ORDINANCE NO. 0-9-2010
ROWLAND WATER DISTRICT

SUPERSEDES ORDINANCE NO. 0-7-2005
VACATES ORDINANCE 0-8-2010
ESTABLISHING MANDATORY RECYCLED WATER CONNECTION POLICY

WHEREAS, in order to conserve potable water supplies of the District for uses requiring potable water, in February 2001, the Board of Directors established a Mandatory Recycled Water Connection Policy, and adopted rules and regulations, requiring District customers to connect to the District's recycled water system and use recycled water for irrigation and other appropriate purposes where the connection and use of recycled water could be done at a reasonable cost to the customer; and,

WHEREAS, since the Mandatory Recycled Water Connection Policy and Rules and Regulations Governing Recycled Water Service were revised in July 2005, additional revisions have become necessary due to changes in State law and the regulatory agencies with jurisdiction over recycled water use, and in order to improve the District's procedures and administration of the recycled water program; and,

WHEREAS, the Amended Urban Water Management Plan adopted by the Board of Directors on September 11, 2007, includes the District's plans for expansion of the recycled water system as a means of reducing potable water demand; and,

WHEREAS, the Board desires to offer assistance to existing customers who are required to convert to the use of recycled water by providing conversion services and advancing the cost of conversion subject to the customer's agreement to pay potable water rates for recycled water until the advanced costs are repaid; and

WHEREAS, the Board has determined that the time for requesting a reconsideration of a finding of mandatory conversion or to request a waiver from the requirement of mandatory conversion to recycled water use, after a determination by staff that a customer is required to utilize recycled water, should be shortened, as well as the time for the District to respond to a request for reconsideration or waiver with a final determination, should be shortened to avoid undue delay to the customer's development plans;

WHEREAS, a public hearing was held on September 14, 2010, at which the public was provided an opportunity to present comments and protests concerning the proposed changes to the mandatory recycled water connection policy, and the Board has considered all public comment;

NOW THEREFORE, BE IT RESOLVED by the Board of Directors of the Rowland Water District as follows:

The Board of Director's action approving Ordinance No. 0-8-2010 taken prior to the public hearing is vacated, and Ordinance No. 0-7-2005 Establishing Mandatory Recycled Water Connection Policy is hereby repealed and superseded by the provisions of this Ordinance for the Mandatory Use of Recycled Water.

Section 1 – Policy

It is the objective of the District to continually focus on ways to improve and enhance the quality of service to our customers. In light of this objective, it is the policy of the District that recycled water shall be used within its service area wherever such use is economically justified, financially and technically feasible and is not detrimental to public health, safety, and welfare, and the environment. The District will offer recycled water that is surplus to the needs of the recycled water customers within the District's service area for such uses outside the service area of the District by agreement with the retail water purveyor.

Section 2 – Effective Date

The requirements of this Ordinance shall apply to existing customers of the District and to all applications for new water service to a Qualifying Property received by the District on or after September 15, 2004, (Effective Date) and shall be a condition and requirement for receiving water service from the District.

Section 3 – Recycled Water Use

(a) **Mandatory Use**: The following types of uses shall generally require recycled water: agricultural irrigation, construction use, landscape irrigation, landscape and/or recreation impoundments, and wildlife habitat, these being called "mandatory" types of use. Use of potable water for mandatory recycled water uses shall be prohibited where recycled water is available and offered by the District to the property and the use of recycled water for the mandatory use is economically feasible.

In order for the District to provide District-wide recycled water service in an efficient and economical manner, the District must identify and convert to recycled water service as much of the suitable uses within the District as possible. Where recycled water service is available and economically feasible, the District may require **existing customers** to convert to recycled water for mandatory types of uses being served potable water by the District. The District will require

applicants for new water service to provide for separate recycled systems for mandatory types of uses associated with future development that would otherwise be served potable water, where recycled water service is currently available to the property or planned for the near future. The only exceptions to the use of recycled water shall be based upon a finding by the District that conversion to and use of recycled water would not be economically feasible or that use of recycled water presents a special public health or safety concern.

(b) **Authorized Use**: The user may apply for recycled water service for the following types of uses, where such use does not create an unacceptable risk to public health and safety: commercial use for toilet and urinal flushing and irrigation (including nurseries), and for appropriate industrial process, these being called "authorized" types of use. The District encourages but does not mandate use of recycled water for authorized uses.

(c) **Permitting**: Regardless of the type of condition or use, all prospective users shall successfully complete the use permit application process detailed within the regulations of the District governing the use of recycled water, prior to receiving recycled water.

Section 4 – Recycled Water System Implementation

(a) **General**: The Recycled Water Master Plan will be implemented through several actions, including those listed below.

(b) **Rules and Regulations Governing the Use of Recycled Water**: The District shall adopt, and from time-to-time update and revise rules and regulations governing the distribution and use of recycled water, including specifications for the construction of on-site recycled water facilities.

(c) **Standard Specifications**: The District shall maintain the Standard Specifications for the construction of District owned facilities. These shall include narrative and drawings that may be referenced for incorporation by project-specific construction documents.

(d) **Public Awareness Program**: The District shall conduct a comprehensive recycled water public awareness program.

(e) **Coordination among Agencies**: The District shall continue to examine the potential for a coordinated effort between the District and other regional agencies, to share in the production and utilization of recycled water.

Section 5 – Procedures for Determining Mandatory Recycled Water Service for Existing Potable Water Service Customers

(a) **Existing Potable Water Service**: The District shall make a preliminary determination, based on existing and planned extensions of the recycled water

distribution system, as to which existing potable water customers it is economically feasible to convert to the use of recycled water. The District shall provide notice to the existing customers regarding that determination, and provide information on the cost of conversion and expected savings to the customer from replacing potable water uses with recycled water. The District shall review any customer objections to the proposed conversion to recycled water service; entertain appeals, and provide a waiver if circumstances warrant. The District shall assist customers to complete the application process where waivers have not been granted in accordance with this Ordinance.

(b) **Notice**: Whenever the District has made a preliminary determination that use of recycled water is mandatory or authorized; the District shall provide written notice to the prospective user(s), of the District's preliminary determination. Such notice shall include as a minimum: descriptive information about the planned recycled water system, user responsibilities under the rules and regulations governing the use of recycled water, current recycled water pricing, descriptive information about onsite facilities requirements necessitated by conversion to recycled water, and an explanation of the customer's right to request reconsideration or a waiver.

(c) **Reconsideration and Waiver Process**: Within thirty (30) days from the date of a notice of determination by the District that a customer will be required to convert to recycled water service, the customer may request reconsideration of the determination or waiver of the requirement. The request for reconsideration or waiver must be in writing and specify the reasons for the objection. A request for reconsideration or waiver must be based upon facts indicating that the conversion to recycled water would not be economically feasible, or would present an undue risk to health and safety, or that under the particular circumstances; the requirement of use of recycled water would impose an unreasonable hardship or burden upon the customer. Unless a request for reconsideration or waiver is submitted in a timely manner, the preliminary determination shall be final. District Staff will review the request for reconsideration of waiver and will determine whether the preliminary determination that the use of recycled water is economically feasible should be modified or confirmed, or whether a waiver should be granted due to unreasonable hardship or burden under the particular circumstances. Upon issuance of a final determination, the prospective user(s) may appeal the determination to the General Manager of the District.

(d) **Application and Approval Process:** Unless a waiver is granted, current customers who are notified that recycled water use is mandatory will be required to complete a Recycled Water Use Permit Application. For existing potable water customers, the District will pay the costs of obtaining a permit from the County to modify the customer's on-site system to convert to recycled water use, including the cost of preparing plans showing the modification of the system and payment of the permit fee. Upon issuance of a permit by the County, and commencement of recycled service to the customer's property, the customer will be responsible for complying with the requirements for operating a recycled water system including maintenance of backflow prevention devices and compliance with the

District's Cross-Connection Control Ordinance (Rowland Water District Ordinance No.1-88).

(e) **Cost of Conversion for Recycled Water Use:** A potable water customer, with an existing connection to the District's potable water system, who is required by the District to use recycled water for mandatory uses, shall bear the cost for those modified or additional facilities on the customer's property which are necessary to convert such uses from potable to recycled water. The District shall, at District expense, construct the recycled water service connection to the customer's property and install a recycled water meter. In order to assist existing customers required to convert their on-site water system for recycled water use, the District will offer to make the necessary modifications to the customer's water system, or contract to have the modifications made and cover up to Five Thousand Dollars ($5,000.00) of the cost of modification. All user-owned on-site recycled water systems shall comply with Rowland Water District's Rules and Regulations Governing the use of Recycled Water; California Code of Regulations Title 22, Section 60303 et seq.; and all other statutes, ordinances, regulations and orders of Federal, State and local agencies having regulatory authority over the use of recycled water.

Section 6 – Procedures for Determining that Recycled Water Connection is Mandatory for New Water Service Applicants

(a) **New Water Service Application**: All applicants for new water service from the District shall provide the District, at the time of requesting a new water service installation, all necessary information requested by the District concerning the uses of water through the proposed connection, to enable the District to make a determination whether the proposed development will qualify for mandatory recycled water service. Said information shall be provided on a form supplied by the District and shall include the total area of irrigated landscape, any planned landscape or recreational impoundments, wildlife habitat uses, the total number of toilets and urinals and the projected water usage for any manufacturing or industrial process which is suitable for recycled water.

(b) **Notice:** Upon a determination that an applicant for new water service will be required to connect to the recycled water system, the District shall provide a written notice advising the applicant of the requirements for installation of separate on-site facilities, requirements for extension of the District's distribution mains necessary to connect to the applicant's property, user responsibilities under the rules and regulations governing the use of recycled water, current recycled water pricing, and an explanation of the applicant's right to request reconsideration or a waiver.

(c) **Reconsideration and Waiver Process**: Within thirty (30) days from the date of a notice of determination by the District that an applicant is required to connect to the recycled water system, the applicant may request reconsideration of the determination or waiver of the requirement. The request for reconsideration or

waiver must be in writing and specify the reasons for the objection. A request for reconsideration or waiver must be based upon facts indicating that the use of recycled water for mandatory uses would not be economically feasible, or would present an undue risk to health and safety, or that under the particular circumstances; the requirement of use of recycled water would impose an unreasonable hardship or burden upon the applicant. Unless a request for reconsideration or waiver is submitted in a timely manner, the preliminary determination shall be final. District Staff will review the request for reconsideration or waiver and will determine whether the preliminary determination that the use of recycled water is economically feasible should be modified or confirmed, or whether a waiver should be granted due to unreasonable hardship or burden under the particular circumstances. Upon issuance of a final determination, the prospective user(s) may appeal the determination to the General Manager of the District.

(d) **Application and Approval Process:** Unless a waiver is granted, applicants for new water service who are notified that recycled water use is mandatory will be required to provide the District with a completed Recycled Water Use Permit Application and County Department of Public Health (CDPH) approved plans with letter of authorization for a recycled water system. Applicants will be responsible for complying with all requirements and paying the costs associated with obtaining a permit from the County for operation of a recycled water system, including the cost of preparing plans showing the recycled water system and payment of the permit fee. Upon issuance of a permit by the County, and commencement of recycled service to the applicant's property, the applicant will be responsible for complying with the requirements for operating a recycled water system including maintenance of backflow prevention devices and compliance with the District's Cross-Connection Control Ordinance (Rowland Water District Ordinance No.1-88).

(e) **Temporary Use of Potable Water**: At the discretion of the District, potable water may be made available on a temporary basis until recycled water is available. Before the applicant receives temporary potable water, a recycled water use permit, as required in Section 3(c), must be obtained for on-site services; an inspection of the on-site facilities will be conducted to verify that the facilities have been maintained and are in compliance with the recycled water use permit requirements and District requirements for service. Upon verification of compliance, recycled water shall be served to the parcel for the intended use. If the facilities are not in compliance, the applicant shall be notified of the corrective actions necessary and shall have thirty (30) days to take such actions prior to initiation of enforcement proceedings.

(f) **Cost of Facilities**: Applicants for new water connections, regardless of whether the property was previously developed or is newly developed, will be required to bear the entire cost of those facilities required to accommodate recycled water for all mandatory uses, and, if desired, any authorized uses. All user-owned on-site recycled water systems shall comply with Rowland Water District Rules and Regulations Governing the use of Recycled Water; California Code of

Regulations Title 22, Section 60303 et seq.; and all other statutes, ordinances, regulations and orders of Federal, State and local agencies having regulatory authority over the use of recycled water.

(g) **Extension of Recycled Water Main:** Each Applicant for a new water connection shall be responsible for all costs of constructing a separate recycled water system for mandatory recycled water uses on the property, including the cost of plans and permits required to operate a recycled water system. Applicants will also be required to pay the cost of constructing recycled water lines and appurtenances necessary to connect Applicant's recycled water facilities to the nearest recycled water main of the District. Applicant may be required to bear the cost to extend the District's recycled water system to a point abutting the property boundary, if the District determines that such cost does not make the use of recycled water economically feasible. If the District determines to extend the line from a point on the District's recycled system other than the nearest point to the Applicant's property, or determines to construct a line larger or longer than that needed to provide recycled water service to the property for operational or other reasons, then the additional cost thereof shall be borne 100% by the District. Applicants will be required to deposit in advance the estimated cost of engineering services associated with design of the recycled water system extension necessary to serve the property, and to deposit the estimated cost of construction of the extension, prior to award of a contract.

Section 7 – Pricing of Recycled Water Service:

(a) **Recycled Water Rate:** It is the policy of the District to price recycled water at a sufficient discount from the price of potable water to make the use of recycled water for irrigation and other suitable uses cost effective for new development, and result in savings sufficient to encourage existing customers of the District to convert existing uses to recycled water where appropriate. To accomplish this policy the Board of Directors will set the price of recycled water service at least 15% less than the price of potable water served by the District.

(b) **Recycled Water Meter Charges:** Existing customers and applicants for new water service will be responsible for all applicable meter charges for potable and recycled meters necessary to serve their property.

Section 8 – Financial Assistance to Converting Customers:

As the District expands the recycled water system, it will identify existing customers who would benefit by converting suitable water uses to recycled water service, by the quantity of water used for mandatory and authorized recycled uses, and the proximity of the property to an existing or planned recycled water main. If, after notice of determination to an existing customer that recycled water use is mandatory, the customer requests reconsideration or a waiver based upon unreasonable hardship or economic burden, the District may offer, as an alternative to a waiver, to provide financial assistance to the

customer to make the conversion of the customer's on-site water system to accommodate recycled water. Such assistance may be provided where the cost to the District of providing financial assistance to the customer is outweighed by the benefits to the District and its customers in terms of reduced cost of water supply, conserving potable water for uses requiring potable water and making the most efficient use of the District's recycled water facilities. The terms of the financial assistance will require that the customer continue to pay potable water rates for recycled water until any funds advanced by the District for converting the customer's on-site water system are recovered.

Section 9 – Enforcement

(a) The District may implement all enforcement methods and penalties otherwise provided in the Rules and Regulations Governing the Use of Recycled Water to any violator of the terms of this section.

(b) Water service will not be provided to new applicants for water service from the District unless and until they have complied with the requirements for installation of a recycled water system for mandatory uses and complied with all requirements of the Districts Rules and Regulations.

(c) Where an existing customer has been given notice of a determination that use of recycled water is mandatory and recycled water is available, if after ninety (90) calendar days from the date the applicant is notified in writing of the District's final determination under Section 3 (a) the existing customer has not submitted all required documentation and completed the required on-site conversion work, then, in addition to those penalties set forth subsection (a) above, the District shall impose a surcharge on potable water delivered to the customer which shall be equal to fifty percent (50%) of the District's potable water rate in effect at the time of violation, such surcharge to be included in the customer's billing.

Section 10 – Validity

If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, the remainder of the Ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 11 – Severability

If any portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such a portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

Section 12 – Conflicts

All District Ordinances, Resolutions, or parts of District Ordinances and Resolutions and Rules and Regulations Governing the Use of Recycled Water, in conflict herewith, are hereby repealed.

Section 13 – Incorporation

The terms of Section 3 of this Ordinance are hereby incorporated into the Rules and Regulations Governing the Use of Recycled Water, and such terms are effective as of the date of adoption of this Ordinance.

Section 14 – Definitions

(a) **"Qualifying Property"** shall mean either

1. A parcel or tract for which development is proposed which will be supplied water by Rowland Water District and for which it is economically feasible to provide recycled water service from an existing recycled water line, or a recycled water line which the District plans to have in operation at the time service to the property will be commenced, which has sufficient unused capacity to provide the quantity of recycled water to meet the demand of the proposed use and which meets one or more of the following criteria:

   (i) has a sufficient area which is suitable for irrigation with recycled water, including but not limited to golf courses, landscaped areas, greenbelts, parkways and medians, to justify use of recycled water;

   (ii) the proposed use involves a commercial, or institutional structure or structures which are projected to have water uses which are suitable for recycled water, including flushing of toilets and urinals and landscape irrigation, which combined are sufficient to make the use of recycled water justified; or,

   (iii) The proposed use involves an industrial facility that is projected to use water for a process for which recycled water is suitable, in a quantity sufficient to make the use of recycled water justified.

2. A parcel to which potable water service is already provided by the District, for which the District determines that it is economically feasible to require use of recycled water for mandatory or authorized uses, i.e. that the conversion of appropriate uses to recycled water will result in a cost savings to the customer over potable water use.

(b) **"Irrigated Landscape"** shall mean all areas irrigated including golf courses, parks, greenbelts, parkways, medians and other landscaped areas which are to be irrigated with a permanent irrigation system. Areas which are temporarily irrigated to restore natural vegetation for purposes of preventing erosion after grading shall not be included in calculating Irrigated Landscape.

(c) **"Economically feasible"** shall mean that the Applicant or existing customer will recover the cost of installing an on-site recycled water system or converting an existing system for recycled water use, plus any cost associated with extending the District's recycled water system to the Qualifying Property and otherwise complying with this Ordinance within five (5) years after commencing recycled water service, based on the differential between the estimated cost of using potable water for the authorized uses.

(d) **"Authorized Uses"** shall mean those purposes for which recycled water is authorized to be used under Title 22 Sections 60304-60307 of the California Code of Regulations, including but not limited to irrigation, recreational and landscape impoundments, cooling in manufacturing processes, flushing toilets and urinals, consolidation of backfill, and other appropriate uses. The District encourages but does not require customers to use recycled water for authorized uses except for those uses defined as mandatory herein.

(e) **"On-site recycled water system"** shall mean a recycled water system constructed and owned by the property owner which is physically separated from any potable water system, and complies with the requirements for cross connection control, labeling and protection from human contact set forth in the District's recycled water regulations and all applicable statutes, regulations, ordinances and orders.

Said Ordinance was adopted, on roll call vote, at the regular meeting of the Board of Directors held September 14, 2010, by the following vote:

AYES:	Directors Lima, Rios, Lewis, Lu-Yang and Bellah
NOES:	NONE
ABSENT:	NONE
ABSTAIN:	NONE

I hereby certify that the foregoing is a true and correct copy of Ordinance No.0-9-2010, adopted by the Board of Directors of the Rowland Water District at its regular meeting held on September 14, 2010.

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Anthony J. Lima, President

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Ken Deck, Secretary