and promises to indemnify shall survive the termination, abandonment, or completion of this Agreement.

3.15 Legal Counsel. Each Party acknowledges that: (i) it has read this Agreement; (ii) it has had the opportunity to have this Agreement explained to it by legal counsel of its choice; (iii) it is aware of the content and legal effect of this Agreement; and (iv) it is not relying on any representations made by the other Party or any of the employees, agents, representatives, or attorneys of the other Party, except as expressly set forth in this Agreement.

3.16 Severability. In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the parties hereunder.

3.17 Binding Effect. The terms of this Agreement shall inure to the benefit of, and shall be binding upon, each of the Parties and their respective successors and assigns.

3.18 Authorized Representatives. The person or persons executing this Agreement on behalf SHAFTER and NORSD, as applicable, warrants and represents that he/she has the authority to execute this Agreement on behalf of that Party and that he/she has the authority to bind that Party to the performance of



its obligations hereunder.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the dates set forth below.

**[SIGNATURES ON THE FOLLOWING PAGE]**

**SIGNATURE PAGE  
TO  
COOPERATIVE AGREEMENT BETWEEN THE CITY OF SHAFTER AND NORTH  
OF RIVER SANITARY DISTRICT REGARDING SEWER CAPACITY**

**SHAFTER**  
City of  
Shafter

**NORS**  
North of River Sanitary District

By:   
Scott Hurlbert, City Manager

By:   
LaRue Griffin, General Manager

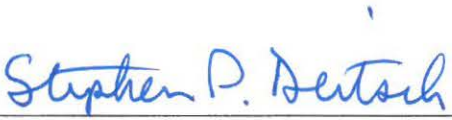
Dated: 3-19-2015

Dated: 3/26/15

APPROVED AS TO LEGAL FORM:

APPROVED AS TO LEGAL FORM:


BEST BEST & KRIEGER LLP

By:   
Stephen P. Deitsch, City Attorney

By:   
General Counsel

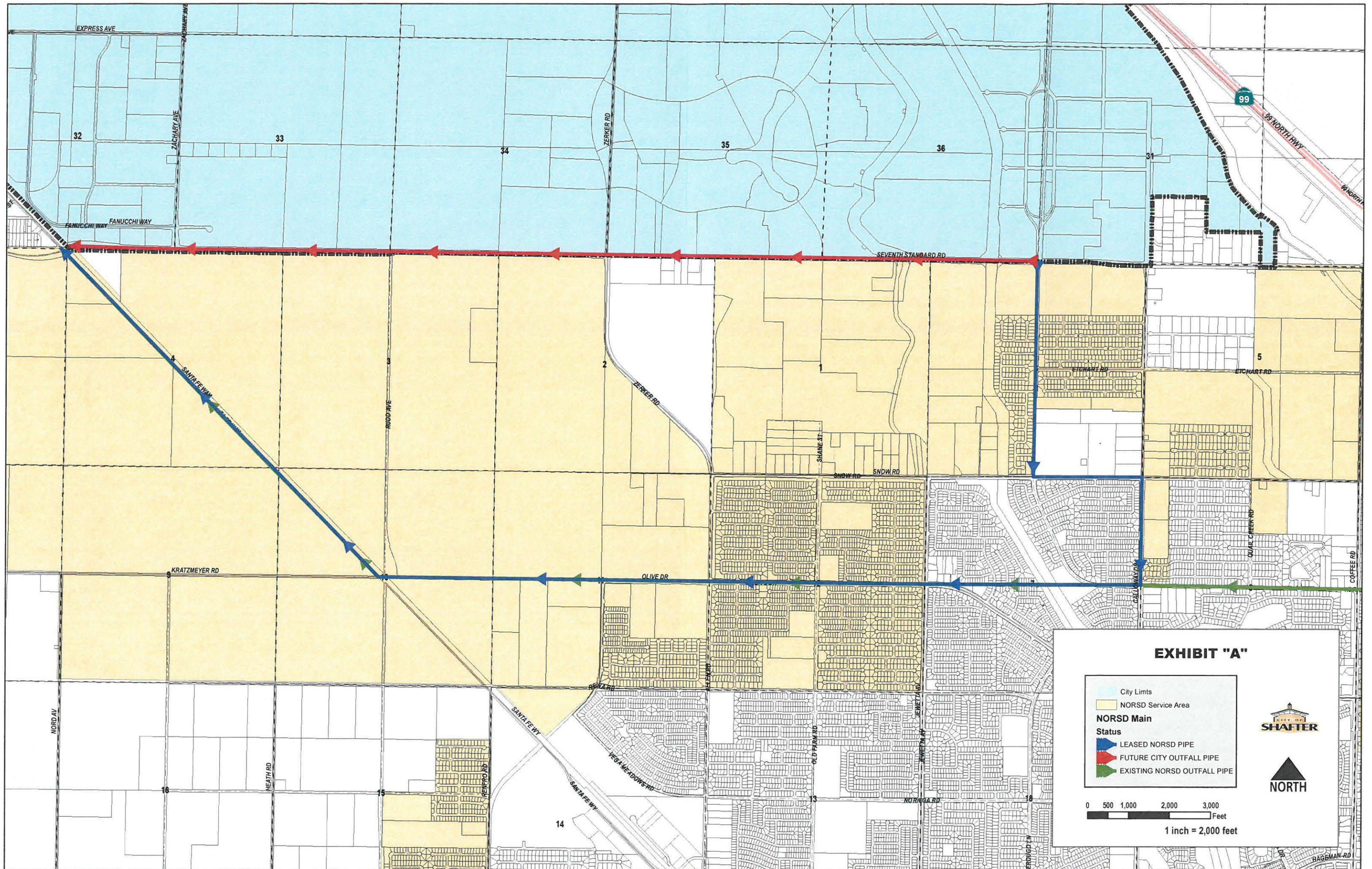
ATTEST:

ATTEST:

By:   
Christine Wilson, City Clerk

By:   
District Secretary

**EXHIBIT A**  
**MAP OF SEWER COLLECTION LINE**



**EXHIBIT "A"**

City Limits  
 NORSD Service Area

**NORSD Main Status**

- LEASED NORSD PIPE
- FUTURE CITY OUTFALL PIPE
- EXISTING NORSD OUTFALL PIPE



1 inch = 2,000 feet

## Roberts, Monique

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**From:** Patrick Ostly <postly@norsd.com>  
**Sent:** Monday, January 28, 2019 11:38 AM  
**To:** Stuart Patteson; Kyle Perez  
**Cc:** Roberts, Monique  
**Subject:** RE: Draft Municipal Service Review for NORSD

Stuart,  
Thanks for the review.

“area D” is the CWS treatment plant. They have an industrial discharge permit with the District dating back to 2006. We are working to get the several served parcels that are outside the District annexed into it. This one is also outside the current SOI.

### Patrick Ostly

District Manager

### North of River Sanitary District

Office: 661.399.6411

Cell: 661.428.3157

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**From:** Stuart Patteson <[spatteso@bakersfieldcity.us](mailto:spatteso@bakersfieldcity.us)>  
**Sent:** Monday, January 28, 2019 11:27 AM  
**To:** Patrick Ostly <[postly@norsd.com](mailto:postly@norsd.com)>; Kyle Perez <[PerezKy@kerncounty.com](mailto:PerezKy@kerncounty.com)>  
**Subject:** RE: Draft Municipal Service Review for NORSD

Patrick,

I noticed that the easterly boundary of Area B seems to have moved from Jenkins Road West to coincide with the request for the City to serve the parcels that front Jenkins Road on the west side of the road. I am not aware of Area D which appears to include the City/Cal Water Water treatment plant at the southwest corner of Norris and Coffee. Maybe you can explain that one a little further. Other than that this looks like what we have discussed and agreed to.

Thanks,

Stuart Patteson, P.E.  
Assistant Public Works Director  
City of Bakersfield  
[spatteso@bakersfieldcity.us](mailto:spatteso@bakersfieldcity.us)  
661-326-3575



## Roberts, Monique

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**From:** Kyle Perez <PerezKy@kerncounty.com>  
**Sent:** Wednesday, January 16, 2019 2:17 PM  
**To:** Patrick Ostly  
**Cc:** Roberts, Monique; Ramzi Mansour; Adrian Nava  
**Subject:** RE: CSA-71 Map and Discussion of Boundaries, moving forward

Pat,

I apologize for the delay,

We had discussed with the City adding that area, namely the lots just west of Jenkins (south of Hageman), because there is a dry sewer trunkline that “already” will serve the tracts to the east and this trunkline will eventually flow south (to the City of Bakersfield). After some discussion the City was ok with, essentially the two maps (same boundary/area) that you are referring to (included) in this email—that was sent to the City (and you reference/were CC’d) on 10-05-18. As of mid-November, the City has agreed to the boundary and the area that is shown (in orange) to provide sewer serve for County (CSA) residents.

### Kyle Perez

Engineer

Kern County Public Works

661-862-8852 office

[perezky@kerncounty.com](mailto:perezky@kerncounty.com)

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**From:** Patrick Ostly <postly@norsd.com>  
**Sent:** Friday, January 11, 2019 12:05 PM  
**To:** Kyle Perez <PerezKy@kerncounty.com>  
**Cc:** Roberts, Monique <Monique.Roberts@aecom.com>  
**Subject:** FW: CSA-71 Map and Discussion of Boundaries, moving forward

Kyle,  
We are currently putting in a SOI request with LAFCO. Part of it was for the area between Rudd and Jenkins, and Hageman and Meacham. I see below (highlighted) that you are thinking of changing the portion just west of Jenkins from what I had discussed with the City. What is the latest?

Thanks,

Pat

### Patrick Ostly

District Manager

**North of River Sanitary District**

Office: 661.399.6411

Cell: 661.428.3157

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**From:** Kyle Perez <[PerezKy@kerncounty.com](mailto:PerezKy@kerncounty.com)>  
**Sent:** Friday, October 5, 2018 3:57 PM  
**To:** Stuart Patteson <[spatteso@bakersfieldcity.us](mailto:spatteso@bakersfieldcity.us)>; Nick Fidler <[nfidler@bakersfieldcity.us](mailto:nfidler@bakersfieldcity.us)>; Greg Fenton <[gregf@kerncounty.com](mailto:gregf@kerncounty.com)>  
**Cc:** Ramzi Mansour <[RamziM@kerncounty.com](mailto:RamziM@kerncounty.com)>; Craig Pope <[cpope@kerncounty.com](mailto:cpope@kerncounty.com)>; Patrick Ostly <[postly@norsd.com](mailto:postly@norsd.com)>  
**Subject:** RE: CSA-71 Map and Discussion of Boundaries, moving forward

The last meeting that was held at the County's Public Service Building and included the County Sewer Section included discussion regarding the areas to include for the City of Bakersfield to for sewer service. In the meeting, Richard Meyer CSA-71 Sewer Study's corresponding boundary was discussed with possible adjustments.

The County stated in the meeting and still ongoing, that the County intends to try and get as many people off dry-sewer (septic tanks) and on to live sewer. I have attached maps that display the discussions held at the meeting.

The First Map {CSA-71 ADJUSTMENT 072318-CSA-71 MAP - 0} displays the 2018 R. Meyer CSA-71 Sewer Study Boundary that has been previously been agreed to by both parties and the following adjustments:

- There was discussion of removing Shilo Estates from the area served by the City, namely because the current system is already set to go north towards Rosedale Hwy on Heath Rd (away from the potential serving City sewer plant).
- The lots west of Jenkins between Meacham Road and Hageman Road were discussed to be added in light of the reduction by a possible removal of Shilo Estates.
  - The County insisted these should be served by the City of Bakersfield, because the immediate (11) lots to the west already have dry sewer (in front of their properties) on Jenkins Road. The tract to the east of Jenkins is already slated to be served by the City of Bakersfield (COB) and notably, eventually by the lift station near Brimhall & Renfro.
  - The lots slightly more west of these 8 lots in question are mostly on 3 Bars street (adjacent to Tracts 6035 and 6817) and included in this discussion could very well be served by the City of Bakersfield.
- A County island was briefly discussed that should have been included in the R. Meyer CSA-71 Study that are off of Jewetta (and Brimhall) and include 2 lots with access to live sewer.
- Additionally, the County brought up parcels currently in Planned Sewer Area 5 off Meany Avenue. The County requested these also be included in the serviced area because the County is trying to connect as many people / properties to live sewer as possible. These estimated 7 parcels have live sewer and could connect with limited or no easements necessary as there is live COB sewer on Meany from Coffee Rd, east to Patton Way.

Please let us know if you have any comments regarding the map and, or adjustments as this is a draft.

The Second Map {CSA-71 ADJUSTMENT 072318-CSA-71 MAP - A} displays the CSA-71 City of Bakersfield Sewer Service Area under the (in-progress) New Agreement if all proposals discussed (by both the City and County, at that meeting) are approved by the City of Bakersfield as shown on the First Map.

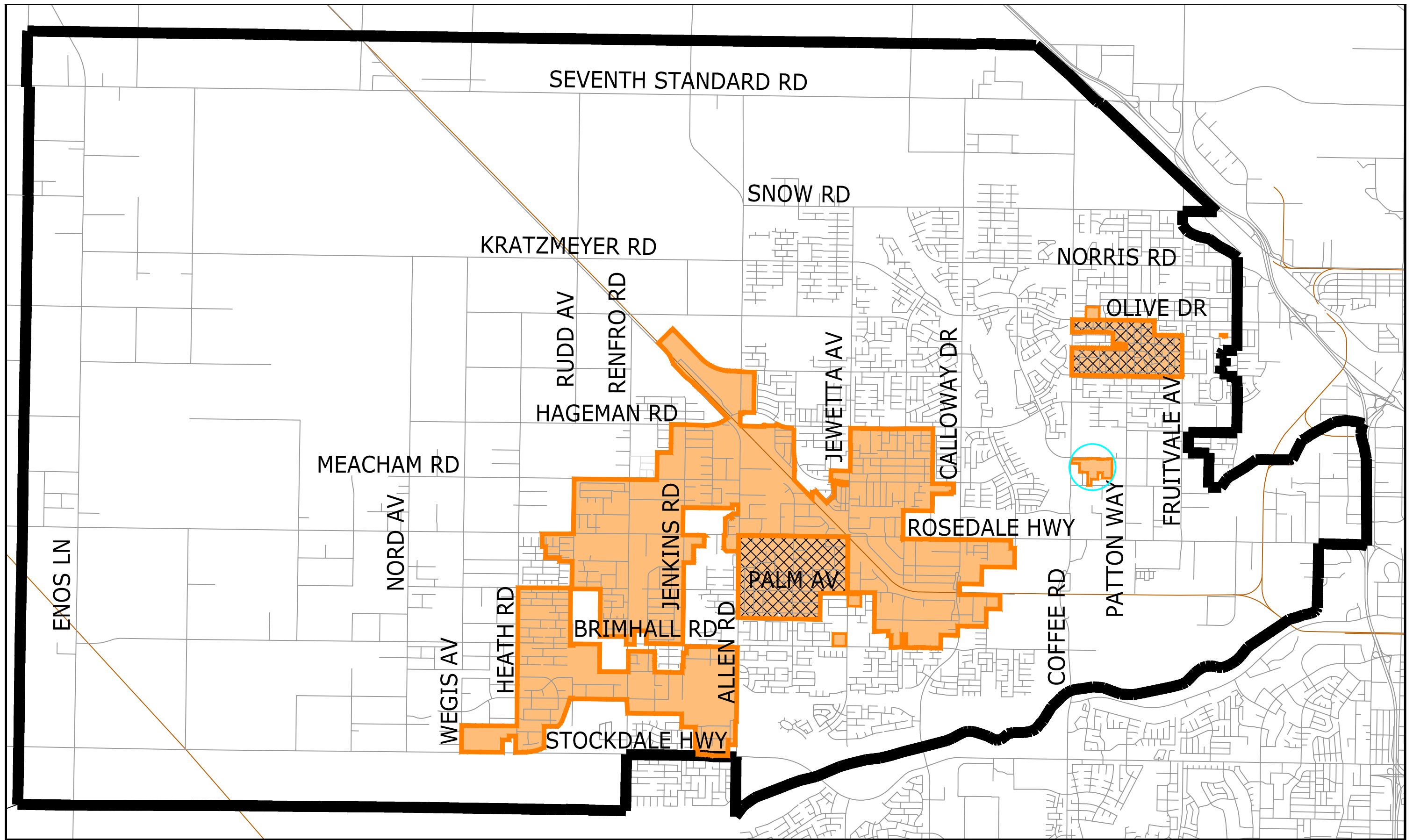
## **Kyle Perez**


Engineer

**Kern County Public Works**

661-862-8852 office


[perezky@kerncounty.com](mailto:perezky@kerncounty.com)



 CSA 71 BOUNDARY

 CITY OF BAKERSFIELD SEWER SERVICE AREA BOUNDARY

 NEW CITY CSA-71 SEWER SERVICE AREA, NEW AGREEMENT

 PALM-OLIVE AREAS (SERVED BY COB)

 AREAS DISCUSSED IN PREVIOUS MEETING FOR CITY OF BAKERSFIELD SEWER SERVICE