

Joint Meeting of the City of Santa Fe and Santa Fe County  
Regional Water Resource and Buckman Direct Diversion Principles of  
Agreement  
October 7, 2004

The following Principles of Agreement were discussed during a special Joint Meeting of the City and County Governing Boards. This Agreement was accepted by a role call vote of each Governing Board and will be drafted into a set of legal documents as described in Section 6.

Buckman Direct Diversion Project (BDD): Title, Ownership  
The City and the County will each own 50% of the BDD project and related infrastructure.

**BDD Management**

Governance will be through a five member board consisting of two County Commissioners and two City Councilors and a qualified person (to serve a one year term but without term limits) appointed by a majority of the four Elected Officials (hereinafter called the Governing Board”). The Governing Board shall govern the permitting, design, construction, operation and maintenance of the BDD, as described in the Environmental Impact Statement (EIS) for the project. The City and the County will jointly hire an Owner’s Agent to oversee design and construction of the BDD under a design/build delivery method. The owner’s agent will report directly to the Governing Board. The Governing Board will approve the design and construction contract, approve any contract changes and have authority to approve any change orders.

The Sangre de Cristo Water Company will, through a contract with the BDD Governing Board, design, construct,

operate and maintain the BDD. The contract with the Sangre de Cristo Water Company will terminate on December 1, 2015. The Board shall have authority to enter into a contract for the operation and maintenance of the BDD with any one of the following: (1) Sangre de Cristo Water Company; (2) the Santa Fe County Water Utility or (3) a Regional Entity. The contract will be reviewed at the discretion of the BDD Governing Board at least every seven years following implementation.

The City will provide fiscal agent services which will include serving as the procurement agent for the BDD Owner-Agent contract, and for the design, procurement, construction, operation and maintenance of the BDD pursuant to a fiscal agency agreement(s) (which will include a fee schedule for fiscal agent services) between the County and City. The fiscal agent services agreement will terminate on December 1, 2015 at which point the City and County will designate a new fiscal agent and enter into a new fiscal agent agreement with either the City, the County or the Regional Water Authority. Thereafter the fiscal agent agreement (s) will be reviewed periodically at least every seven years following implementation. The fiscal agent will report to the BDD Governing Board and will need the Board's approval for decisions on expenditures over a given threshold to be specified in the fiscal agent agreement.

#### BDD Cost Sharing

The City and County agree to contribute \$30 million each to design and construct the BDD.

The City and the County agree to seek State and Federal assistance to help pay for the costs of the project.

Outstanding design and construction costs (after crediting the City and County contributions of \$30 million each, State and Federal assistance, contributions to the project from Las

Campanas, and other funding sources) will be shared between the City and County as follows: 50% City, 50% County

Las Campanas will pay for its proportional share of that part of the system it will actually use (the diversion structure, sediment pond and related infrastructure).

After implementation, the costs of operating, maintaining and repairing the BDD that can be attributable to each party's variable or proportionate share of water deliveries (such as electrical costs) shall be shared according to each party's proportionate share of water deliveries. After implementation, the costs of operating, maintaining and repairing the BDD that are fixed or capital costs and that are attributable to the facility as a whole shall be shared equally. The BDD Governing Board shall determine periodically which costs are fixed and which are variable.

### San Juan Chama Water Rights and Wholesale Water Deliveries

Of the 8,730 afy of BDD capacity: 5,230 afy shall be allocated to the City, 1,700 afy shall be allocated to the County, and 1,800 afy shall be allocated to Las Campanas. Each entity's diversions shall be based upon its own water right or contract right.

Each entity is responsible for acquisition and maintenance of its own water rights.

An allocation of 375 afy of San Juan Chama Project water to the County will be recognized. The 375 afy of water will be included in the total 1,700 afy County capacity in the BDD.

An allocation of 5,230 afy of San Juan Chama Project water to the City will be recognized.

The City and County will enter into a wholesale contract for the sale of up to 875 afy from the City to the County until implementation of the BDD. After water is diverted from the

BDD, deliveries pursuant to the wholesale agreement shall be reduced to 500 afy and continue in perpetuity. The 500 afy of water delivered under the wholesale contract will be in addition to the total 1,700 afy County capacity in the BDD. Following implementation of the BDD, the County will pay its proportionate share of payments for San Juan Chama Project Water to the Bureau of Reclamation.

The City and the County will enter into a wheeling and system coordination agreement so that the City and County can make use each other's infrastructure where it makes sense to do so.

#### Conjunctive Use and Drought Protection

The City and the County will develop a comprehensive City/County joint conjunctive use and sustainability strategy that places the use of surface water as a higher priority than groundwater pumping and which manages the regional aquifer on a sustainable basis. The strategy will include a shortage sharing agreement that will help guide management decisions made by the BDD Governing Board, the Growth Management Plan of the Regional Planning Authority, and incorporate the principle that the County and City consult prior to the drilling of new wells in the area around the City and County water systems as they exist at the time of signing of the agreement so as to encourage cooperation and avoid conflict and impairment of water rights. The City and County prioritize, using the RPA Plan and the Affordable Housing Task Force, the allocation of water from the BDD for affordable housing.

Under drought conditions (or other shortages) to be defined under 5.a., above, the City would provide the County additional water from its system, in an amount not to exceed 50% of the County's total 1,700 afy of diversion capacity from the BDD. After the diversion of water from the BDD

has begun and when the County's diversion of surface water from the BDD drops below 850 afy (50% of 1,700 afy), the City would provide the County the necessary water to maintain 850 afy of delivery from the City system to the County utility. Drought protection provided by the City will be based on the amount of the County's use of the BDD in the year that the drought occurs. The wholesale water deliveries pursuant to paragraph 4.d. shall be subject to shortage sharing that provides for a pro-rata reduction in daily deliveries to the County.

The County reserves the right to drill in-Basin wells and commence permitting additional wells. The County will consult with the City on the locations of any proposed wells.

#### Forms of Agreement

Forms of agreement implementing the principles in the document may consist of: (1) Memorandum of Understanding, (2) Joint Powers Agreement, (3) Operational Protocol, (4) Fiscal Agency Agreement, and (5) Water Wholesale Contract.