

## INTERTIE AND WATER SUPPLY AGREEMENT

This Intertie and Water Supply Agreement is made and entered into this 16th day of April, 2025 (the “Effective Date”) by and between the City of Fullerton, a general law city (the “City”), and Page Avenue Mutual Water Corporation (the “Company”).

### RECITALS

WHEREAS, the City and Company (referred to jointly as “Parties” and individually as “Party”) each own and operate water public water supply and distribution systems (“Water Systems”) in the same general vicinity in the City of Fullerton; and

WHEREAS, the Water Systems are connected through an existing intertie connection (the “Intertie”); and

WHEREAS, the City and Company previously entered into an Agreement dated September 6, 1983 (the “1983 Agreement”) under which the City would provide Company with water through the Intertie on an emergency basis; and

WHEREAS, due to water quality issues that arose, the Company was required to take its well out of service and since August 2024 has been relying on the City to provide water to meet the Company’s needs under the provisions of the 1983 Agreement; and

WHEREAS, a dispute has arisen between the Parties regarding Company’s continuing use of the intertie; and

WHEREAS, Company has experienced difficulties in securing sufficient funding to sufficiently remediate the water quality issues to the level required to reopen the well and is in discussion over potential consolidation with City; and

WHEREAS, the Parties have met and conferred and determined it would prudent and appropriate to enter into a new temporary water supply agreement to replace the 1983 Agreement while Company evaluates further options.

NOW, THEREFORE, in consideration of the mutual terms and conditions in this Agreement, the Parties agree as follows:

1. **Incorporation of Recitals.** The above recitals are true and correct and are incorporated by this reference.
2. **Facilities.** The Intertie is a one-way intertie between the City’s water system and the Company’s water system.

3. **Use of Intertie; Water Supply.** In light of the ongoing shutdown of the Company's well, the Company may request in writing the City to provide water to the Company for distribution to the Company's shareholders and customers. The City will provide water to the Company upon receipt of the Company's written request for so long as the City has surplus water supplies available and is able to provide such water to the Company without adversely impacting the supply of water to the City's other residents or the City's water system. If the City cannot provide the water requested by the Company, then the City shall have the right, on giving prior notice to the Company, of its intent to close the Intertie or reduce the flow of water.
4. **Measurement of Water Delivered.**
- A. All water passing through an Intertie shall be metered and the City shall be responsible for meter reading and maintaining the meter reading records during the term of this Agreement. Such metering records shall be maintained for at least one (1) year following termination of this Agreement. The Company shall have right to audit the meter reading records. Meter readings shall be taken once per month. The cost of meter reading and record keeping shall be borne entirely by the City, which may include those costs in the rate charge under Section 5, below.
  - B. The Company may request testing the meter at any time during scheduled water delivery to determine the meter's accuracy. If the quantity of water recorded by the meter measures above 105 percent, or below 95 percent, of the actual water passing through the meter, then the bill shall be adjusted accordingly, and the Parties shall equally divide all costs incurred in testing the meter. If the meter is found to be accurate, i.e., if the quantity of water recorded by the meter does not measure above 105 percent, or below 95 percent, of the actual water passing through the meter, then the Party that disputed the bill shall bear all costs incurred in testing the meter.
5. **Payment.** The City shall bill the Company on a monthly basis for the volume of water supplied through the Intertie at the rate of \$4.78 per 1,000 gallons of water supplied. That rate consists of the Metropolitan Water District of Southern California ("MWD") Full Service Treated Volumetric Cost of \$1,395 per acre-foot plus an administrative and operational charge of \$.50 per 1,000 gallons of water. That rate is calculated by dividing \$1,395 by 325,851 (the number of gallons in an acre-foot of water) to obtain a per gallon amount and then multiplying that by 1,000 gallons. Subject to any disputes under Section 4, above, the Company shall pay in full, within thirty (30) days after receipt of the bill, all amounts owing to the City. The foregoing rate will be adjusted accordingly in the event the MWD Full Service Treated Volumetric Cost is changed.

In addition to the water consumption rate described above, the Company shall also be responsible for associated Sanitation Charges, as generally imposed by the City on all residents, on each water bill. The amount to be charged to the Company shall be an amount in direct proportion to the amount of City water used by the Company. The current

Sanitation rate is 15.25% of water revenue amount. The foregoing rate will be adjusted accordingly in the event the City Sanitation rate is changed.

6. **Adjustment for Water Previously Supplied.** The City will adjust amounts previously billed to the Company since the Intertie was activated in August 2024 to apply the rate specified in Section 5, above, to the water supplied from that time. The City will credit the Company for any amounts that have been overpaid with respect to any prior invoices the Company has paid. The adjustment is subject to compliance with all applicable laws and regulations. Company will defend, hold harmless, and indemnify City from and against all liability, loss, claim, demand, causes of action, proceedings, costs and expenses arising from City's adjustment.
7. **Term.**
  - A. This Agreement shall commence on the Effective Date and end on December 31, 2026, unless earlier terminated by mutual agreement of the Parties or by the City due to the factors described in Section 3, above.
  - B. If this Agreement is terminated for any reason, the payment for the water delivered from one Party to the other as of the effective date of termination shall be in accordance with Section 6.
  - C. Upon such termination, each Party shall either remove their facilities or close the connection to the satisfaction of both Parties at no cost to the other Party.
8. **Ownership and Maintenance of Facilities.** The City shall own and maintain the Intertie, provided the City may pass on to the Company any costs for the repair, maintenance or replacement of the Intertie facility, related meter any appurtenant facilities.
9. **No Guarantee.** No provision of this Agreement shall be interpreted as constituting or creating any guarantee of continuous pressures or flows.
10. **Indemnification.** Each Party shall defend, indemnify and hold harmless the other Party, its officers, agents and employees from and against all liability, loss, claims, demands, causes of action, proceedings, costs and expenses for damages for death or bodily injury to persons or injury to property arising from the negligent actions or inactions, willful misconduct, misrepresentation, or acts or omissions, of the indemnifying Party, its officers, agents, and employees in the performance of this Agreement.
11. **Force Majeure.** No Party shall be considered in default, other than obligations of that Party to pay amounts due under this Agreement, if prevented from performance by force majeure. The term "force majeure" means any cause beyond the reasonable control of the Parties, such as failure of or threat of failure of facilities, flood, earthquake, storm, fire, lightning, epidemic, war, economic embargo, riot, civil disturbance or disobedience,

labor dispute, labor or material shortage, sabotage, or restraint by court order or public authority. No Party shall, however, be relieved of liability for failure of performance if such failure is due to causes arising from its own negligence or causes which it fails to remove or remedy with reasonable dispatch. A Party shall not be required to settle any strike or labor dispute in which it may be involved. A Party unable to perform under this Agreement shall give prompt notice of that fact to the other Party and shall exercise due diligence to remove its inability to perform with all reasonable dispatch.

- 12. Notice.** Any and all notices required under this Agreement or by law shall be given in writing by personal delivery, by first class mail, by e-mail or as the Parties may otherwise agree, addressed as to the applicable Party as follows:

City of Fullerton  
Attn: Director of Public Works  
303 West Commonwealth Avenue  
Fullerton, California 92832

Page Avenue Mutual Water Corporation  
Attn: President  
1900 Page Avenue  
Fullerton, California 92833

Notice shall be effective upon delivery if personally delivered or sent by e-mail with telephone confirmation of receipt or, if given by first class mail, as of two (2) days after the date of mailing.

- 13. Governing Law.** This Agreement shall be interpreted and enforced in accordance with the laws of the State of California, except with respect to principles of conflicts of law. Venue for any legal action arising under this Agreement shall be in the County of Orange, State of California.
- 14. Waiver.** The acceptance of a delivery of water, the payment for a delivery of water, or any other performance shall not operate as a waiver of any part of this Agreement or of any right to indemnity stated in this Agreement. The waiver of a right or breach of this Agreement shall not constitute a waiver of any other right or breach.
- 15. Miscellaneous.**

- A. Each provision of this Agreement is severable from the other provisions of this Agreement. If any provision of this Agreement is deemed unenforceable by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect.

- B. Neither Party may assign or transfer this Agreement or any interest in this Agreement without the prior written consent of the other Party, which shall not be unreasonably withheld or delayed.
- C. This Agreement constitutes the entire understanding between the Parties and supersedes all other agreements, oral or written, with respect to the subject matter in this Agreement between the Parties.
- D. This Agreement shall not be amended nor any provision or breach waived, except in a writing signed by the Parties which expressly refers to this Agreement.
- E. This Agreement is intended for the benefit of the Parties and shall not be construed for the benefit of anyone who is not a Party to this Agreement.
- F. As partial consideration for City execution of this temporary Agreement, Company will use best efforts to remediate or cause the remediation of the water quality issues causing the shutdown of the Company well. City makes no promise, guarantee, or warranty regarding the provision of water, services, or assistance beyond the terms of this temporary Agreement.

IN WITNESS WHEREOF, the above Parties have executed this Agreement the day and year written on the first page of this agreement.

CITY OF FULLERTON:

PAGE AVENUE MUTUAL WATER  
COPORATION:

By: \_\_\_\_\_  
Fred Jung  
Mayor

By: Jim Konopisos  
Jim Konopisos  
Board President

Date: \_\_\_\_\_

Date: April 17, 2025

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Baron Bettenhausen  
City Attorney

By: James D. Ciampa  
James D. Ciampa  
General Counsel

ATTEST:

By: \_\_\_\_\_  
Lucinda William, MMC  
City Clerk