



November 3, 2020

Honorable Gregg Hart, Chair and
Members of the Board of Supervisors
County of Santa Barbara
105 East Anapamu Street
Santa Barbara, CA 93101

Eric Friedman
Chairman

Ed Andrisek
Vice Chairman

Ray A. Stokes
Executive Director

Brownstein Hyatt
Farber Schreck
General Counsel

Member Agencies

City of Buellton

Carpinteria Valley
Water District

City of Guadalupe

City of Santa Barbara

City of Santa Maria

Goleta Water District

Montecito Water District

Santa Ynez River Water
Conservation District,
Improvement District #1

Associate Member

La Cumbre Mutual
Water Company

Re: Santa Barbara Flood Control and Water Conservation District Approval of
Assignment of the State Water Contract Assignment to the Central Coast
Water Authority, or in the Alternative, District Execution of Contract Extension
Amendment

Dear Chair Hart and Members of the Board of Supervisors:

On behalf of the Central Coast Water Authority (CCWA), I am again writing to request that the Santa Barbara County Board of Supervisors (Board), acting in its capacity as the governing board of the Santa Barbara County Flood Control and Water Conservation District (District), formally approve assignment of the State Water Contract from the District to CCWA, as described in the proposed Assignment, Assumption and Release Agreement (Assignment Agreement), attached to this letter. In the alternative, I request that the District execute Amendment No. 20 (Contract Extension Amendment) to the State Water Contract.

A. Assignment of State Water Contract to CCWA

As you know, on October 26, 2017, more than three years ago, CCWA's Board of Directors unanimously¹ approved a draft of the proposed Assignment, Assumption and Release Agreement, specifically agreeing to assume all responsibility for, and liability regarding, the State Water Contract, and the full release of the County from all responsibility and liability. (See CCWA Resolution No. 17-04, attached.) The Department of Water Resources (DWR) has also, informally, agreed to assignment of the State Water Contract, but DWR will not provide its final approval until the Board, on behalf of the District, has approved the assignment.

¹ In 2017, all eight members of CCWA individually approved assignment of the State Water Contract from the District to CCWA. CCWA's eight members are all public agencies whose elected officials are directly responsible to their ratepayers and voters who fund the cost of the State Water Project facilities and the supplemental water supply that serves more than 85 percent of the County's residents and businesses. CCWA's members include: City of Buellton, City of Guadalupe, City of Santa Barbara, City of Santa Maria, Carpinteria Valley Water District, Goleta Water District, Montecito Water District, and Santa Ynez River Water Conservation District, Improvement District No. 1. Of the 42 elected officials who considered assignment of the State Water Contract from the District to CCWA, only two voted against assignment, and one (then City of Santa Barbara Councilmember Gregg Hart) abstained.

On September 17, 2018, and then again on January 31, 2019, CCWA requested that the Board consider and approve assignment of the State Water Contract from the District to CCWA. Those prior requests, which exhaustively detail all of the benefits of the proposed assignment and specifically address questions raised by your Board, are attached to this letter for your reference re. It has now been nearly two years since CCWA's last request for the Board's consideration of this matter. In the meantime, CCWA's staff has met and conferred with District staff on numerous occasions in an effort to address any remaining District questions or concerns.

In light of several time-sensitive matters of critical financial importance to CCWA's project participants, and their ratepayers, most importantly, approval of the Contract Extension Amendment (discussed below),² CCWA cannot wait for the Board's consideration of the proposed assignment any longer. CCWA requests that the Board agendaize this matter for its consideration no later than January 29, 2021 and vote to approve assignment of the State Water Contract to CCWA. In the event the Board approves assignment of the State Water Contract, the Board may disregard CCWA's second request in Section B below.

B. Amendment No. 20 (Contract Extension) to the State Water Contract

At the same time that CCWA made its last request for the Board's approval of assignment of the State Water Contract, on January 24, 2019, CCWA's Board of Directors unanimously approved Amendment No. 20 to the State Water Contract – the Contract Extension Amendment, a copy of which is attached to this letter.³ Given that CCWA had already requested the Board's approval of assignment of the State Water Contract, at the time, CCWA staff anticipated that the Board's approval of the Contract Extension Amendment would not be required because CCWA itself, as the contracting agency following assignment, would execute the amendment. However, since the Board has not approved assignment to date, CCWA believes that execution of the amendment cannot wait any longer⁴ —it is vitally important the District execute the Contract Extension Amendment as soon as possible in order to preserve and protect CCWA's participants' investments in the State Water Contract and the future viability of the essential supplemental water supply that the State Water Contract makes available to Santa Barbara County.

The State Water Contract expires on February 26, 2038, less than 20 years from now. Typically, DWR finances capital projects over a 30-year period to take advantage of the most favorable rates. However, since the contract expires in less than 20 years from now, DWR has been forced to finance capital projects over a shorter, 15-year bonding period, which has resulted in compression of the repayment schedule and less favorable financing terms. The Contract Extension Amendment alleviates this problem by extending the contract term to 2085.

Absent the District's approval of the Contract Extension Amendment, and corresponding longer bonding period, CCWA's project participants will realize ever-increasing capital charges associated with their participation in the State Water Project due to the continued shortening of the bonding period. DWR must have the ability to finance large capital expenditures over a typical 30 year bonding period to help offset further increases in the charges to CCWA and its project participants. DWR has estimated that CCWA's share of the project's capital projects between

² See also, CCWA's October 28, 2020 request that the District execute Amendment No. 21 (Water Management Amendment). (See October 28, 2020 Letter from R. Stokes, CCWA to M. Young, District.)

³ DWR provided the Contract Extension Amendment to the District and CCWA on October 29, 2018.

⁴ The District is one of the last State Water Contractors that has not executed the Contract Extension Amendment.

now and 2035, not including the Delta Conveyance Project, could exceed \$100 million, all of which would be passed on to CCWA's project participants.

In addition to extending the term of the State Water Contract, and thus the financing period for capital projects, the Contract Extension Amendment has numerous other benefits for CCWA's project participants as well. For example, the amendment increases certain credits provided to the District and other State Water Project contracting agencies called, "rate management credits." These credits are applied against charges that are allocated roughly in proportion to the capital charges paid by each contractor. Because the facilities constructed to deliver State Water Project water to Santa Barbara County were constructed in the 1990's, as opposed to the early 1960's as was the case for the other 28 contractors, CCWA's proportionate share of total capital payments is very large.⁵ As a result, CCWA receives a higher share of rate management credits to partially offset these capital charges. The Contract Extension Amendment *increases* the maximum rate management credits from \$40.5 million per year available for all contractors, to \$48 million per year, an increase of \$7.5 million per year. CCWA's share of the increase is projected to be approximately \$520,000 per year, or roughly \$7.8 million between 2020 and the year 2035.⁶

In addition, since the District executed the State Water Contract in 1963, DWR has used a defined interest rate to amortize all capital and certain operations and maintenance costs called the "project interest rate" (PIR). The PIR is essentially a melded rate of DWR's general obligation debt which has remained fixed for many years at 4.610%. The PIR is also used to collect interest for under-payments from contracting agencies on the various components of project charges and to pay interest on over-payments by contracting agencies. Recently, DWR significantly increased the operations and maintenance costs to CCWA, and specifically, the 2019 charges, which increased from around \$10 million to \$24 million due to a large under-collection coupled with current year increases. These under-collections by DWR to CCWA meant CCWA paid interest to DWR at the 4.610% PIR —approximately \$1.2 million. The Contract Extension Amendment eliminates the PIR. Had the Contract Extension Amendment been in place in 2019, CCWA's project participants would have saved \$1.2 million.

In sum, the financial benefits of the Contract Extension Amendment to CCWA and its project participants, and thus to all of Santa Barbara County, are considerable. Thus, the District's failure to execute the Contract Extension Amendment on behalf of CCWA and its project participants would not only result in the continued adverse financial consequences of a shortened financing period, but CCWA and its participants would also be deprived of the significant financial benefits the Contract Extension Amendment affords.

C. Call for Immediate Board Action No Later than January 29, 2021

CCWA requests that the Board formally approve assignment of the State Water Contract from the District to CCWA, as described in the proposed Assignment, Assumption and Release Agreement. In the alternative, in the event the Board does not approve assignment of the State Water Contract to CCWA by January 29, 2021, and therefore the District remains the contracting agency for the State Water Contract, CCWA requests that the Board of Supervisors agendaize the Contract Extension Amendment for the Board's consideration no later than January 29, 2021. CCWA urges the Board, on behalf of CCWA, to execute the Contract Extension Amendment.

⁵ CCWA is the third highest paying contractor.

⁶ Rate management credits will no longer be available beginning in 2036.

If you have any questions or require any additional information, please let me know.

Respectfully,



Eric Friedman
Chair of the Board of Directors

cc: Karla Nemeth, Director, Department of Water Resources
Pedro Villalobos, Chief, Water Contracts Branch, State Water Project Analysis Office
James (Tripp) Mizell, Office of the Chief Counsel, Department of Water Resources
Jennifer Pierre, State Water Contractors
CCWA Board of Directors
Eric Friedman, Chair, City of Santa Barbara
Ed Andrisek, Vice Chair, City of Buellton
Farfalla Borah, Goleta Water District
Jeff Clay, Santa Ynez River Water Conservation District, ID #1
Shirley Johnson, Carpinteria Valley Water District
Gina Rubalcaba, City of Guadalupe
Etta Waterfield, City of Santa Maria
Floyd Wicks, Montecito Water District
CCWA Operating Committee
Mike Alvarado, La Cumbre Mutual Water Company
Paeter Garcia, Santa Ynez River Water Conservation District, ID #1
Rose Hess, City of Buellton
Robert McDonald, Carpinteria Valley Water District
John McInnes, Goleta Water District
Pernell Rush, Vandenberg AFB 30 CES/CEOEO 1028
Shad Springer, City of Santa Maria
Shannon Sweeney, City of Guadalupe
Cathy Taylor, City of Santa Barbara
Nick Turner, Montecito Water District
Matt van der Linden, City of Solvang
Mona Miyasato, County Executive Officer, Santa Barbara County
Matt Young, Water Agency Manager, Santa Barbara County FC&WCD
Tom Fayram, Deputy Director, Santa Barbara County Public Works Dept.
Johannah Hartley, Deputy County Counsel, Santa Barbara County

Attachments:

1. Assignment, Assumption and Release Agreement
2. 2017 CCWA Resolution No. 17-04 approving assignment of the State Water Contract (without attachments)
3. September 17, 2018 Letter from Ray Stokes, CCWA to Tom Fayram, SBCFCWCD
4. March 23, 2020 Letter from Eric Friedman, Chair, CCWA to Gregg Hart, Chair and Members of the Santa Barbara County Board of Supervisors
5. Amendment No. 20 (Contract Extension Amendment) to the State Water Contract

ASSIGNMENT, ASSUMPTION, AND RELEASE AGREEMENT
REGARDING STATE WATER SUPPLY CONTRACT
FOR SANTA BARBARA COUNTY

This **ASSIGNMENT, ASSUMPTION, AND RELEASE AGREEMENT** (the “**Agreement**”) is made by and between the Santa Barbara County Flood Control and Water Conservation District (the “**District**”), the Central Coast Water Authority (the “**Authority**”), and the California Department of Water Resources (the “**DWR**”) (each, a “**Party**” and collectively, the “**Parties**”), with reference to the following facts and intentions. This Agreement is effective as of _____, 2020, which is the last date of signature by all Parties hereto (the “**Effective Date**”).

RECITALS

A. As of February 23, 1963, the District entered into a Water Supply Contract with the DWR (the “**State Water Supply Contract**”) with respect to the delivery of 57,700 acre feet per year of water from the State Water Project to Santa Barbara County. Said quantity of water is set forth in “**Table A**” to the State Water Supply Contract and is therefore referred to as the “**Table A Allocation**.” As permitted by Article 45(e) of the State Water Supply Contract, the District elected to delay construction of the facilities that would be required to permit delivery of the Table A Allocation.

B. In 1981, the District and the DWR executed Amendment No. 9 to the State Water Supply Contract whereby the District agreed to reduce its Table A Allocation to 45,486 acre feet per year (“**Amended Table A Allocation**”). The balance of the Table A Allocation, which is 12,214 acre feet per year, is referred to as the “**Suspended Table A Allocation**.”

C. On various dates between 1985 and 1988, the District entered into a series of agreements, each called a “**Water Supply Retention Agreement**,” with various cities, water districts, and other retailers and end users of water (the “**Participant(s)**”). Under each Water Supply Retention Agreement, the District assigned a specified portion of the Amended Table A Allocation to the Participant.

D. In August 1991, the Authority was formed by eight public agencies (“**Members**”), each of whom was a Participant. The Authority entered into a series of agreements, each called a “**Water Supply Agreement**,” with each Member and several additional Participants. Each of the Water Supply Agreements included a provision that the rights held by each Participant under its Water Supply Retention Agreement with the District was assigned to the Authority, in return for the delivery of that water by the Authority to the Participant. Each of the remaining Participants elected not to participate further and assigned its respective rights under its Water Supply Retention Agreement with the District to the Authority.

E. On November 12, 1991, the Authority and the District entered into a “**Transfer of Financial Responsibility Agreement**” under which the Authority agreed, *inter alia*, to accept responsibility for all financial obligations of the District under the State Water Supply Contract.

F. In August 1997, the Authority completed construction and permanently fixed the size and delivery capability of the transportation and treatment system by which water under the State Water Supply Contract would be delivered to those Participants having entered into Water Supply Agreements with the Authority.

G. In August 1997, the first delivery of water to Santa Barbara County pursuant to the State Water Supply Contract was made.

H. Since the formation of the Authority and in connection with the Authority’s ownership and operation of the transportation and treatment system connecting the State Water Project to Santa Barbara County, it has been the intention of the Authority and the District that the Authority receive all rights, and assume all of the District’s obligations, under the State Water Supply Contract, and that the District be released from all such obligations. The Parties desire to enter into this Agreement to effectuate such assignment, assumption, and release.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated into the operative provisions of this Agreement by this reference, and for other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. **Assignment.** Effective as of the Effective Date of this Agreement, the District does hereby assign, transfer, and set over to the Authority, without recourse and without representation or warranty of any kind, all of the District’s rights, title, and interest in, to, and under the State Water Supply Contract (including, but not limited to, the District’s rights to delivery of the Table A Allocation, inclusive of the Suspended Table A Allocation), along with all liabilities and obligations of the District arising from or under the State Water Supply Contract. This assignment is absolute and presently effective.

2. **Assumption.** Effective as of the Effective Date of this Agreement, the Authority accepts such assignment without recourse and without representation or warranty of any kind, and assumes all of the District’s liabilities and obligations arising from or under the State Water Supply Contract, including any and all obligations to make payments, indemnifications or reimbursements thereunder, and agrees to be bound by and to keep, perform and observe the terms, covenants and conditions of the District under the State Water Supply Contract. The Authority agrees to be bound by said State Water Supply Contract to the same extent as if it had been an original party to said instrument and accepts and agrees to perform all of the District’s obligations therein.

3. **Authority Indemnification and Release.** The Authority hereby releases and forever acquits, discharges and holds harmless and shall indemnify the District from and against any and all liabilities (at law or in equity), obligations, liens, claims, orders, rulings, losses, damages, assessments, fines, penalties, injuries, demands, actions, judgments, suits, costs, expenses, or disbursements of any kind (including attorneys' fees and costs) which may at any time on or after the Effective Date be imposed on, incurred by, or asserted against the District by any third party, based on, resulting from, in any way relating to, in connection with, or arising out of the State Water Supply Contract, except to the extent caused by the District's gross negligence or willful misconduct.

4. **DWR Consent and Release.** DWR hereby consents to the assignment, transfer, and assumption described herein, and releases the District from all liabilities and obligations arising from or under the State Water Supply Contract. DWR shall hold the Authority responsible for all liabilities and obligations of the District arising from or under the State Water Supply Contract to the same extent as if the Authority had been an original party to said instrument.

5. **Right of First Refusal Regarding Permanent Out-Of-County Sale.** If at any time following the Effective Date of this Agreement, a Participant proposes to sell or otherwise dispose of all or any portion of its Project Allotment (as that term is defined in the Participant's Water Supply Agreement), such that such Project Allotment ("**Sale Allotment**") will no longer be delivered to end users within the County of Santa Barbara County ("**Permanent Out-of-County Sale**"), the Authority's approval of such Permanent Out-of-County Sale as required by the Participant's Water Supply Agreement shall be subject to a right of first refusal by the District to take delivery of such Sale Allotment on the same terms and conditions ("**District's Right of First Refusal**"). For clarity, the District's Right of First Refusal shall be secondary and subordinate to the right of first refusal held by each Participant pursuant to the provision of each Participant's Water Supply Agreement that provides for the "Sale or Other Disposition of Project Allotment."

6. **Reimbursement.**

a. **Reacquisition of Suspended Table A Allocation.** If at any time following the Effective Date of this Agreement, the Authority reacquires the Suspended Table A Allocation, the Authority shall reimburse the District for an amount equivalent to the amount the District otherwise would have been entitled to pursuant to Article 45(j) of the State Water Supply Contract. If the Authority elects to reacquire only a portion of the Suspended Table A Allocation, then the reimbursement shall be for a corresponding proportionate share of the overpayment, as provided in Article 45(j). Subject to all laws, including but not limited to the California Environmental Quality Act, the Authority shall make all reasonable best efforts to consider and analyze reacquisition of the Suspended Table A Allocation within a reasonable period of time following the Effective Date. If at any time following the Effective Date of this Agreement, the Authority elects not to purchase all or a portion of the Suspended Table A Allocation (the Suspended Table A Allocation not reacquired being the "**Excess Table A**

Allocation”), and DWR reimburses the Authority for all or a portion of the overpayment attributable to the Excess Table A Allocation pursuant to Article 45(j), the Authority shall deliver such reimbursement to the District.

b. **Permanent Out-of-County Sale.** If at any time following the Effective Date of this Agreement, a Permanent Out-of-County Sale is completed, the Authority shall reimburse the District in an amount equivalent to the portion of the actual Transportation Capital Costs, Transportation Minimum OMP&R and the Delta Water Charges, as those terms are defined in the State Water Supply Contract, that bears the same ratio as the Sale Allotment bears to the Table A Allocation for the period in which the District was fully responsible for the State Water Supply Contract. As determined in the calendar year 2019 DWR Statement of Charges, the actual costs paid by the District for the calendar year 1964 to the year 1985 total \$8,922,919, as set forth in the schedule attached as **Exhibit A** to this Agreement, which is incorporated by this reference.

7. **Governing Law and Jurisdiction.** The validity and interpretation of this Agreement shall be governed by the laws of the State of California. Any litigation regarding this Agreement or its contents shall be filed in the County of Santa Barbara, if in state court, or in the federal district court nearest to Santa Barbara County, if in federal court.

8. **Waiver.** Any waiver or failure to declare a breach as a result of the violation of any term or condition of this Agreement shall not constitute a waiver of that term or condition and shall not provide the basis for a claim of estoppel or waiver by any Party to that term or condition.

9. **Counterparts.** The Parties may execute this Agreement in counterpart. The Parties agree to accept facsimile or PDF signatures as original signatures.

10. **Authorization.** Each signatory represents and warrants that he or she has the appropriate authorization to enter into this Agreement on behalf of the Party for whom he or she signs.

11. **Other Agreements and Term Sheet.**

a. **Transfer of Financial Responsibility Agreement.** Upon the Effective Date of this Agreement, the Transfer of Financial Responsibility Agreement shall automatically terminate and this Agreement shall supersede all provisions of the Transfer of Financial Responsibility Agreement.

b. **Water Supply Retention Agreements.**

(i) **Assignment and Assumption.** Effective as of the Effective Date of this Agreement, the District does hereby assign, transfer, and set over to the Authority, without recourse and without representation or warranty of any kind, all of the District’s rights, title, and interest in, to and under all the existing Water Supply Retention

Agreements, along with all liabilities and obligations of the District arising from or under the Water Supply Retention Agreements. The Authority accepts such assignment without recourse and without representation or warranty of any kind, and assumes all of the District's liabilities and obligations arising from or under the Water Supply Retention Agreements, including any and all obligations to make payments, indemnifications, or reimbursements thereunder, and agrees to be bound by and to keep, perform, and observe the terms, covenants, and conditions of the District under the Water Supply Retention Agreements. The Authority agrees to be bound by the Water Supply Retention Agreements to the same extent as if it had been an original party to said instruments and accepts and agrees to perform all of the District's obligations therein.

(ii) **Release and Indemnification.** The Authority hereby releases and forever acquits, discharges, and holds harmless and shall indemnify the District from and against any and all liabilities (at law or in equity), obligations, liens, claims, orders, rulings, losses, damages, assessments, fines, penalties, injuries, demands, actions, judgments, suits, costs, expenses, or disbursements of any kind (including attorneys' fees and costs), which may at any time on or after the Effective Date be imposed on, incurred by or asserted against the District by any third party, based on, resulting from, in any way relating to, in connection with, or arising out of the Water Supply Retention Agreements, except to the extent caused by the District's gross negligence or willful misconduct.

c. **Term Sheet Regarding Reacquisition of Table A Water.** Upon the Effective Date of this Agreement, the Term Sheet Regarding Reacquisition of Table A Water approved by the District on or about December 13, 2016 ("**Term Sheet**") shall automatically terminate and this Agreement shall supersede all provisions of the Term Sheet.

12. **Notices.** All communications or notices in connection with this Agreement shall be in writing and either hand-delivered or sent by U.S. first class mail, postage prepaid, or electronic mail followed by written notice sent by U.S. mail and addressed to the Parties as follows:

Santa Barbara County Flood Control and Water Conservation District
Fray Crease, Water Agency Manager
130 East Victoria Street, Suite 200
Santa Barbara, CA 93101-2019
Tel: (805) 568-3542
fcrease@cosbpw.net

Central Coast Water Authority
Ray Stokes, Executive Director
255 Industrial Way
Buellton, CA 93427-9565
Tel: (805) 697-5214
ras@ccwa.com

13. **Construction and Interpretation.** The Parties agree and acknowledge that the terms of this Agreement have been negotiated by the Parties and the language used in this Agreement shall be deemed to be the language chosen by the Parties to express their mutual intent. The Agreement shall be construed without regard to any presumption or rule requiring construction against the party causing such instrument to be drafted, or in favor of the party receiving a particular benefit under this Agreement.

14. **Entire Agreement and Amendment.** This Agreement is the entire understanding of the Parties in respect of the subject matter hereof. There are no other promises, representations, agreements or warranties by any of the Parties. This Agreement may only be amended by a writing signed by all of the Parties. Each Party waives its right to assert that this Agreement was affected by oral agreement, course of conduct, waiver or estoppel.

– Signatures Follow on Next Page –

IN WITNESS WHEREOF, the Parties have entered into this Agreement as of the Effective Date.

**SANTA BARBARA COUNTY FLOOD
CONTROL AND WATER
CONSERVATION DISTRICT**

APPROVED AS TO FORM:

By: _____
Fray Crease, Water Agency Manager

By: _____
Michael C. Ghizzoni, County Counsel

Date: _____

CENTRAL COAST WATER AUTHORITY

APPROVED AS TO FORM:

By: _____
Ray Stokes, Executive Director

By: _____
Stephanie Osler Hastings
Brownstein Hyatt Farber Schreck, LLP

Date: _____

**CALIFORNIA DEPARTMENT OF WATER
RESOURCES**

APPROVED AS TO FORM:

By: _____
Karla Nemeth, Director

By: _____
Spencer Kenner, Chief Counsel

Date: _____

EXHIBIT A: Schedule of costs paid by District from 1964 to 1985

RESOLUTION NO. 17-04**A RESOLUTION OF THE BOARD OF DIRECTORS OF
THE CENTRAL COAST WATER AUTHORITY APPROVING
AMENDMENTS OF THE WATER SUPPLY AGREEMENTS BETWEEN
THE AUTHORITY AND ITS MEMBERS AND
APPROVING THE ASSIGNMENT, ASSUMPTION, AND RELEASE
AGREEMENT BETWEEN THE AUTHORITY, THE COUNTY OF SANTA
BARBARA FLOOD CONTROL AND WATER CONSERVATION
DISTRICT AND THE DEPARTMENT OF WATER RESOURCES**

WHEREAS, in 1963, following the voters' 1960 approval of the California Water Resources Development Bond Act, the Santa Barbara County Flood Control and Water Conservation District (District) and the Department of Water Resources (DWR), acting on behalf of the State of California, executed that certain agreement dated February 26, 1963 for the supply of State Water Project (SWP) water to Santa Barbara County (State Water Supply Contract); and

WHEREAS, beginning in 1982, the District entered into a series of "Water Supply Retention Agreements" with various cities, water districts, and other retailers and end users of water in Santa Barbara County (Participant(s)) for the purpose of shifting responsibility for the costs associated with the State Water Supply Contract from the District to the Participants; and

WHEREAS, in 1991, eight (8) public agencies that provide retail water supply service within Santa Barbara County (Members), all of whom were and are Participants, formed the Central Coast Water Authority as a Joint Powers Agency pursuant to Government Code section 6500 *et seq.* by that certain Joint Exercise of Powers Agreement dated August 1, 1991 (Authority); and

WHEREAS, thereafter, the Authority entered into a series of "Water Supply Agreements" with each Member. The Water Supply Agreements assigned each Member's contractual rights to SWP water, acquired pursuant to the Member's Water Supply Retention Agreement, to the Authority in return for the Authority's delivery of SWP water to the Member; and

WHEREAS, on November 12, 1991, the District and the Authority entered into the Transfer of Financial Responsibility Agreement whereby the Authority assumed full responsibility for all of the District's obligations pursuant to the State Water Supply Contract, which agreement also contemplates a future assignment of the State Water Supply Contract to the Authority; and

WHEREAS, the Authority now desires to assume all of the District's rights and obligations under the State Water Supply Contract and DWR has indicated its willingness to consider releasing the District and assigning the State Water Supply Contract to the Authority; and

WHEREAS, Article 34 of the State Water Supply Contract provides that if in any year the District fails or is unable to raise sufficient funds by other means to make the

payments required by the State Water Supply Contract, the Board of Supervisors of the County of Santa Barbara, as the governing body of the District, shall levy upon all property in the District's jurisdiction not exempt from taxation, a tax or assessment sufficient to provide for all payments under the State Water Supply Contract then due or to become due within that year; and

WHEREAS, in order to approve assignment of the State Water Supply Contract, DWR requires assurance that the Authority is authorized and empowered to contract with DWR, including but not limited to fulfilling the requirements of Article 34 of the State Water Supply Contract; and

WHEREAS, pursuant to Government Code section 6502, if authorized by its legislative or other governing bodies, a Joint Powers Authority may jointly exercise any power common to the contracting parties, including, but not limited to, the authority to levy a fee, assessment, or tax, so long as such power is expressly stated in the joint powers agreement; and

WHEREAS, all of the Authority's Members possess the power to levy a tax or assessment upon property not exempt from taxation within their respective jurisdictions; and

WHEREAS, it is in the public interest for the Authority to accept assignment of the State Water Supply Contract to permit the Authority to contract directly with DWR and to relieve the District of all responsibility for the State Water Supply Contract, as was intended in 1991 at the time the Authority was created; and

WHEREAS, each and all of the Members desire to authorize the Authority to contract with DWR directly; and

WHEREAS, the Authority has determined that amendment of the Joint Exercise of Powers Agreement and each Member's Water Supply Agreement is necessary and appropriate to authorize the Authority to contract with DWR directly; and

WHEREAS, the governing body of each Member has or will consider approval of: (1) amendment of the Joint Exercise of Powers Agreement authorizing the Authority to contract with DWR directly, along with all necessary and incidental powers as may be required by the Authority to carry out the Authority's rights and obligations under the State Water Supply Contract, including, but not limited to, the right to levy a tax or assessment on all property within the jurisdiction of the Authority not exempt from taxation; and (2) amendment of the Member's Water Supply Agreement with the Authority acknowledging and agreeing to the Authority's right to levy a tax or assessment on all property within the jurisdiction of the Authority not exempt from taxation, as may be required by the Authority to carry out the Authority's rights and obligations under the State Water Supply Contract.

NOW, THEREFORE, BE IT RESOLVED as follows:

SECTION 1.

The above recitals are true and correct and are incorporated herein as though set forth in full.

SECTION 2.

The Board of Directors approves amendments to the Water Supply Agreements between the Authority and each of its Members (collectively, the Amendments), whereby each Member acknowledges and agrees to the Authority's right to levy a tax or assessment on all property within the jurisdiction of the Authority not exempt from taxation, as may be required by the Authority to carry out the Authority's rights and obligations under the State Water Supply Contract, and authorizes the Chair of the Board to execute each of the Amendments. The Amendments are listed below and attached hereto as **Exhibit A**.

1. First Amendment to the Water Supply Agreement between the Authority and the City of Buellton;
2. Third Amendment to the Water Supply Agreement between the Authority and the City of Guadalupe;
3. Second Amendment to the Water Supply Agreement between the Authority and the City of Santa Barbara;
4. Third Amendment to the Water Supply Agreement between the Authority and the City of Santa Maria;
5. First Amendment to the Water Supply Agreement between the Authority and the Carpinteria Valley Water District;
6. First Amendment to the Water Supply Agreement between the Authority and the Goleta Water District;
7. Third Amendment to the Water Supply Agreement between the Authority and the Montecito Water District; and
8. Second Amendment to the Water Supply Agreement between the Authority and the Santa Ynez River Water Conservation District, Improvement District No. 1.

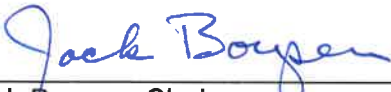
SECTION 3.

Subject to the Authority's receipt of each Member's approval and execution of both (1) the First Amendment to the Joint Exercise of Powers Agreement creating the Central Coast Water Authority, attached hereto as **Exhibit B**; and (2) amendment of the Member's Water Supply Agreement with the Authority (see Exhibit A), the Board of Directors agrees to accept assignment of the State Water Supply Contract and authorizes the Chair of the Board to execute the Assignment, Assumption, and Release Agreement attached hereto as **Exhibit C**. The Board of Directors further authorizes the Executive Director of the Authority to negotiate and make such non-substantive amendments to the Assignment, Assumption, and Release Agreement as may be required to obtain the approval of the District and DWR, subject to the approval of the Chair of the Board.

SECTION 4.

This resolution shall constitute complete and final authority for the Authority to execute and deliver the agreements set forth in Section 3 (1) and (2).

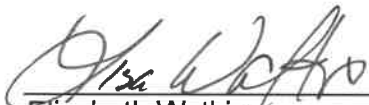
I certify that the foregoing Resolution No. 17-04 was adopted by the Board of Directors of the Central Coast Water Authority at a meeting held October 26, 2017.



Jack Boysen, Chairman

[Seal]

Attest:



Elizabeth Watkins
Secretary to the Board of
Directors

	VOTING PERCENTAGE	AYE	NAY	ABSTAIN	ABSENT
City of Buellton	2.21%	<u>X</u>	_____	_____	_____
Carpinteria Valley Water District	7.64%	<u>X</u>	_____	_____	_____
Goleta Water District	17.20%	<u>X</u>	_____	_____	_____
City of Guadalupe	1.15%	_____	_____	_____	<u>X</u>
Montecito Water District	9.50%	<u>X</u>	_____	_____	_____
City of Santa Barbara	11.47%	_____	_____	_____	<u>X</u>
City of Santa Maria	43.19%	<u>X</u>	_____	_____	_____
Santa Ynez River Water Conservation District, Improvement District No. 1	7.64%	<u>X</u>	_____	_____	_____



September 17, 2018

Mr. Tom Fayram
Deputy Public Works Director
Santa Barbara County Flood Control and Water Conservation District
130 East Victoria Street, Suite 200
Santa Barbara, CA 93101-2019

Jack Boysen
Chairman

Richard Shaikewitz
Vice Chairman

Ray A. Stokes
Executive Director

Brownstein Hyatt
Farber Schreck
General Counsel

Member Agencies

City of Buellton

Carpinteria Valley
Water District

City of Guadalupe

City of Santa Barbara

City of Santa Maria

Goleta Water District

Montecito Water District

Santa Ynez River Water
Conservation District,
Improvement District #1

Associate Member

La Cumbre Mutual
Water Company

Dear Tom:

I am writing to request the Santa Barbara County Flood Control and Water Conservation District (District)'s consideration of the proposed assignment of the State Water Contract from the District, the existing State Water Project contractor, to the Central Coast Water Authority (CCWA), the agency responsible for the delivery of State Water Project (SWP) water to Santa Barbara County.

The proposed assignment requires approval of the Board of Supervisors, acting on behalf of the District, CCWA, and the Department of Water Resources (DWR). As further described in this letter, on October 26, 2017, CCWA's Board approved the proposed assignment by agreeing to accept assignment of the State Water Contract and to release the District from all of its obligations. Thereafter, DWR completed its review and consideration of the proposed assignment and recently confirmed by email that it will approve the proposed assignment as permitted by Article 41 of the State Water Contract following the District's approval. Accordingly, the District's consideration and approval of assignment is now requested.

I. BENEFITS OF THE PROPOSED ASSIGNMENT OF THE STATE WATER CONTRACT

The proposed assignment provides numerous benefits for Santa Barbara County and its residents, including:

1. Aligning State Water Contract decision-making authority with financial and operational responsibility by making CCWA fully and solely responsible for the State Water Contract;
2. Relieving the District (and thus the County) of any potential financial obligations and liability under the State Water Contract;
3. Relieving cities and other communities within the County who do not receive SWP water from any potential financial obligation under the State Water Contract;
4. Improving decision-making at the local level by eliminating duplicative and unnecessary approvals by the District, with no operational or financial responsibility for the State Water Contract on a day-to-day basis;
5. Empowering CCWA, which is financially responsible for the State Water Contract, with the power to make decisions regarding future SWP projects;

255 Industrial Way
Buellton, CA 93427-9565
(805) 688-2292
FAX: (805) 686-4700



6. Providing CCWA members and their ratepayers with direct influence over decision-making for SWP projects; and
7. Increasing local government efficiency, which in turn will increase opportunities for innovations in water planning.

Frequently asked questions about the proposed assignment and CCWA's responses are enclosed as **Attachment A** to this letter.

II. BACKGROUND AND TIMELINE

As you know, the proposed assignment of the State Water Contract is not new – it has been a long time in the making.

The State Water Contract was first executed by the District and DWR in February, 1963 and amended on numerous occasions after that.

In 1978, the County of Santa Barbara sponsored a ballot measure authorizing issuance of bonds to finance construction of an in-county distribution and treatment system for SWP water. The ballot measure was defeated and, following that election, the Board of Supervisors considered whether to terminate the 1963 contract due to lack of local political support for the importation of SWP water made available by the State Water Contract. A number of local cities and water districts urged the Board of Supervisors to retain the water, and to find a way to shift the cost of that water to the local water agencies and their ratepayers. In response, in the mid-1980s, the District executed certain "Water Supply Retention Agreements" with local water agencies (Participants) whereby the Participants agreed to assume the annual costs for 45,486 acre-feet per year of SWP water.

In 1991, after five years of severe drought, public elections were held in 14 local jurisdictions to authorize financing to pay for construction of SWP water distribution and treatment facilities. The ballot measures were approved in 11 of the 14 jurisdictions. In September, 1991, CCWA was formed by eight public agencies – City of Buellton, City of Guadalupe, City of Santa Barbara, City of Santa Maria, Goleta Water District, Montecito Water District, Carpinteria Valley Water District, and Santa Ynez River Water Conservation District, Improvement District No. 1 (Members) – all of whom are Participants. The Participants also executed certain "Water Supply Contracts" with the newly formed CCWA, transferring their rights under the Water Supply Retention Agreements to CCWA, in return for water service in an amount equivalent to their rights under the Water Supply Retention Agreements.

In November 1991, the District and CCWA executed the Transfer of Financial Responsibility Agreement (TFRA) by which CCWA agreed to assume all of the District's financial obligations under the State Water Contract. The TRFA expresses

the District's and CCWA's joint interest in securing DWR's approval of assignment of all of the District's rights and obligations under the State Water Contract to CCWA.

The District and CCWA are continuing their efforts to secure from DWR an agreement to release the District from its obligations under the SWP Contract to the extent those obligations have been assumed by CCWA.... A principal purpose of this Agreement is to ensure that the District's financial obligations under the SWP Contract attributable to a CCWA Contractor will be completely and fully assumed and satisfied by CCWA....¹

Since 1991, there have been periodic efforts to secure DWR's approval of assignment of the State Water Contract, as envisioned by TRFA. Prior to 2015, there had been some uncertainty as to whether CCWA, a joint powers authority, could satisfy the requirements of Article 34 of the State Water Contract obligating the contracting party to levy a property tax in the event of its failure to make the required payments to DWR under the contract, and therefore whether the State Water Contract could be assigned to CCWA. That uncertainty was removed in 2015 when Government Code section 6502 was amended to clarify that a joint powers authority like CCWA has all powers common to the contracting parties, including but not limited to the authority to levy a fee, assessment or tax. It is now clear that CCWA is eligible to accept assignment of the State Water Contract. Accordingly, on June 22, 2017, the CCWA Board of Directors voted unanimously to direct its legal and policy staff to pursue assignment of the State Water Contract.

During October and November, 2017, each of CCWA's Members approved the proposed assignment, specifically by amending the 1991 Joint Exercise of Powers Agreement creating CCWA to authorize CCWA to contract with DWR for the delivery of water from the State Water Project and their respective Water Supply Agreements with CCWA to conform to the amendments to the Joint Exercise of Powers Agreement. The First Amendment to the Joint Exercise of Powers Agreement, which became effective on December 12, 2017, is enclosed for your reference as **Attachment B**.

On October 23, 2017, CCWA's Board unanimously adopted Resolution No. 17-04 (enclosed for your reference as **Attachment C**), which (1) approved amendments to each of the Members' Water Supply Agreements, and (2) approved assignment of the State Water Contract from the District to CCWA and authorized me to negotiate an agreement with the District and DWR to effectuate the assignment. CCWA's draft proposed Assignment, Assumption, And Release Agreement to effectuate assignment of the State Water Contract is enclosed as **Attachment D** for your review and consideration.

¹ TRFA, Recitals C and J

Subsequently, DWR staff and legal counsel considered the proposed assignment. By email dated September 17, 2018, the State Water Project Deputy Director of DWR confirmed that DWR will approve assignment of the State Water Contract, as is permitted by Article 41 of the contract. DWR's email is enclosed for your reference as **Attachment E**. Accordingly, CCWA requests that the Board of Supervisors, acting on behalf of the District, consider the proposed assignment at the next available date.

III. COMPLIANCE WITH CEQA

CCWA has determined that CEQA does not apply to the proposed assignment because the transaction will not affect a change in the environment. The transaction will not change the point of delivery, place of use or purpose of use; it will not result in a change in the quantity of water delivered, and no new facilities will be constructed. All terms and conditions of the State Water Contract will remain the same; only CCWA will be substituted for the District. CCWA's Notice of Exemption for the proposed assignment is enclosed as **Attachment F**.

IV. RESPONSE TO MEMORANDUM FROM CALIFORNIA WATER IMPACT NETWORK (C-WIN)

We have reviewed the April 3, 2018 letter from the California Water Impact Network (C-WIN) and attached undated memorandum from Roger Moore (C-WIN Memo) raising concerns about the proposed assignment, specifically that the assignment would not relieve the District (and thus the County) from future potential liability under the State Water Contract. CCWA's General Counsel has responded to each of the assertions made in the C-WIN Memo. See **Attachment G**. Importantly, C-WIN's assertions are not supported – the proposed assignment fully relieves the District (and thus the County) of all liability under the State Water Contract. In fact, this is one of the major benefits of the proposed assignment.

V. NEXT STEPS

I would like to set a date for our respective agencies to meet and discuss the proposed assignment and any questions or concerns you may have, and to finalize a draft Assignment, Assumption, And Release Agreement for consideration by the Board of Supervisors on behalf of the District. It has now been more than a year since my Board directed me to pursue assignment of the State Water Contract, as was initially envisioned by the District and CCWA in 1991. For this reason, I am eager to set a date as your earliest convenience.

Mr. Tom Fayram
September 17, 2018
Page 5 of 5

I look forward to working with you on this important project for Santa Barbara County and its residents.

Most sincerely,



Ray Stokes
Executive Director

Attachments:

- A. Frequently Asked Questions re. Assignment of the State Water Contract
- B. First Amendment to the Joint Exercise of Powers Agreement Creating the Central Coast Water Authority
- C. CCWA Resolution No. 17-04 (without exhibits)²
- D. DRAFT Assignment, Assumption, and Release Agreement
- E. Correspondence from DWR confirming DWR will approve the proposed assignment
- F. CCWA Notice of Exemption re. Assignment of State Water Contract
- G. Brownstein Hyatt Farber Schreck Response to Comments from C-WIN

cc: Karla Nemeth, DWR Director
Joel Ledesma, DWR State Water Project Deputy Director
CCWA Board of Directors
Shad Springer, City of Santa Maria
Cruz Ramos, City of Guadalupe
Rose Hess, City of Buellton
Chris Dahlstrom, Santa Ynez Improvement District, ID#1
John McInnes, Goleta Water District
Rebecca Bjork, City of Santa Barbara
Nick Turner, Montecito Water District
Bob McDonald, Carpinteria Valley Water District
Stephanie Hastings, Brownstein Hyatt Farber Schreck
Michael Ghizzoni, County Counsel, County of Santa Barbara

² The exhibits to Resolution No. 17-04 are voluminous. They include amendments to the Water Supply Agreements for each of CCWA's Members. If you require copies of these amendments, I am happy to provide them to you under separate cover.



March 23, 2020

Honorable Gregg Hart, Chair and
Members of the Board of Supervisors
County of Santa Barbara
105 East Anapamu Street
Santa Barbara, CA 93101

Eric Friedman
Chairman

Ed Andrisek
Vice Chairman

Ray A. Stokes
Executive Director

Brownstein Hyatt
Farber Schreck
General Counsel

Member Agencies

City of Buellton

Carpinteria Valley
Water District

City of Guadalupe

City of Santa Barbara

City of Santa Maria

Goleta Water District

Montecito Water District

Santa Ynez River Water
Conservation District,
Improvement District #1

Associate Member

La Cumbre Mutual
Water Company

Dear Chair Hart and Members of the Board of Supervisors:

On behalf of the Central Coast Water Authority (CCWA), I am writing to request that the Santa Barbara County Board of Supervisors (Board), acting in its capacity as the governing board of the Santa Barbara County Flood Control and Water Conservation District (District), formally approve assignment of the State Water Contract from the District to CCWA, as described in the proposed Assignment, Assumption and Release Agreement (Assignment Agreement), at your earliest convenience. A copy of the proposed Assignment Agreement is included as Attachment A to this letter.

The District and CCWA have been considering the contract assignment issue since at least 1991 and in earnest since 2015. Those discussions have been productive, albeit prolonged. It is time to bring the issue to a decision, for one simple reason: we are out of time. Several significant decisions and projects related to the continued operation, management and funding of the State Water Project (SWP) and delivery of supplemental water to Santa Barbara County will require review and consideration within the next twelve months. These projects are of critical financial importance to CCWA's Members and the other participants. Accordingly, the State Water Contract should be assigned to CCWA.

For all of the reasons provided in CCWA's prior correspondence to the Board regarding the proposed assignment (see correspondence from Ray Stokes dated January 31, 2019 and September 17, 2018), we believe that CCWA is the right public agency to evaluate the merits of these upcoming decisions and projects. CCWA's eight members (Members)¹ are all public agencies whose elected officials are directly responsible to their ratepayers and voters who fund the cost of the SWP facilities and the supplemental water supply that serves more than 85 percent of the County's residents and businesses. The impacts of the upcoming decisions regarding the SWP will be felt directly by these ratepayers and voters, and they are entitled to have a direct voice in those decisions.

Moreover, by assigning the State Water Contract to CCWA, the County will insulate itself from all of the fiscal and operational aspects of the SWP, including future projects. The assignment will result in a full release of the County from all potential liability for the State Water Contract and CCWA will be fully and directly responsible for it. As

255 Industrial Way
Buellton, CA 93427-9565
(805) 688-2292
FAX: (805) 686-4700

¹ CCWA's Members are: City of Buellton, City of Guadalupe, City of Santa Barbara, City of Santa Maria, Carpinteria Valley Water District, Goleta Water District, Montecito Water District, and Santa Ynez River Water Conservation District, Improvement District No. 1.



you know, although the District remains the contracting party to the State Water Contract with the Department of Water Resources (DWR), since 1991, CCWA has been 100% responsible for the State Water Contract and the delivery of SWP water to Santa Barbara County and CCWA's Members and other participants are responsible for 100% of the costs. CCWA also owns, operates and maintains the delivery system and treatment facilities that permit the delivery of SWP water to Santa Barbara County. Since 1991, the County has not paid a nickel toward the cost of SWP water or any of the facilities that deliver SWP water to Santa Barbara County. Nevertheless, the District remains the contracting party. In the event of a CCWA default, the District, and thus the County of Santa Barbara and County tax payers, even those that do not receive SWP water, would be liable.

In 2017, all eight Members of CCWA individually approved assignment of the State Water Contract from the District to CCWA. Of the 42 elected officials who considered assignment of the State Water Contract from the District to CCWA, only two voted against assignment, and one (then City of Santa Barbara Councilmember Gregg Hart) abstained.

On October 26, 2017, CCWA's Board of Directors unanimously approved a draft of the proposed Assignment Agreement, specifically agreeing to assume all responsibility for, and liability regarding, the State Water Contract, and the full release of the County from all responsibility and liability. (See CCWA Resolution No. 17-04 previously provided to the Board.) DWR has also, informally, agreed to assignment of the State Water Contract. (See correspondence from DWR dated September 17, 2018 previously provided to the Board.) DWR will not provide its final approval until the Board, on behalf of the District, has approved the assignment.

When the Board last considered assignment in February, 2019, it instructed District staff to investigate a number of issues before returning to the Board for formal consideration of assignment. CCWA staff has worked diligently with District staff since February, 2019 to address and/or respond to all of the issues raised by the Board. CCWA has also addressed an additional issue regarding out-of-county sales of SWP water raised by District staff. A summary of CCWA's response to these issues is provided in Attachment B to this letter. Accordingly, the only remaining action is the Board's decision on the assignment.

As described in detail in CCWA's prior correspondence regarding this matter (see correspondence from Ray Stokes dated January 31, 2019 and September 17, 2018), assignment of the State Water Contract provides numerous benefits for the County and Santa Barbara County residents and ratepayers. Most importantly, assignment aligns State Water Contract decision-making authority with financial and operational responsibility by making CCWA fully and solely responsible for the State Water Contract. At the same time, assignment releases the District, the County and the residents of Santa Barbara County who do not receive SWP water from all potential liability for the State Water Contract. This result aligns with the County's oft-stated interest in being relieved of the obligations and liability for the State Water Contract.

What's more, assignment of the State Water Contract would streamline decision-making regarding the delivery of supplemental water at the local level and eliminate redundant and unnecessary government that is costly to County rate-payers, delays decision-making and is unnecessarily complex. Because the District has no role in the delivery of SWP water to Santa Barbara County, there is no rational basis for the District to continue as the contracting party.

Finally, it should be noted that CCWA's management of the State Water Contract has been exemplary. Since 1991, CCWA has never missed a single payment to the State of California, and its financial management and reporting systems have been recognized for their excellence. CCWA has been scrupulous in monitoring and auditing the costs imposed by the State on CCWA, and CCWA has been one of the statewide leaders in efforts to promote accuracy and transparency in the State's cost accounting for the State Water Project. As a result of CCWA's expert and prudent management of the delivery of State Water Project water to Santa Barbara County, CCWA has demonstrated that it has the technical, financial and managerial expertise to contract with the State for the delivery of SWP water. In sum, CCWA has expertly and prudently managed the State Water Contract for 27 years and it will continue to do so as the contracting party for SWP water for Santa Barbara County.

I respectfully request that the Board of Supervisors approve, as soon as possible, assignment of the State Water Contract from the District to CCWA.

Sincerely,



Eric Friedman
Chair of the Board of Directors

Attachments:

- A: Assignment, Assumption and Release Agreement
- B: CCWA Responses to County Board of Supervisor Questions/Issues

cc: Karla Nemeth, Director, DWR
Spencer Kenner, DWR Chief Counsel
CCWA Member Agencies
Mona Miyasato, Chief Executive Officer, Santa Barbara County
Tom Fayram, Water Resources Deputy Director, Santa Barbara County
Michael Ghizzoni, County Counsel, Santa Barbara County
Johannah Hartley, Deputy County Counsel, Santa Barbara County,
Ray Stokes, Executive Director, Central Coast Water Authority
Stephanie Hastings, General Counsel, Brownstein Hyatt Farber Schreck

STATE OF CALIFORNIA
CALIFORNIA NATURAL RESOURCES AGENCY
DEPARTMENT OF WATER RESOURCES

AMENDMENT NO. 20 (THE CONTRACT EXTENSION AMENDMENT)
TO WATER SUPPLY CONTRACT BETWEEN THE STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES AND SANTA BARBARA COUNTY FLOOD
CONTROL AND WATER CONSERVATION DISTRICT FOR CONTINUED SERVICE
AND THE TERMS AND CONDITIONS THEREOF

THIS AMENDMENT to the Water Supply Contract is made this _____ day
of _____, 201_, pursuant to the provisions of the California Water
Resources Development Bond Act, the Central Valley Project Act, and other applicable
laws of the State of California, between the State of California, acting by and through its
Department of Water Resources, herein referred to as the "State," and Santa Barbara
County Flood Control and Water Conservation District, herein referred to as the
"Agency."

INDEX

INDEX OF TABLES 3

RECITALS 4

AMENDED CONTRACT TEXT..... 6

 I. ARTICLES 1, 2, 5, 22 THROUGH 29, 50 AND 51..... 6

 1. DEFINITIONS. 6

 2. TERM OF CONTRACT. 17

 5. PLEDGE OF REVENUES. 17

 22. DELTA WATER CHARGE 18

 23. TRANSPORTATION CHARGE. 33

 24. TRANSPORTATION CHARGE -- CAPITAL COMPONENTS. 38

 25. TRANSPORTATION CHARGE -- MINIMUM OPERATION, MAINTENANCE, POWER, AND
REPLACEMENT COMPONENT..... 48

 26. TRANSPORTATION CHARGE -- VARIABLE OPERATION, MAINTENANCE AND POWER
COMPONENT..... 51

 27. TRANSPORTATION CHARGE -- REPAYMENT SCHEDULE. 53

 28. DELTA WATER CHARGE AND TRANSPORTATION CHARGE -- REDETERMINATION..... 54

 29. TIME AND METHOD OF PAYMENT OF DELTA WATER CHARGE AND TRANSPORTATION
CHARGE..... 58

 50. WATER SYSTEM FACILITY REVENUE BOND FINANCING COSTS..... 61

 51. FINANCIAL ADJUSTMENTS..... 66

NEW CONTRACT ARTICLE..... 78

 61. FINANCIAL ACCOUNTS AND ACTIVITIES 78

NEW CONTRACT APPENDIX 84

 APPENDIX B 84

AMENDMENT IMPLEMENTING AND ADMINISTRATIVE PROVISIONS..... 86

INDEX OF TABLES

B - PROJECTED ALLOCATIONS TO AGENCY OF PROJECT CONSERVATION FACILITY
CAPITAL COSTS INCURRED ON OR AFTER THE BILLING TRANSITION DATE 24

C - PROJECTED CHARGES TO AGENCY UNDER THE CAPITAL COMPONENT OF THE
DELTA WATER CHARGE FOR COSTS INCURRED ON OR AFTER THE BILLING
TRANSITION DATE..... 26

D - DELTA WATER CHARGE -- ESTIMATED MINIMUM OPERATION, MAINTENANCE,
POWER AND REPLACEMENT COMPONENT FOR COSTS INCURRED ON OR AFTER
THE BILLING TRANSITION DATE..... 27

E - DELTA WATER CHARGE -- ESTIMATED VARIABLE OPERATION, MAINTENANCE AND
POWER COMPONENT FOR COSTS INCURRED ON OR AFTER THE BILLING
TRANSITION DATE..... 28

F - REPAYMENT SCHEDULE -- DELTA WATER CHARGE FOR COSTS INCURRED ON OR
AFTER THE BILLING TRANSITION DATE..... 29

G - PROJECT TRANSPORTATION FACILITIES NECESSARY TO DELIVER WATER TO
AGENCY 35

H - PROJECTED ALLOCATIONS OF CAPITAL COSTS INCURRED PRIOR TO THE BILLING
TRANSITION DATE OF PROJECT TRANSPORTATION FACILITIES TO AGENCY..... 39

I - TRANSPORTATION CHARGE FOR COSTS INCURRED PRIOR TO THE BILLING
TRANSITION DATE -- CAPITAL COST COMPONENT..... 40

J - PROJECTED ALLOCATIONS TO AGENCY OF PROJECT TRANSPORTATION FACILITY
CAPITAL COSTS INCURRED ON OR AFTER THE BILLING TRANSITION DATE 42

K - PROJECTED CHARGES UNDER THE CAPITAL COMPONENT OF THE
TRANSPORTATION CHARGE FOR COSTS INCURRED ON OR AFTER THE BILLING
TRANSITION DATE TO AGENCY 43

L - RELEVANT VALUES THAT SHALL SERVE AS THE BASIS FOR ALLOCATION OF ALL
TRANSPORTATION CHARGE COSTS..... 45

M - TRANSPORTATION CHARGE -- MINIMUM OPERATION MAINTENANCE, POWER, AND
REPLACEMENT COMPONENT..... 49

N - TRANSPORTATION CHARGE -- ESTIMATED VARIABLE OPERATION, MAINTENANCE,
AND POWER COMPONENT 52

O - REPAYMENT SCHEDULE -- TRANSPORTATION CHARGE..... 53

RECITALS

- A. The State and the Agency entered into and subsequently amended a water supply contract (the “contract”), dated November 4, 1960, providing that the State shall supply certain quantities of water to the Agency and providing that the Agency shall make certain payments to the State, and setting forth the terms and conditions of such supply and such payments; and
- B. Article 2 of the contract provides that the contract shall remain in effect for the longest of the following: (1) the project repayment period, which, as defined in the contract, is to end on December 31, 2035; (2) 75 years from the original date of the contract; and (3) the period ending with the latest maturity date of any bond issue used to finance the construction costs of project facilities; and
- C. The longest of the above referenced periods in Article 2 would have ended in this contract on February 26, 2038; and
- D. Article 4 of the contract provides that the Agency, by written notice to the State at least six (6) months prior to the expiration of the term of the contract (as specified in Article 2), may elect to receive continued service under the contract under certain conditions specified therein and under other terms and conditions that are reasonable and mutually agreed upon by the State and the Agency; and
- E. The State, the Agency and representatives of certain other State Water Project Contractors have negotiated and executed a document (Execution Version dated June 18, 2014), the subject of which is “Agreement in Principle Concerning Extension of the State Water Project Water Supply Contracts” (the “Agreement in Principle”); and
- F. The Agreement in Principle describes the terms and conditions of the continued service upon which the State and the Agency mutually proposed to develop contractual amendments consistent with the Agreement In Principle; and
- G. The State, the Agency and those Contractors intending to be subject to the contract amendments contemplated by the Agreement in Principle subsequently prepared an amendment to their respective contracts to implement the provisions of the Agreement in Principle, and such amendment was named the “Amendment for Continued Service and the Terms and Conditions Thereof”; and

- H. The State and the Agency desire to implement continued service under the contract under the terms and conditions of this Amendment for Continued Service and the Terms and Conditions Thereof to the water supply contract; and
- I. The Agency's execution of this Amendment for Continued Service and the Terms and Conditions Thereof is the equivalent of the Agency's election under Article 4 to receive continued service under the contract under the conditions provided in Article 4, and the mutually agreed terms and conditions herein are the other reasonable and equitable terms and conditions of continued service referred to in Article 4.

NOW, THEREFORE, IT IS MUTUALLY AGREED that the following changes and additions are hereby made to the Agency's water supply contract with the State:

AMENDED CONTRACT TEXT

I. ARTICLES 1, 2, 5, 22 THROUGH 29, 50 AND 51 ARE DELETED IN THEIR ENTIRETY AND REPLACED WITH THE FOLLOWING TEXT:

1. DEFINITIONS.

When used in this contract, the following terms shall have the meanings hereinafter set forth:

(a) **“Additional Project Conservation Facilities”** shall mean the following facilities and programs, which will serve the purpose of preventing any reduction in the Minimum Project Yield as hereinafter defined:

(1) Those Project Facilities specified in Section 12938 of the Water Code;

(2) Those facilities and programs described in (A), (B), (C), (D), and (E) below which, in the State's determination, are engineeringly feasible and capable of producing Project Water which is economically competitive with alternative new water supply sources, *provided* that in the State's determination, the construction and operation of such facilities and programs will not interfere with the requested deliveries of Annual Table A Amount to any Contractor other than the sponsoring Contractor, and will not result in any greater annual charges to any Contractor other than the sponsoring Contractor than would have occurred with the construction at the same time of alternative new water supply sources which are either reservoirs located north of the Delta or off-Aqueduct storage reservoirs located south or west of the Delta designed to supply water to the California Aqueduct.

The following facilities and programs shall hereinafter be referred to as “Local Projects”:

(A) On-stream and off-stream surface storage reservoirs not provided for in Section 12938 of the Water Code, that will produce Project Water for the System for a period of time agreed to by the sponsoring Contractor;

(B) Groundwater storage facilities that will produce Project Water for the System for a period of time agreed to by the sponsoring Contractor;

(C) Waste water reclamation facilities that will produce Project Water for the System for a period of time agreed to by the sponsoring Contractor;

(D) Water and facilities for delivering water purchased by the State for the System for a period of time agreed to by the sponsoring Contractor; *provided* that the economic test specified herein shall be applied to the cost of these facilities together with the cost of the purchased water; and

(E) Future water conservation programs and facilities that will reduce demands by the sponsoring Contractor for Project Water from the System for a period of time agreed to by the sponsoring Contractor and will thereby have the effect of increasing Project Water available in the Delta for distribution.

(3) Whether a Local Project described in (2) above shall be considered economically competitive shall be determined by the State by comparing, in an engineering and economic analysis, such Local Project with alternative new water supply sources which are either reservoirs located north of the Delta or off-Aqueduct storage reservoirs located south or west of the Delta designed to supply water to the California Aqueduct. The analysis for such alternative new water supply sources shall use the average cost per acre-foot of yield in the latest studies made for such sources by the State and shall compare those facilities with the proposed Local Project using commonly accepted engineering economics. In the case of a Local Project to be funded in part by the State as part of the System and in part from other sources, the economic analysis specified herein shall be applied only to the portion to be funded by the State as part of the System.

(4) The Local Projects in (2) above shall not be constructed or implemented unless or until:

(A) The sponsoring Contractor signs a written agreement with the State which:

(i) Contains the sponsoring Contractor's approval of such facility or program;

(ii) Specifies the yield and the period of time during which the water from the Local Project shall constitute Project Water; and

(iii) Specifies the disposition of such Local Project or of the yield from such Local Project upon the expiration of such period of time.

(B) All Contractors within whose boundaries any portion of such Local Project is located, and who are not sponsoring Contractors for such Local Project give their written approval of such Local Project.

(5) “Sponsoring Contractor” as used in this Article 1(a) shall mean the Contractor or Contractors who either will receive the yield from facilities described in 2(A), (B), (C), or (D) above, or agree to reduce demands for Project Water from the System pursuant to 2(E) above.

(6) In the event of a shortage in water supply within the meaning of Article 18(a), the determination of whether to count, in whole or in part, the yield from facilities described in 2(A), (B), (C), or (D) above, or the reduced demand from future conservation programs described in 2(E) above in the allocation of deficiencies among Contractors will be based on a project-by-project evaluation taking into consideration such factors as any limitation on the use of the water from such facilities and whether the sponsoring Contractor has access to Project Water from the Delta as an alternate to such facilities.

(b) “**Agricultural Use**” shall mean any use of water primarily in the production of plant crops or livestock for market, including any use incidental thereto for domestic or stock-watering purposes.

(c) “**Annual Table A Amount**” shall mean the amount of Project Water set forth in Table A of this Contract that the State, pursuant to the obligations of this contract and applicable law, makes available for delivery to the Agency at the delivery structures provided for the Agency. The term Annual Table A Amount shall not be interpreted to mean that in each year the State will be able to make that quantity of Project Water available to the Agency. The Annual Table A Amounts and the terms of this contract reflect an expectation that under certain conditions only a lesser amount, allocated in accordance with this contract, may be made available to the Agency. This recognition that full Annual Table A Amounts will not be deliverable under all conditions does not change the obligations of the State under this contract, including but not limited to, the obligations to make all reasonable efforts to complete the Project Facilities, to perfect and protect water rights, and to allocate among Contractors the supply available in any year, as set forth in Articles 6(b), 6(c), 16(b) and 18, in the manner and subject to the terms and conditions of those articles and this contract. Where the term “annual entitlement” appears elsewhere in this contract, it shall mean “Annual Table A Amount.” The State agrees that in future amendments to this and other Contractor’s contracts, in lieu of the term “annual entitlement,” the term “Annual Table A

Amount” will be used and will have the same meaning as “annual entitlement” wherever that term is used.

(d) **“Area of Origin Statutes”** shall mean Sections 10505 and 11460 through 11463 of the Water Code as now existing or hereafter amended.

(e) **“Article 51(e) Amounts”** shall mean the annual amounts determined pursuant to Article 51(e)(1).

(f) **“Billing Transition Date”** shall mean January 1 of the first calendar year starting at least six (6) months after the Contract Extension Amendment Effective Date.

(g) **“Burns-Porter Bond Act”** shall mean the California Water Resources Development Bond Act, comprising Chapter 8, commencing at Section 12930, of Part 6 of Division 6 of the Water Code, as enacted in Chapter 1762 of the Statutes of 1959.

(h) **“Capital Costs”** shall mean all costs Incurred subsequent to authorization of a facility for construction by the Legislature or by administrative action pursuant to Section 11290 of the Water Code and to the Burns-Porter Bond Act, including those so Incurred prior to the beginning of the Project Repayment Period as herein defined and any accrued unpaid interest charges thereon at the rates specified herein, which are properly chargeable to the construction of and the furnishing of equipment for the facilities of the System, including the costs of surveys, engineering studies, exploratory work, designs, preparation of construction plans and specifications, acquisition of lands, easements and rights-of-way, and relocation work, all as shown upon the official records of the Department of Water Resources.

(i) **“Carry-over Table A Water”** shall mean water from a Contractor’s Annual Table A Amount for a respective year, which is made available for delivery by the State in the next year pursuant to Article 12(e).

(j) **“Central Valley Project Act”** shall mean the Central Valley Act comprising Part 3, commencing at Section 11100, of Division 6 of the Water Code.

(k) **“Contract Extension Amendment”** shall mean the substantially similar amendments to the Contractors’ Water Supply Contracts that include, among other things, an extension of the term of the contract to December 31, 2085.

(l) **“Contract Extension Amendment Effective Date”** shall mean the date on which the Contract Extension Amendment becomes effective with regard to this contract. The State shall provide a written notice to the Agency specifying the Contract Extension Amendment Effective Date once the applicable conditions set out in the Contract Extension Amendment have been met.

(m) “**Contractor**” shall mean any entity that has executed, or is an assignee of, a contract of the type published in Department of Water Resources Bulletin No. 141, dated November 1965, with the State for a dependable supply of water made available by the System, except such water as is made available by the facilities specified in Section 12934(d)(6) of the Water Code, as such contracts have been amended from time to time.

(n) “**Delta**” shall mean the Sacramento-San Joaquin Delta as defined in Section 12220 of the Water Code on the date of approval of the Burns-Porter Bond Act by the voters of the State of California.

(o) “**East Branch Aqueduct**” shall mean that portion of the San Joaquin Valley-Southern California Aqueduct specified in Section 12934(d)(2) of the Water Code extending from the South Portal of the Tehachapi Tunnels to a terminus in the vicinity of Perris, Riverside County.

(p) “**Economic Useful Life**” shall mean the period during which the State expects to derive economic benefit from using an asset, as determined by the State.

(q) “**Financial Information System**” shall mean the system of record designated by the State as the authoritative source for the recording of all financial data values relating to the System.

(r) “**Financing Costs**” shall mean the following:

- (1) principal of and interest on Revenue Bonds,
- (2) debt service coverage required by the applicable bond resolution or indenture in relation to such principal and interest,
- (3) deposits to reserves required by the bond resolution or indenture in relation to such Revenue Bonds, and
- (4) premiums for insurance or other security obtained in relation to such Revenue Bonds.

(s) “**Incurred**” shall mean the following with respect to the timing of a cost:

- (1) Capital Costs and operation, maintenance, and power costs allocated irrespective of the amount of Project Water delivered to the Contractors are “Incurred” when the expenditure for the good, service or other consideration is recorded in the State’s financial information system, regardless of the date the good, service or other consideration is provided; and

(2) operation, maintenance, and power costs allocated in an amount which is dependent upon and varies with the amount of Project Water delivered to the Contractors are “Incurred” when the good, service or other consideration is provided, regardless of when the expenditure for the good, service or other consideration is recorded in the financial information system.

(t) **“Initial Project Conservation Facilities”** shall mean the following Project Facilities specified in Section 12934(d) of the Water Code:

(1) All those facilities specified in subparagraph (1) thereof.

(2) Those facilities specified in subparagraph (3) thereof to the extent that they serve the purposes of water conservation in the Delta, water supply in the Delta, and transfer of water across the Delta.

(3) A reservoir near Los Banos in Merced County as specified in subparagraph (2) thereof.

(4) The reach of the San Joaquin Valley-Southern California Aqueduct extending from the Delta to a reservoir near Los Banos in Merced County, to the extent required for water conservation through conveyance of water diverted from the Delta to offstream storage in such reservoir as determined by the State.

(5) Those facilities specified in subparagraph (5) thereof which are incidental to the facilities included under (1), (2), (3), and (4) above.

(6) Those facilities specified in subparagraph (7) thereof which are necessary and appurtenant to the facilities included under (1), (2), (3), (4), and (5) above.

(u) **“Interruptible Water”** shall mean Project Water available as determined by the State that is not needed for fulfilling Contractors’ Annual Table A Amount deliveries as set forth in their water delivery schedules furnished pursuant to Article 12 or for meeting project operational requirements, including storage goals for the current or following years.

(v) **“Manufacturing Use”** shall mean any use of water primarily in the production of finished goods for market.

(w) **“Maximum Annual Table A Amount”** shall mean the maximum annual amount set forth in Table A of this contract, and where the term “maximum annual entitlement” appears elsewhere in this contract it shall mean “Maximum Annual Table A Amount.”

(x) **“Minimum Project Yield”** shall mean the dependable annual supply of project water to be made available assuming completion of the initial project conservation facilities and additional project conservation facilities. The project’s capability of providing the Minimum Project Yield shall be determined by the State on the basis of coordinated operations studies of initial project conservation facilities and additional project conservation facilities, which studies shall be based upon factors including but not limited to:

(1) the estimated relative proportion of deliveries for agricultural use to deliveries for municipal use assuming Maximum Annual Table A Amounts for all Contractors and the characteristic distributions of demands for these two uses throughout the year; and

(2) agreements now in effect or as hereafter amended or supplemented between the State and the United States and others regarding the division of utilization of waters of the Delta or streams tributary thereto.

(y) **“Monterey Amendment”** shall mean the substantially similar amendments to Contractors’ Water Supply Contracts that included, among other provisions, the addition of Articles 51 through 56.

(z) **“Municipal Use”** shall mean all those uses of water common to the municipal water supply of a city, town, or other similar population group, including uses for domestic purposes, uses for the purposes of commerce, trade or industry, and any other use incidental thereto for any beneficial purpose.

(aa) **“Nonproject Water”** shall mean water made available for delivery to Contractors that is not Project Water as defined in Article 1(ah).

(ab) **“Project Facilities”** shall mean those facilities of the System which will, in whole or in part, serve the purposes of this contract by conserving water and making it available for use in and above the Delta and for export from the Delta and from such additional facilities as are defined in Article 1(a)(2), and by conveying water to the Agency. Such Project Facilities shall consist specifically of “Project Conservation Facilities” and “Project Transportation Facilities”, as hereinafter defined.

(ac) **“Project Conservation Facilities”** shall mean such Project Facilities as are presently included, or as may be added in the future, under 1(a) and 1(t).

(ad) **“Project Interest Rate”** shall mean the following:

(1) Prior to the Billing Transition Date, the weighted average interest rate on bonds, advances, or loans listed in this section to the extent the proceeds of any such bonds, advances, or loans are for construction of the State Water Facilities defined in Section 12934(d) of

the Water Code, the additional project conservation facilities, and the supplemental conservation facilities (except off-aqueduct power facilities; water system facilities; advances for delivery structures, measuring devices and excess capacity; and East Branch Enlargement Facilities). The Project Interest Rate shall be calculated as a decimal fraction to five places by dividing (i) the total interest cost required to be paid or credited by the State during the life of the indebtedness or advance by (ii) the total of the products of the various principal amounts and the respective terms in years of all such amounts. The bonds, advances, or loans used in calculating the project interest rate shall be:

- (A) General obligation bonds issued by the State under the Bond Act, except that any premium received on the sale of these bonds shall not be included in the calculation of the project interest rate,
- (B) Revenue Bonds issued after May 1, 1969,
- (C) Bonds issued by the State under any other authority granted by the Legislature or the voters,
- (D) Bonds issued by any agency, district, political subdivision, public corporation, or nonprofit corporation of this State,
- (E) Funds advanced by any Contractor without the actual incurring of bonded debt therefore, for which the net interest cost and terms shall be those which would have resulted if the Contractor had sold bonds for the purpose of funding the advance, as determined by the State,
- (F) Funds borrowed from the General Fund or other funds in the Treasury of the State of California, for which the total interest cost shall be computed at the interest rate earned over the period of such borrowing by moneys in the Surplus Money Investment Fund of such Treasury invested in securities, and
- (G) Any other financing capability available in the Treasury of the State of California at whatever interest rate and other financing costs are provided in the law authorizing such borrowing. However, the use of other financing from the State Treasury is intended to involve only short term borrowing at interest rates and other financing costs no greater than those charged to other State agencies during the same period until such time as the Department can sell bonds and reimburse the source of the short term borrowing from the proceeds of the bond sale.

(2) On and after the Billing Transition Date, the Project Interest Rate shall be four and six hundred and ten thousandths percent (4.610%) per annum.

(ae) “**Project Repayment Period**” shall mean that period of years commencing on January 1, 1961, and extending until December 31, 2035.

(af) “**Project Revenues**” shall mean revenues derived from the service of Project Water to Contractors and others, and from the sale or other disposal of electrical energy generated in connection with operation of Project Facilities.

(ag) “**Project Transportation Facilities**” shall mean the following Project Facilities:

(1) All those facilities specified in subparagraph (2) of Section 12934(d) of the Water Code except: The reservoir near Los Banos in Merced County; the reach of the San Joaquin Valley-Southern California Aqueduct extending from the Delta to the reservoir near Los Banos in Merced County, to the extent required for water conservation as determined by the State; the North Bay Aqueduct extending to a terminal reservoir in Marin County; the South Bay Aqueduct extending to terminal reservoirs in the Counties of Alameda and Santa Clara; the Pacheco Pass Tunnel Aqueduct extending from a reservoir near Los Banos in Merced County to a terminus in Pacheco Creek in Santa Clara County; and the Coastal Aqueduct beginning on the San Joaquin Valley-Southern California Aqueduct in the vicinity of Avenal, Kings County, and extending to a terminus at the Santa Maria River.

(2) Facilities for the generation and transmission of electrical energy of the following types:

(A) Hydroelectric generating and transmission facilities, whose operation is dependent on the transportation of Project Water, or on releases to channels downstream of Project Facilities defined under (1) above. Such facilities shall be called “project aqueduct power recovery plants.”

(B) All other generating and associated transmission facilities, except those dependent on water from Project Conservation Facilities, for the generation of power. These facilities shall be called “off-aqueduct power facilities” and shall consist of the State’s interest in the Reid-Gardner and any other generating and associated transmission facilities, constructed or financed in whole or in part by the State, which are economically competitive with alternative power supply sources as determined by the State.

(3) Those facilities specified in subparagraph (7) of Section 12934(d) of the Water Code which are necessary and appurtenant to the facilities included under (1) and (2) above.

(ah) **“Project Water”** shall mean water made available for delivery to the Contractors by the Project Conservation Facilities and the Project Transportation Facilities included in the System.

(ai) **“Revenue Bonds”** shall mean the following types of instruments payable from the sources provided in the Central Valley Project Act: revenue bonds, notes, refunding bonds, refunding notes, bond anticipation notes, certificates of indebtedness, and other evidences of indebtedness.

(aj) **“Subject to Approval by the State”** shall mean subject to the determination and judgment of the State as to acceptability.

(ak) **“Supplemental Conservation Facilities”** shall mean those facilities provided for in Section 12938 of the Water Code which will serve the purpose of supplying water in addition to the Minimum Project Yield and for meeting local needs.

(al) **“Supplemental Water”** shall mean water made available by Supplemental Conservation Facilities, in excess of the Minimum Project Yield.

(am) **“System”** shall mean the State Water Resources Development System as defined in Section 12931 of the Water Code.

(an) **“System Revenue Account”** shall mean the special account created pursuant to Water Code Section 12937(b) into which are deposited all revenues derived from the sale, delivery or use of water or power and all other income or revenue, derived by the State, from the System, with the exception of revenue attributable to facilities financed with revenue bonds issued pursuant to the Central Valley Project Act (Water Code Section 11100 et seq.).

(ao) **“Water Supply Contract”** shall mean one of the contracts described in the definition of Contractor in Article 1(m).

(ap) **“Water System Facilities”** shall mean the following facilities to the extent that they are financed with Revenue Bonds or to the extent that other financing of such facilities is reimbursed with proceeds from Water System Facility Revenue Bonds:

- (1) The North Bay Aqueduct,
- (2) The Coastal Branch Aqueduct,

(3) Delta Facilities, including Suisun Marsh facilities, to serve the purposes of water conservation in the Delta, water supply in the Delta, transfer of water across the Delta, and mitigation of the environmental effects of Project Facilities, and to the extent presently authorized as project purposes, recreation and fish and wildlife enhancement,

(4) Local projects as defined in Article 1(a)(2) designed to develop no more than 25,000 acre-feet of project yield from each project,

(5) Land acquisition prior to December 31, 1995, for the Kern Fan Element of the Kern Water Bank,

(6) Additional pumps at the Banks Delta Pumping Plant,

(7) The transmission line from Midway to Wheeler Ridge Pumping Plant,

(8) Repairs, additions, and betterments to Project Facilities,

(9) A Project Facilities corporation yard,

(10) A Project Facilities operation center, and

(11) Capital projects which are approved in writing by the State and eighty (80) percent of the affected Contractors as “Water System Facilities”, *provided* that the approving Contractors’ Table A amounts exceed eighty (80) percent of the Table A amounts representing all affected Contractors and *provided further* that “affected Contractors” for purposes of this subdivision (11) shall mean those Contractors which would be obligated to pay a share of the debt service on Revenue Bonds issued to finance such project.

(aq) “**Water System Facility Revenue Bonds**” shall mean Revenue Bonds issued after January 1, 1987 for Water System Facilities identified in Article 1(ap).

(ar) “**West Branch Aqueduct**” shall mean that portion of the San Joaquin Valley-Southern California Aqueduct specified in Section 12934(d)(2) of the Water Code extending from the South Portal of the Tehachapi Tunnels to a terminus in the vicinity of Newhall, Los Angeles County.

(as) “**Year**” shall mean the 12-month period from January 1 through December 31, both dates inclusive.

(at) “**Year of Initial Water Delivery**” shall mean the year when Project Water will first be available for delivery to a Contractor pursuant to its contract with the State.

2. TERM OF CONTRACT.

This contract shall become effective on the date first above written and shall remain in effect for the longer of the following:

1. December 31, 2085, or
2. The period ending with the latest maturity date of any bond issue used to finance the construction costs of project facilities.

5. PLEDGE OF REVENUES.

This contract is entered into for the direct benefit of the holders and owners of all general obligation bonds issued under the Burns-Porter Bond Act and the holders and owners of Revenue Bonds issued under the Central Valley Project Act, and the income and revenues derived from this contract are pledged to the respective purposes and in the respective priorities set forth in these acts, as provided by law.

22. DELTA WATER CHARGE

The payments to be made by each Contractor shall include an annual charge designated as the Delta Water Charge, which shall be separately calculated and stated for costs Incurred prior to the Billing Transition Date and costs Incurred on or after the Billing Transition Date.

(a) **Delta Water Charge for Costs Incurred Prior to the Billing Transition Date.** The provisions of this subdivision (a) shall apply only to costs Incurred prior to the Billing Transition Date.

(1) *Recovery of Costs of Project Conservation Facilities.* The Delta Water Charge for costs Incurred prior to the Billing Transition Date, together with the total revenues derived prior to the Billing Transition Date from the sale or other disposal of electrical energy generated in connection with operation of Project Conservation Facilities, shall return to the State during the Project Repayment Period all costs of the Project Conservation Facilities Incurred prior to the Billing Transition Date, including capital, operation, maintenance, power, and replacement costs, which are allocated to the purpose of water conservation in, above, and below the Delta pursuant to subdivisions (c)(1) through (c)(3) of this article.

(2) *Components of Charge.* For each Contractor receiving Project Water in any year through December 31, 1969, the Delta Water Charge shall be the product of \$3.50 and the Contractor's Annual Table A Amount for the respective year. For each Contractor receiving Project Water in the year 1970, the Delta Water Charge shall be the product of \$6.65 and the Contractor's Annual Table A Amount for that year. The \$6.65 rate for the year 1970 shall consist of a capital component of \$5.04 and a minimum operation, maintenance, power and replacement component of \$1.61. For each Contractor receiving Project Water in the year 1971, the Delta Water Charge shall be the product of \$7.24 and the Contractor's Annual Table A Amount for that year. The \$7.24 rate for the year 1971 shall consist of a capital component of \$5.44 and a minimum operation, maintenance, power and replacement component of \$1.80.

After December 31, 1971, the Delta Water Charge for costs Incurred prior to the Billing Transition Date shall consist and be the sum of the following components as these are computed in accordance with subdivisions (a)(3) and (a)(4) of this article: a capital component; a minimum operation, maintenance, power and replacement component; and a variable operation, maintenance, power and replacement component.

(3) *Charge Components Expressed as Rates.* The Capital Cost, the minimum operation, maintenance, power, and replacement, and the variable

operation, maintenance, power, and replacement components of the Delta Water Charge for costs Incurred prior to the Billing Transition Date, together with that portion of the revenues derived prior to the Billing Transition Date from the sale or other disposal of electrical energy generated in connection with operation of Project Conservation Facilities which is allocated by the State to repayment of the respective category of costs, shall return to the State during the Project Repayment Period, respectively, the following categories of the costs allocated to the purpose of water conservation in, above, and below the Delta pursuant to subdivisions (c)(1) through (c)(3) of this article:

(A) Capital Costs;

(B) operation, maintenance, power, and replacement costs Incurred irrespective of the amount of Project Water delivered to the Contractors;
and

(C) operation, maintenance, power, and replacement costs Incurred in an amount which is dependent upon and varies with the amount of Project Water delivered to the Contractors;

provided that each of the above categories of costs shall be inclusive of the appropriate costs properly chargeable to the generation and transmission of electrical energy in connection with operation of Project Conservation Facilities. Each component of the Delta Water Charge for costs Incurred prior to the Billing Transition Date shall be computed on the basis of a rate which, when charged during the Project Repayment Period for each acre-foot of the sum of the yearly totals of Annual Table A Amounts of all Contractors, will be sufficient, together with that portion of the revenues derived prior to the Billing Transition Date from the sale or other disposal of electrical energy generated in connection with operation of Project Conservation Facilities which is allocated by the State to repayment of the respective category of costs, to return to the State during the Project Repayment Period all costs included in the respective category of costs covered by that component. Each such rate shall be computed in accordance with the following formula:

$$\frac{(c_1 - r_1)(1 + i)^{-1} + (c_2 - r_2)(1 + i)^{-2} + \dots + (c_n - r_n)(1 + i)^{-n}}{e_1(1 + i)^{-1} + e_2(1 + i)^{-2} + \dots + e_n(1 + i)^{-n}}$$

Where:

i = The Project Interest Rate.

- c = The total costs included in the respective category of costs and Incurred during the respective year of the Project Repayment Period (prior to the Billing Transition Date).
- r = That portion of the revenues derived from the sale or other disposal of electrical energy allocated by the State to repayment of the costs included in the respective category and Incurred during the respective year of the Project Repayment Period (prior to the Billing Transition Date).

1, 2, and n
appearing
below

c and r = The respective year of the Project Repayment Period during which the costs included in the respective category are Incurred, n being the last year of the Project Repayment Period.

e = With respect to the Capital Cost and minimum operation, maintenance, power, and replacement components, the total of Annual Table A Amounts of all Contractors for the respective year of the Project Repayment Period.

e = With respect to the variable operation, maintenance, power, and replacement component, the total of the amounts of Project Water delivered to all Contractors for the respective year of the expired portion of the Project Repayment Period, together with the total of Annual Table A Amounts of all Contractors for the respective year of the unexpired portion of the Project Repayment Period.

1, 2, and n
appearing

below e = The respective year of the Project Repayment Period in which the Annual Table A Amounts or Project Water deliveries occur, n being the last year of the Project Repayment Period.

n used
as an

exponent = The number of years in the Project Repayment Period

(4) *Determination of Charge Components.* The Capital Cost and minimum operation, maintenance, power, and replacement components of the Delta Water Charge for costs Incurred prior to the Billing Transition Date shall be the product of the appropriate rate computed under subdivision (a)(3) of this

article and the Contractor's Annual Table A Amount for the respective year. The variable operation, maintenance, and power component of the charge shall be the product of the appropriate rate computed under subdivision (a)(3) of this article and the number of acre-feet of Project Water delivered to the Contractor during the respective year; *provided*, that when Project Water has been requested by a Contractor and delivery thereof has been commenced by the State, and, through no fault of the State, such water is wasted as a result of failure or refusal by the Contractor to accept delivery thereof, such variable component during such period shall be the product of such rate per acre-foot and the sum of the number of acre-feet of Project Water delivered to the Contractor and the number of acre-feet wasted.

(5) *Redetermination of Rates.* The rates to be used in determining the components of the Delta Water Charge pursuant to subdivision (a)(4) of this article and to become effective on January 1, 1970, shall be computed by the State in accordance with subdivision (a)(3) of this article prior to that date. Such computation shall include an adjustment which shall account for the difference, if any, between revenues received by the State under the Delta Water Charge prior to January 1, 1970, and revenues which would have been received under the charge prior to that date had it been computed and charged in accordance with subdivisions (a)(3) and (4) of this article. Upon such computation, a document establishing such rates shall be prepared by the State and attached to this contract as an amendment of this article. The State shall recompute such rates each year thereafter, and each such recomputation shall take account of and reflect increases or decreases from year to year in projected costs, outstanding reimbursable indebtedness of the State Incurred to construct the Project Conservation Facilities described in subdivisions (c)(1) through (c)(3) of this article, Annual Table A Amounts, deliveries of Project Water, Project Interest Rate, revenues from the sale or other disposal of electrical energy, and all other factors which are determinative of such rates. In addition, each such recomputation shall include an adjustment of the rates for succeeding years which shall account for the differences, if any, between projections of costs used by the State in determining such rates for all preceding years, and actual costs Incurred by the State during such years. Upon each such recomputation, an appropriately revised copy of the document establishing such rates shall be prepared by the State and attached to this contract as an amendment of this article.

(6) *Water System Facility Revenue Bond Charges.* Notwithstanding provisions of Article 22(a)(1) through (5), the capital and the minimum operation, maintenance, power and replacement component of the Delta Water Charge for costs Incurred prior to the Billing Transition Date shall include an annual charge to recover the Agency's share of the portion of the Water System Facility Revenue Bond Financing Costs allocable to Project Conservation Facilities for Capital Costs Incurred prior to the Billing Transition Date. Charges to the Agency

for these costs shall be calculated in accordance with Article 50(a).

(b) Delta Water Charge for Costs Incurred On or After the Billing Transition Date. The provisions of this subdivision (b) of this article shall apply only to costs Incurred on or after the Billing Transition Date.

(1) *Components of the Delta Water Charge for Costs Incurred On or After the Billing Transition Date.* The Delta Water Charge for costs Incurred on or after the Billing Transition Date shall consist of the following components as these are computed in accordance with subdivisions (b)(2) through (b)(4) of this article:

(A) Capital component,

(B) Minimum operation, maintenance, power, and replacement component; and

(C) Variable operation, maintenance, and power component.

(2) *Determination of Charge Components.* These three components of the Delta Water Charge for each calendar year, together with that portion of the revenues derived during such calendar year from the sale or other disposal of electrical energy generated in connection with operation of Project Conservation Facilities which is allocated by the State to repayment of the respective category of costs, shall return to the State during such calendar year the following categories, respectively, of the costs allocated pursuant to subdivisions (c)(1) through (c)(3) of this article to the purpose of water conservation in, above, and below the Delta.

(A) the capital component consisting of Capital Costs of Project Conservation Facilities to be recovered during such calendar year as and to the extent provided in subdivision (b)(3) of this article;

(B) the minimum operation, maintenance, power, and replacement component consisting of operation, maintenance, power, replacement costs of Project Conservation Facilities Incurred during such calendar year irrespective of the amount of Project Water delivered to the Contractors; and

(C) the variable operation, maintenance, and power component consisting of operation, maintenance, and power costs of Project Conservation Facilities Incurred during such calendar year in an amount

which is dependent upon and varies with the amount of Project Water delivered to the Contractors;

provided that each of the above categories of costs shall be inclusive of the appropriate costs properly chargeable to the generation and transmission of electrical energy in connection with operation of Project Conservation Facilities; and *provided further* that revenues generated in connection with the sale or other disposal of electrical energy generated in connection with operation of Project Conservation Facilities shall not reduce or be credited against charges pursuant to subdivision (b)(3)(D)(i) of this article (charges for Water System Facility Revenue Bond Financing Costs);

(3) *Categories of Capital Costs.*

(A) The amount of the capital component of the Delta Water Charge shall be determined in three steps as follows:

(i) first, an allocation to the Agency of Capital Costs of Project Conservation Facilities as provided in subdivisions (c)(1) through (c)(3) of this article,

(ii) second, a determination of the type and source of payment of each Capital Cost in accordance with subdivision (b)(3)(B) of this article, and

(iii) third, a computation of the annual payment to be made by the Agency as provided in subdivision (b)(3)(C) and (b)(3)(D) of this article.

(B) Annual Capital Costs of Project Conservation Facilities shall be divided into five categories of type and source of payment:

(i) Project Conservation Facility Capital Costs paid with the proceeds of Water System Facility Revenue Bonds,

(ii) Project Conservation Facility Capital Costs to be paid with the proceeds of Bonds issued under the Burns-Porter Bond Act,

(iii) Project Conservation Facility Capital Costs to be paid with amounts in the SWRDS Reinvestment Account,

(iv) Project Conservation Facility Capital Costs to be paid annually for assets that will have a short Economic Useful Life or

the costs of which are not substantial, and

(v) Project Conservation Facility Capital Costs prepaid by the Agency.

(C) The projected amounts of Project Conservation Facility Capital Costs in each such category to be allocated annually to the Agency shall be determined by the State in accordance with the cost allocation principles and procedures set forth in subdivision (c)(1) through (c)(3) and (b)(6) of this article, which principles and procedures shall be controlling as to allocations of Capital Costs to the Agency; *provided that* these amounts shall be subject to redetermination by the State in accordance with Article 28. Such projected amounts will be set forth in Table B by the State.

**TABLE B
PROJECTED ALLOCATIONS TO AGENCY
OF PROJECT CONSERVATION FACILITY CAPITAL COSTS INCURRED ON OR
AFTER THE BILLING TRANSITION DATE**

Year	Projected Allocations in Thousands of Dollars				
	Costs to be Paid with Proceeds of Water System Facility Revenue Bonds	Costs to be Paid with the Proceeds of Bonds issued under the Burns-Porter Bond Act	Costs to be Paid with Amounts in the SWRDS Reinvestment Account	Costs to be Paid Annually for Assets That Will Have a Short Economic Useful Life or the Costs of which are Not Substantial	Costs Prepaid by the Agency
1*					
2					
3					

* Year commencing with the Billing Transition Date.

(D) The annual amount to be paid by the Agency under the capital component of the Delta Water Charge for each calendar year for costs Incurred on or after the Billing Transition Date shall consist of the following categories:

(i) Water System Facility Revenue Bonds: a charge determined in accordance with Article 50(b) to recover Water System Facility Revenue Bond Financing Costs Incurred during such calendar year that relate to the financing of Project Conservation Facilities,

(ii) Burns-Porter Act Bonds: a charge to recover the amount to be paid by the State of California during such calendar year in accordance with the Burns-Porter Bond Act for the principal of and interest on bonds issued under the Burns-Porter Bond Act on or after the Billing Transition Date for Project Conservation Facility Capital Costs,

(iii) SWRDS Reinvestment Account: a charge determined in accordance with subdivision (b)(5) of Article 61 to amortize Project Conservation Facility Capital Costs Incurred during prior calendar years (but not prior to the Billing Transition Date) that have been paid with amounts from the SWRDS Reinvestment Account,

(iv) Capital Assets with Short Economic Life or Costs of which are Not Substantial: a charge to recover the Capital Costs to be Incurred during such calendar year of Project Conservation Facility assets with a short Economic Useful Life or the costs of which are not substantial as determined by the State and any such Capital Costs Incurred but not charged in the prior two calendar years,

(E) The projected amounts of each category of charges to be paid annually by the Agency under this capital component shall be determined by the State in accordance with the cost allocation principles and procedures set forth in this subdivision (b), which principles and procedures shall be controlling as to allocations of types of capital component charges to the Agency; *provided* that these amounts shall be subject to redetermination by the State in accordance with Article 28. Such amounts are projected to be as set forth in Table C by the State.

**TABLE C
PROJECTED CHARGES TO AGENCY
UNDER THE CAPITAL COMPONENT OF THE DELTA WATER CHARGE FOR
COSTS INCURRED ON OR AFTER THE BILLING TRANSITION DATE**

Year	Projected Charges in Thousands of Dollars			
	Costs to be Paid with Proceeds of Water System Facility Revenue Bonds	Costs to be Paid with the Proceeds of Bonds issued under the Burns-Porter Bond Act	Costs to be Paid with Amounts in the SWRDS Reinvestment Account	Costs to be Paid Annually for Assets That Will Have a Short Economic Useful Life or the Costs of which are Not Substantial
1				
2				
3				

* Year commencing with the Billing Transition Date.

(4) *Minimum Operation, Maintenance, Power and Replacement Charge – Determination; Repayment Table.*

The amount to be paid each year by the Agency under the minimum operation, maintenance, power, and replacement component of the Delta Water Charge shall be determined by the State in accordance with the cost allocation principles and procedures set forth in subdivision (b)(6)(A) of this article; *provided* that these amounts shall be subject to redetermination by the State in accordance with Article 28. Such amounts are projected to be as set forth in Table D by the State.

TABLE D
DELTA WATER CHARGE -- ESTIMATED MINIMUM OPERATION, MAINTENANCE, POWER
AND REPLACEMENT COMPONENT FOR COSTS INCURRED ON OR AFTER THE BILLING
TRANSITION DATE
AGENCY

Year	Total Annual Payment by Agency
1*	
2	
3	
4	

* Year commencing with the Billing Transition Date.

(5) *Variable Operation, Maintenance and Power Charge—
Determination; Repayment Table.*

The amount to be paid each year by the Agency under the variable operation, maintenance and power component of the Delta Water Charge shall be determined by the State in accordance with the cost allocation principles and procedures set forth in subdivision (b)(6)(B) of this article; *provided* that these amounts shall be subject to redetermination by the State in accordance with Article 28. Such amounts are projected to be as set forth in Table E by the State.

TABLE E
DELTA WATER CHARGE -- ESTIMATED VARIABLE OPERATION, MAINTENANCE AND
POWER COMPONENT FOR COSTS INCURRED ON OR AFTER THE BILLING TRANSITION
DATE
AGENCY

Year	Total Annual Payment by Agency
1*	
2	
3	
4	

* Year commencing with the Billing Transition Date.

(6) *Allocation of Charges to the Agency.*

(A) The capital and minimum operation, maintenance, and power components of the Delta Water Charge for each calendar year for costs Incurred on or after the Billing Transition Date shall be allocated to the Agency in proportion to the ratio of the Agency's Annual Table A Amount for such calendar year to the total of the Annual Table A Amounts for all Contractors for such calendar year.

(B) The variable operation, maintenance, and power component of the Delta Water Charge for each calendar year for costs Incurred on or after the Billing Transition Date shall be allocated to the Agency in proportion to the ratio of the number of acre-feet of Project Water delivered to the Agency during such calendar year to the number of acre-feet of Project Water delivered to all Contractors during such calendar year; *provided* that when Project Water has been requested by a Contractor and delivery thereof has been commenced by the State, and, through no fault of the State, such water is wasted as a result of failure or refusal by the Contractor to accept delivery thereof, such variable component during such period shall be calculated as if the number of acre-feet wasted had been delivered.

(7) *Delta Water Charge -- Repayment Schedule.*

The amounts to be paid by the Agency for each year on or after the Billing Transition Date under the Capital Cost component, minimum operation, maintenance, power and replacement component and the variable operation, maintenance, and power component of the Delta Water Charge shall be set forth by the State in Table F, which Table F shall constitute a summation of Tables C, D, and E; *provided* that each of the amounts set forth in Table F shall be subject to redetermination by the State in accordance with Article 28; *provided further*

that the principles and procedures set forth in this Article 22 shall be controlling as to such amounts. Such amounts shall be paid by the Agency in accordance with the provisions of Article 29.

**TABLE F
REPAYMENT SCHEDULE—DELTA WATER CHARGE FOR COSTS INCURRED ON
OR AFTER THE BILLING TRANSITION DATE
AGENCY**

Year	Capital Cost Component	Minimum Component	Variable Component	Total
1*				
2				
3				
4				

* Year commencing with the Billing Transition Date.

(c) **Provisions Applicable to the Delta Water Charge for Costs Incurred Both Before and On or After the Billing Transition Date.** The provisions of this subdivision (c) shall be applicable to costs Incurred both prior to and on or after the Billing Transition Date.

(1) *Allocation of Costs to Project Purposes.*

(A) Prior to the time that Additional Project Conservation Facilities or Supplemental Conservation Facilities are constructed, the Delta Water Charge shall be determined on the basis of an allocation to project purposes, by the separable cost-remaining benefits method, of all actual and projected costs of all those Initial Project Conservation Facilities located in and above the Delta, and upon an allocation to the purposes of water conservation and water transportation, by the proportionate use of facilities method, of all actual and projected costs of the following Project Facilities located below the Delta: The aqueduct intake facilities at the Delta, Pumping Plant I (Delta Pumping Plant) <Harvey O. Banks Delta Pumping Plant>, the aqueduct from the Delta to San Luis Forebay (O’Neill Forebay), San Luis Forebay (O’Neill Forebay), and San Luis Reservoir: *provided*, that all of the actual and projected costs properly chargeable to the generation and transmission of electrical energy in connection with operation of Project Conservation Facilities shall be allocated to the purpose of water conservation in, above, and below the Delta; *provided further*, that allocations to purposes the cost of which are to be paid by the United States shall be as determined by the United

States.

(B) Wherever reference is made, in connection with the computation, determination, or payment of the Delta Water Charge, to the costs of any facility or facilities included in the System, such reference shall be only to those costs of such facility or facilities that are reimbursable by the Contractors as determined by the State.

(C) The State, in fixing and establishing prices, rates, and charges for water and power, shall include as a reimbursable cost of any state water project an amount sufficient to repay all costs incurred by the State, directly or by contract with other agencies, for the preservation of fish and wildlife and determined to be allocable to the costs of the project works constructed for the development of that water and power, or either. Costs incurred for the enhancement of fish and wildlife or for the development of public recreation shall not be included in the prices, rates, and charges for water and power, and shall be nonreimbursable costs. Such recreational purposes include, but are not limited to, those recreational pursuits generally associated with the out-of-doors, such as camping, picnicking, fishing, hunting, water contact sports, boating, and sightseeing, and the associated facilities of campgrounds, picnic areas, water and sanitary facilities, parking areas, viewpoints, boat launching ramps, and any others necessary to make project land and water areas available for use by the public. In administering this Contract "development of public recreation" shall include recreation capital and operation and maintenance.

(2) *Additional Conservation Facilities.* Commencing in the year in which the State first awards a major construction contract for construction of a major feature of Additional Project Conservation Facilities, or first commences payments under a contract with a federal agency in the event a major feature of Additional Project Conservation Facilities is constructed by such federal agency under an agreement requiring the State to pay all or part of the costs of such construction, the Delta Water Charge shall be determined on the basis of the foregoing allocations and upon an allocation to project purposes, by the separable costs-remaining benefits method and subject to the foregoing provisos, of all projected costs of such feature of the Additional Project Conservation Facilities; *provided*, that if the agreement with such federal agency allows repayment of costs of a portion of a facility to be deferred, the associated costs of such portion shall be excluded from the Delta Water Charge computations until repayment of such deferred costs or interest thereon is commenced by the State; *provided, further*, that all costs of Additional Project Conservation Facilities Incurred prior to the award of a major construction contract, shall be included in the Delta Water Charge computations in the year in

which they are Incurred.

(3) *Supplemental Conservation Facilities.* Upon the construction of the Supplemental Conservation Facilities, the Delta Water Charge shall be paid by all Contractors for Supplemental Water, as well as by Contractors for Project Water, and, together with revenues derived from the sale or other disposal of electrical energy generated in connection with operation of Project Conservation Facilities and Supplemental Conservation Facilities, shall return to the State, in addition to those costs of the Project Conservation Facilities allocated to the purpose of water conservation, in, above, and below the Delta pursuant to subdivision (c)(1) of this article, all costs of such Supplemental Conservation Facilities, including capital, operation, maintenance, power, and replacement costs which are allocated to the purpose of water conservation, in, above, and below the Delta pursuant hereto. Commencing in the year in which the State first awards a major construction contract for construction of a major feature of any Supplemental Conservation Facilities, or first commences payments under a contract with a federal agency in the event a major feature of Supplemental Conservation Facilities is constructed by such federal agency under an agreement requiring the State to pay all or part of the costs of such construction, the Delta Water Charge shall be determined on the basis of the allocations made pursuant to subdivision (c)(1) of this article, and upon an allocation to project purposes, by the separable costs-remaining benefits method and subject to provisos corresponding to those contained in such subdivision (c)(1), of all projected costs of such feature of the Supplemental Conservation Facilities. Commencing in the same year, the computation of the rates to be used in determining the components of the Delta Water Charge shall include the Annual Table A Amounts under all contracts for Supplemental Water. If the repayment period of any bonds sold to construct Supplemental Conservation Facilities or the repayment period under any agreement with a federal agency for repayment of the costs of Supplemental Conservation Facilities constructed by such federal agency extends beyond the repayment period of the contract, the Delta Water Charge shall be determined and redetermined on the basis of such extended repayment period as the State determines to be appropriate; *provided*, that if the agreement with such federal agency allows repayment of costs of a portion of a facility to be deferred, the associated costs of such portion shall be excluded from the Delta Water Charge computations until repayment of such deferred costs or interest thereon is commenced by the State.

(4) *Local Projects.* The determination of the Delta Water Charge shall be made by including the appropriate costs and quantities of water, calculated in accordance with subdivisions (a) and (b) above, for all Additional Project Conservation Facilities as defined in Article 1(a). In the event a Local Project as defined in Article 1(a)(2) will, pursuant to written agreement between the State and the sponsoring Contractor, be considered and treated as an Additional Project Conservation Facility for less than the estimated life of the facility, the

Delta Water Charge will be determined on the basis of that portion of the appropriate cost and water supply associated with such facility as the period of time during which such facility shall be considered as an Additional Project Conservation Facility bears to the estimated life of such facility. No costs for the construction or implementation of any Local Project are to be included in the Delta Water Charge unless and until the written agreement required by Article 1(a) has been entered into.

(5) *Water Purchased By the State.* In calculating the Delta Water Charge under subdivisions (a) and (b) of this article, the component for operation, maintenance, power and replacement costs shall include, but not be limited to, all costs to the State Incurred in purchasing water, which is competitive with alternative sources as determined by the State, for delivery as Project Water.

(6) *Replacement Cost Treatment.* Replacement costs of Project Conservation Facilities shall be treated as either Capital Costs or as minimum operation, maintenance, power, and replacement costs, as determined by the State considering the Economic Useful Life of the asset being replaced and other relevant factors.

23. TRANSPORTATION CHARGE.

The payments to be made by each Contractor shall include an annual charge designated as the Transportation Charge, which shall be separately stated and calculated for costs Incurred prior to the Billing Transition Date and costs Incurred on or after the Billing Transition Date.

(a) **Transportation Charge for Costs Incurred Prior to the Billing Transition Date.** The provisions of this subdivision (a) and Articles 24(a) and (c), 25 and 26 shall apply to costs Incurred prior to the Billing Transition Date.

(1) *Recovery of Costs of Project Transportation Facilities.* The Transportation Charge for costs Incurred prior to the Billing Transition Date shall return to the State during the Project Repayment Period such costs of all Project Transportation Facilities necessary to deliver Project Water to the Contractor and which are allocated to the Contractor in accordance with the cost allocation principles and procedures hereinafter set forth.

(2) *Components of Transportation Charge for Costs Incurred Prior to the Billing Transition Date.* The Transportation Charge for costs Incurred Prior to the Billing Transition Date shall consist of a capital component; a minimum operation, maintenance, power, and replacement component; and a variable operation, maintenance and power component, as these components are defined in and determined under Articles 24(a) and (c), 25, and 26, respectively.

(b) **Transportation Charge for Costs Incurred On or After the Billing Transition Date.** The provisions of this subdivision (b) and Articles 24(b) and (c), 25 and 26 shall apply to costs Incurred on or after the Billing Transition Date.

(1) *Recovery of Costs of Project Transportation Facilities.* The Transportation Charge for costs Incurred on or after the Billing Transition Date shall return to the State during each such calendar year all costs which are Incurred on or after the Billing Transition Date of all Project Transportation Facilities necessary to deliver Project Water to the Agency and which are allocated to the Agency in accordance with the cost allocation principles and procedures hereinafter set forth.

(2) *Components of Transportation Charge.* The Transportation Charge for costs Incurred on or after the Billing Transition Date shall consist of a capital component; a minimum operation, maintenance, and power component; and a variable operation, maintenance, and power component, as these components are defined in and determined under Articles 24(b) and (c), 25, and 26, respectively.

(c) **Segregation of Aqueduct Reaches for All Transportation Charge**

Purposes. For the purpose of allocations of costs among Contractors pursuant to subdivisions (a) and (b) of this article, and Articles 24, 25 and 26, the Project Transportation Facilities shall be segregated into such aqueduct reaches as are determined by the State to be necessary for such allocations of costs. Subject to such modifications as are determined by the State to be required by reason of any request furnished by the Agency to the State pursuant to Article 17(a) of this contract, or by reason of contracts entered into by the State with other Contractors, the aqueduct reaches of the Project Transportation Facilities, a portion of the costs of which may be allocated to the Agency, are established as provided in Table G; *provided* that those costs of the aqueduct reaches from the Delta through the outlet of San Luis Reservoir which are allocated to the purpose of water conservation in, above, and below the Delta for the purpose of determining the Delta Water Charge, as hereinbefore set forth, shall not be included in the Transportation Charge.

**TABLE G
PROJECT TRANSPORTATION FACILITIES NECESSARY TO DELIVER WATER TO
AGENCY**

<u>Aqueduct Reach</u>	<u>Major Features of Reach</u>
CALIFORNIA AQUEDUCT	
Delta through Bethany Reservoir	Intake Channel Clifton Court Forebay Fish Protective Facilities Delta Pumping Plant Bethany Reservoir
Bethany Reservoir to Orestimba Creek	Aqueduct
Orestimba Creek to O’Neill Forebay	Aqueduct
O’Neill Forebay to Dos Amigos Pumping	O’Neill Forebay and Dam
Dos Amigos Pumping Plant to Panoche Creek	Aqueduct Dos Amigos Pumping Plant
Panoche Creek to Five Points	Aqueduct
Five Points to Arroyo Pasajero	Aqueduct
Arroyo Pasajero to Kettleman City	Aqueduct
Kettleman City through Milham Avenue	Aqueduct
Milham Avenue through Avenal Gap	Aqueduct
COASTAL BRANCH – PHASE I	
Avenal Gap to Devil’s Den Pumping Plant	Aqueduct Las Perillas Pumping Plant Badger Hill Pumping Plant
COASTAL BRANCH – PHASE II	
Devil’s Den Pumping Plant through Tank 1	Devil’s Den Pumping Plant Bluestone Pumping Plant Polonio Pass Pumping Plant Aqueduct Tank 1
Tank 1 through Chorro Valley Turnout	Aqueduct Tank 2 Cuesta Tunnel

STATE WATER PROJECT WATER SUPPLY CONTRACT EXTENSION AMENDMENT
Preliminary Execution Version
10/22/2018

<u>Aqueduct Reach</u>	<u>Major Features of Reach</u>
Chorro Valley Turnout through Lopez Turnout	Aqueduct West Corral De Piedra Tunnel
Lopez Turnout through Guadalupe Turnout	Aqueduct
COASTAL BRANCH EXTENSION	
Guadalupe Turnout to Southern Pacific Railroad Crossing near Casmalia	Aqueduct
Southern Pacific Railroad crossing near Casmalia through Tank 5	Aqueduct Tank 5

(This table was labeled Table I in original contract provisions)

(d) Provisions Applicable to the Transportation Charge for Costs Incurred Both Before and On or After the Billing Transition Date.

(1) Wherever reference is made, in connection with the computation, determination, or payment of the Transportation Charge, to the allocation or payment of costs of any facility or facilities included in the System, such reference shall be only to those costs of such facility or facilities which are reimbursable by the Contractors as determined by the State.

(2) The State, in fixing and establishing prices, rates, and charges for water and power, shall include as a reimbursable cost of any state water project an amount sufficient to repay all costs incurred by the State, directly or by contract with other agencies, for the preservation of fish and wildlife and determined to be allocable to the costs of the project works constructed for the development of that water and power, or either. Costs incurred for the enhancement of fish and wildlife or for the development of public recreation shall not be included in the prices, rates, and charges for water and power, and shall be nonreimbursable costs. Such recreational purposes include, but are not limited to, those recreational pursuits generally associated with the out-of-doors, such as camping, picnicking, fishing, hunting, water contact sports, boating, and sightseeing, and the associated facilities of campgrounds, picnic areas, water and sanitary facilities, parking areas, viewpoints, boat launching ramps, and any others necessary to make project land and water areas available for use by the public. In administering this Contract "development of public recreation" shall include recreation capital and operation and maintenance.

24. TRANSPORTATION CHARGE -- CAPITAL COMPONENTS.

(a) **Transportation Charge Capital Component for Costs Incurred Prior to the Billing Transition Date.** The provisions of this subdivision (a) shall apply only to Capital Costs Incurred prior to the Billing Transition Date.

(1) *Recovery of Capital Costs of Project Transportation Facilities Incurred Prior to the Billing Transition Date.* The amount of the capital component of the Transportation Charge for Capital Costs Incurred prior to the Billing Transition Date shall be determined in two steps as follows:

(A) first, an allocation of such costs to the Contractor in accordance with subdivision (a)(2) of this article, and

(B) second, a computation of annual payments to be made by the Contractor of such allocated costs and interest thereon, computed at the Project Interest Rate in accordance with subdivision (a)(3) of this article.

(2) *Allocation of Capital Costs of Project Transportation Facilities Incurred Prior to the Billing Transition Date.* The total amount of Capital Costs Incurred prior to the Billing Transition Date of each aqueduct reach to be returned to the State shall be allocated among all Contractors entitled to delivery of Project Water from or through such reach by the proportionate use of facilities method of cost allocation and in accordance with Article 23(c) and subdivision (c)(1) of this article.

The projected amounts of Capital Costs to be allocated annually to the Agency under the capital component of the Transportation Charge shall be determined by the State in accordance with the cost allocation principles and procedures set forth in this subdivision (a) and subdivision (c)(1) of this article, which principles and procedures shall be controlling as to allocations of Capital Costs to the Agency. Such amounts will be set forth in Table H by the State as soon as designs and cost estimates are prepared by it subsequent to receipt of requests from the Agency as to the maximum monthly delivery capability to be provided in each aqueduct reach for transport and delivery of Project Water to the Agency, pursuant to Article 17(a), *provided* that these amounts shall be subject to redetermination by the State in accordance with Article 28.

**TABLE H
PROJECTED ALLOCATIONS OF CAPITAL COSTS INCURRED PRIOR TO THE
BILLING TRANSITION DATE OF
PROJECT TRANSPORTATION FACILITIES TO
AGENCY**

Year	Projected Allocation in Thousands of Dollars
1*	
2	
3	
4	

* Year in which State commences construction of Project Transportation Facilities.
(This table was labeled Table C in original contract provisions)

(3) *Determination of Capital Component of Transportation Charge for Costs Incurred Prior to the Billing Transition Date.* The Agency's annual payment of its allocated Capital Costs Incurred prior to the Billing Transition Date and interest thereon, computed at the Project Interest Rate and compounded annually, shall be determined in accordance with a repayment schedule established by the State and determined in accordance with the principles set forth in (A), (B), and (C) below, which principles shall be controlling as to the Agency's payment of its allocated Capital Costs. The Agency's repayment schedule will be set forth in Table I by the State as soon as designs and cost estimates are prepared by it subsequent to receipt of requests from the Agency as to the maximum monthly delivery capability to be provided in each aqueduct reach for transport and delivery of Project Water to the Agency, pursuant to Article 17(a); *provided* that the amounts set forth in Table I shall be subject to redetermination by the State, pursuant to Article 28.

(A) The Agency's annual payment shall be the sum of the amounts due from the Agency on the Agency's allocated Capital Costs for the then current year and for each previous year where each such amount will pay, in not more than fifty (50) equal annual installments of principal and interest, the Agency's allocated Capital Costs for the respective year and interest thereon, computed at the Project Interest Rate and compounded annually.

(B) The Agency may make payments at a more rapid rate if approved by the State.

(C) Such annual Transportation Charge payments shall cease when all allocated Capital Costs and interest thereon, computed at the Project Interest Rate and compounded annually, are repaid.

TABLE I
TRANSPORTATION CHARGE FOR COSTS INCURRED PRIOR TO THE BILLING
TRANSITION DATE-- CAPITAL COST COMPONENT
AGENCY
(In Thousands of Dollars)

Year	Annual Payment of Principal	Annual Interest Payment	Total Annual Payment by Agency
1*			
2**			
3			
4			

* Year in which State commences construction of Project Transportation Facilities.

** Year of first payment.

(This table was labeled Table D in original contract provisions)

(4) Notwithstanding provisions of subdivisions 24(a)(1) through (a)(3) of this article, the capital component of the Transportation Charge for costs Incurred prior to the Billing Transition Date shall include an annual charge to recover the Agency's share of the portion of Water System Facility Revenue Bond Financing Costs allocable to Project Transportation Facilities. Charges to the Agency for these costs shall be calculated in accordance with Article 50(a).

(b) Transportation Charge Capital Component for Costs Incurred On or After the Billing Transition Date. The provisions of this subdivision (b) shall apply only to Capital Costs Incurred on or after the Billing Transition Date.

(1) The amount of the capital component of the Transportation Charge for costs Incurred on or after the Billing Transition Date shall be determined in three steps as follows:

(A) first, an allocation of Capital Costs to the Contractor as provided in subdivision (b)(2) of this article,

(B) second, a determination of the type and source of payment of each Capital Cost as provided in subdivision (b)(3) of this article, and

(C) third, a computation of the annual payment to be made by the Contractor as provided in subdivision (b)(4) and (b)(5) of this article.

(2) The total amount of Capital Costs of each aqueduct reach to be returned to the State under the Transportation Charge for costs Incurred on or after the Billing Transition Date shall be allocated among all Contractors entitled to delivery of Project Water from or through the reach by the proportionate use of facilities method of cost allocation and in accordance with Article 23(c) and subdivision (c)(1) of this article.

(3) Annual Capital Costs of Project Transportation Facilities shall be divided into five categories of type and source of payment:

(A) Project Transportation Facility Capital Costs paid with the proceeds of Water System Facility Revenue Bonds,

(B) Project Transportation Facility Capital Costs paid with the proceeds of bonds issued under the Burns-Porter Bond Act,

(C) Project Transportation Facility Capital Costs paid with amounts in the SWRDS Reinvestment Account,

(D) Project Transportation Facility Capital Costs paid annually for assets that will have a short Economic Useful Life or the costs of which are not substantial, and

(E) Project Transportation Facility Capital Costs prepaid by the Agency.

The projected amounts of Project Transportation Facility Capital Costs of each type to be allocated annually to the Agency shall be determined by the State in accordance with the cost allocation principles and procedures set forth in Article 23(c)(1) through (c)(3) and this subdivision (b)(3), which principles and procedures shall be controlling as to allocations of each type of Capital Costs to the Agency; *provided* that these amounts shall be subject to redetermination by the State in accordance with Article 28. Such projected amounts will be set forth in Table J by the State.

**TABLE J
PROJECTED ALLOCATIONS TO AGENCY
OF PROJECT TRANSPORTATION FACILITY CAPITAL COSTS INCURRED ON OR
AFTER THE BILLING TRANSITION DATE**

Year	Allocations in Thousands of Dollars				
	Costs to be Paid with Proceeds of Water System Facility Revenue Bonds	Costs to be Paid with the Proceeds of Bonds issued under the Burns-Porter Bond Act	Costs to be Paid with Amounts in the SWRDS Reinvestment Account	Costs to be Paid Annually for Assets That Will Have a Short Economic Useful Life or the Costs of which are Not Substantial	Costs Prepaid by the Agency
1*					
2					
3					

* Year commencing with the Billing Transition Date

(4) The capital component of the Transportation Charge for a calendar year for costs Incurred on or after the Billing Transition Date shall consist of the following to the extent the related Capital Costs are allocated to the Agency:

(A) Water System Facility Revenue Bond: a charge determined in accordance with Article 50(b) to recover Water System Facility Revenue Bond Financing Costs Incurred during such calendar year that relate to the financing of Water System Facilities that are Project Transportation Facilities,

(B) Burns-Porter Act Bonds: a charge to recover the amount to be paid by the State of California during such calendar year in accordance with the Burns-Porter Bond Act for the principal of and interest on bonds issued under the Burns-Porter Bond Act on or after the Billing Transition Date for Project Transportation Facility Capital Costs,

(C) SWRDS Reinvestment Account: a charge determined in accordance with subdivision (b)(5) of Article 61 to amortize Project Transportation Facility Capital Costs Incurred during prior calendar years

(but not prior to the Billing Transition Date) that have been paid with amounts from the SWRDS Reinvestment Account, and

(D) Capital Assets with Short Economic Life or Costs of which are Not Substantial: a charge to recover the Capital Costs to be Incurred during such calendar year of Project Transportation Facility assets with a short Economic Useful Life or the costs of which are not substantial as determined by the State and any such Capital Costs Incurred but not charged in the prior two calendar years,

(5) *Projected Charges.* The projected amounts of the charges to be allocated annually to the Agency under the capital component of the Transportation Charge for costs Incurred on or after the Billing Transition Date shall be determined by the State in accordance with the cost allocation principles and procedures set forth in this Article, which principles and procedures shall be controlling as to allocations of capital component charges to the Agency; *provided* that these amounts shall be subject to redetermination by the State in accordance with Article 28. Such amounts are projected to be as set forth in Table K by the State.

**TABLE K
PROJECTED CHARGES UNDER THE CAPITAL COMPONENT
OF THE TRANSPORTATION CHARGE FOR COSTS INCURRED ON OR AFTER THE
BILLING TRANSITION DATE TO
AGENCY**

Year	Projected Charges in Thousands of Dollars			
	Costs to be Paid with Proceeds of Water System Facility Revenue Bonds	Costs to be Paid with the Proceeds of Bonds issued under the Burns-Porter Bond Act	Costs to be Paid with Amounts in the SWRDS Reinvestment Account	Costs to be Paid Annually for Assets That Will Have a Short Economic Useful Life or the Costs of which are Not Substantial
1*				
2				
3				

* Year commencing with the Billing Transition Date.

(c) **Provisions Applicable to the Transportation Charge For Costs Incurred Both Prior To and On or After the Billing Transition Date.** The provisions of this subdivision (c) shall be applicable to Capital Costs Incurred both prior to and on or after the Billing Transition Date.

(1) *Proportionate Use Factors.* The measure of the proportionate use by each Contractor of each reach shall be the average of the following two ratios:

(A) the ratio of the Contractor's Maximum Annual Table A Amount to be delivered from or through the reach to the total of the Maximum Annual Table A Amounts of all Contractors to be delivered from or through the reach from the year in which charges are to be paid through the end of the Project Repayment Period, and

(B) the ratio of the capacity provided in the reach for the transport and delivery of Project Water to the Contractor to the total capacity provided in the reach for the transport and delivery of Project Water to all Contractors served from or through the reach from the year in which charges are to be paid through the end of the Project Repayment Period.

Allocations of Capital Costs to the Agency pursuant hereto shall be on the basis of relevant values which will be set forth in Table L by the State as soon as designs and cost estimates are prepared by it subsequent to receipt of requests from the Agency as to the maximum monthly delivery capability to be provided in each aqueduct reach of the Project Transportation Facilities for the transport and delivery of Project Water to the Agency, pursuant to Article 17(a); *provided* that these values shall be subject to redetermination by the State in accordance with Article 28; *provided further* that the principles and procedures set forth in this subdivision shall be controlling as to allocations of Capital Costs to the Agency. Proportionate use of facilities factors for prior years shall not be adjusted by the State in response to changes or transfers of Table A Amounts among Contractors unless otherwise agreed by the State and the parties to the transfer and unless there is no impact on past charges or credits of other Contractors.

TABLE L

[TABLE L shall set forth the relevant values that shall serve as the basis for allocation of all Transportation Charge Costs]

(This table was labeled Table B in original contract provisions)

(2) *Determinations Using Proportionate Use Factors.* The total amount in each category of Capital Costs allocated to a Contractor shall be the sum of the products obtained when there is multiplied, for each aqueduct reach necessary to deliver water to the Contractor, the total amount of the Capital Costs of the reach in that category to be returned to the State under the Transportation Charge by the average of the two foregoing ratios for such reach as such average is set forth in the appropriate table included in its contract.

(3) *Excess Capacity.* In the event that excess capacity is provided in any aqueduct reach for the purpose of making Project Water available in the future to an agency or agencies with which the State has not executed contracts at the time of any allocation of costs pursuant to this subdivision, the prospective Maximum Annual Table A Amount or Amounts to be supplied by such excess capacity, as determined by the State, shall be deemed to be contracted for by such agency or agencies for the purpose of such allocation of costs, to the end that the Capital Costs of providing such excess capacity are not charged to any Contractor entitled by virtue of an executed contract to the delivery of Project Water from or through that aqueduct reach at the time of such allocation. Where additional capacity is provided in any aqueduct reach to compensate for loss of water due to evaporation, leakage, seepage, or other causes, or to compensate for scheduled outages for purposes of necessary investigation, inspection, maintenance, repair or replacement of the facilities of the Project Facilities, then, for the purpose of any allocation of costs pursuant to this subdivision:

(A) the Maximum Annual Table A Amount to be delivered from or through the reach of each Contractor entitled to delivery of Project Water from or through the reach shall be increased by an amount which bears the same proportion to the maximum annual delivery capability provided by such additional capacity that the Contractor's Maximum Annual Table A Amount to be delivered from or through the reach bears to the total of the Maximum Annual Table A Amounts to be delivered from or through the reach under all contracts; and

(B) the capacity provided in the reach for each Contractor entitled to delivery of Project Water from or through the reach shall be increased in the same proportion that the Contractor's Maximum Annual Table A Amount to be delivered from or through the reach is increased pursuant to (A) above.

(4) *Power Facilities.* The Capital Costs of project aqueduct power recovery plants shall be charged and allocated in accordance with this Article 24. The Capital Costs of off-aqueduct power facilities shall be charged and allocated in accordance with Article 25(d).

(5) *Capital Costs of Excess Capacity.* In the event that any Contractor, pursuant to Article 12(b), requests delivery capacity in any aqueduct reach which will permit maximum monthly deliveries to such Contractor in excess of the percentage amounts specified in such Article 12(b) for the uses designated therein, such Contractor shall furnish to the State, in advance of the construction of such aqueduct reach, funds sufficient to cover the costs of providing such excess capacity, which funds shall be in an amount which bears the same proportion to the total Capital Costs of such reach, including the costs of providing such excess capacity, as such excess capacity bears to the total capacity of such reach, including such excess capacity. For the purpose of any allocation of costs pursuant to subdivision (c)(1) of this article, the total Capital Costs of such aqueduct reach shall be allocated among all Contractors entitled to delivery of Project Water from or through the reach in the following manner:

(A) The costs which would have been Incurred for such reach had no such excess capacity been provided shall be estimated by the State and allocated among all such Contractors in the manner provided in such subdivision (c)(1); and

(B) the amount of the difference between such estimated costs and the projected actual costs of such reach shall be allocated to the Contractor or Contractors for which such excess capacity is provided.

Where such excess capacity is provided for more than one Contractor, the costs allocated to them under (B) above shall be further allocated between or among them in amounts which bear the same proportion to the total of such allocated costs as the amount of such excess capacity provided for the respective Contractor bears to the total of such excess capacity provided in such reach. In the event that the funds advanced by a Contractor pursuant to this subdivision are more or less than the costs so allocated to such Contractor under (B) above, the account of such Contractor shall be credited or debited accordingly.

(6) *Replacement Cost Treatment.* Replacement costs of Project Transportation Facilities shall be treated as either Capital Costs or as minimum operation, maintenance, power and replacement costs, as determined by the State considering the Economic Useful Life of the asset being replaced and other relevant factors.

(7) *East Branch Enlargement.* Notwithstanding provisions of Articles 24(a) through 24(c), Capital Costs associated with East Branch Enlargement

Facilities as defined in Article 49(a) shall be collected under the capital component of the East Branch Enlargement Transportation Charge Article 49(d). Any Capital Costs of off-aqueduct power facilities associated with deliveries through East Branch Enlargement Facilities shall be charged and allocated in accordance with Article 25(d).

25. TRANSPORTATION CHARGE -- MINIMUM OPERATION, MAINTENANCE, POWER, AND REPLACEMENT COMPONENT.

The provisions of this article shall apply to costs incurred both prior to and on or after the Billing Transition Date.

(a) **Purpose.** The minimum operation, maintenance, power, and replacement component of the Transportation Charge shall return to the State those costs of the Project Transportation Facilities necessary to deliver water to the Contractor which constitute operation, maintenance, power, and replacement costs Incurred irrespective of the amount of Project Water delivered to the Contractor and which are allocated to the Contractor pursuant to subdivision (b) of this article; *provided* that to the extent permitted by law, the State may establish reserve funds to meet anticipated minimum replacement costs; and deposits in such reserve funds by the State: (1) shall be made in such amounts that such reserve funds will be adequate to meet such anticipated costs as they are incurred, and (2) shall be deemed to be a part of the minimum replacement costs for the year in which such deposits are made

(b) **Allocation.** The total projected minimum operation, maintenance, power, and replacement costs of each aqueduct reach of the Project Transportation Facilities for the respective year shall be allocated among all Contractors entitled to delivery of Project Water from such facilities by the proportionate use of facilities method of cost allocation, in the same manner and upon the same bases as are set forth for the allocation of Capital Costs in subdivisions (c)(1) through (c)(3) of Article 24; *provided* that such minimum operation, maintenance, power, and replacement costs as are Incurred generally for the Project Transportation Facilities first shall be allocated to each aqueduct reach in an amount which bears the same proportion to the total amount of such general costs that the amount of the costs Incurred directly for the reach bears to the total of all direct costs for all aqueduct reaches.

(c) **Determination; Repayment Table.** The amount to be paid each year by the Agency under the minimum operation, maintenance, power, and replacement component of the Transportation Charge shall be determined in accordance with subdivision (b) of this article on the basis of the relevant values to be set forth for the respective aqueduct reaches in Table L, included in Article 24; *provided* that these values shall be subject to redetermination by the State in accordance with Article 28. Such amounts and any appropriate interest thereon for costs incurred prior to the Billing Transition Date shall be set forth by the State in Table M as soon as designs and cost estimates have been prepared by it subsequent to receipt of requests from the Agency as to the maximum monthly delivery capability to be provided in each aqueduct reach for transport and delivery of Project Water to the Agency, pursuant to Article 17(a); *provided* that the amounts set forth in Table M shall be subject to redetermination by the State in accordance with Article 28.

**TABLE M
TRANSPORTATION CHARGE -- MINIMUM OPERATION MAINTENANCE, POWER, AND
REPLACEMENT COMPONENT
AGENCY**

Year	Total Annual Payment by Agency*
1**	
2	
3	
4	

* Payment shall start with respect to each aqueduct reach in the year following the year in which the State completes construction of the respective reach.

** Year in which the State commences construction of Project Transportation Facilities.

(This table was labeled Table E in original contract provisions)

(d) **Off-Aqueduct Power Facilities.** Notwithstanding the provisions of subdivisions (a) through (c) of this Article or of Article 1(h), the costs of off-aqueduct power facilities shall be determined and allocated as follows:

(1) The off-aqueduct power costs shall include all annual costs the State incurs for any off-aqueduct power facility, which shall include, but not be limited to, power purchases, annual Financing Costs, and associated operation and maintenance costs of such facility, less any credits, interest earnings, or other monies received by the State in connection with such facility or Revenue Bonds issued to finance the Capital Costs of such facility. In the event the State finances all or any part of an off-aqueduct power facility directly from funds other than bonds or borrowed funds, in lieu of such annual principal and interest payments, the repayment of Capital Costs as to that part financed by such other funds shall be determined on the basis of the schedule that would have been required under Article 24.

(2) The annual costs of off-aqueduct power facilities as computed in (1) above shall initially be allocated among Contractors in amounts which bear the same proportions to the total amount of such power costs that the total estimated electrical energy (kilowatt hours) required to pump through Project Transportation Facilities the desired delivery of Annual Table A Amounts for that year, as submitted pursuant to Article 12(a)(1) and as may be modified by the State pursuant to Article 12(a)(2), bears to the total estimated electrical energy

(kilowatt hours) required to pump all such amounts for all Contractors through Project Transportation Facilities for that year, all as determined by the State.

(3) An interim adjustment in the allocation of the power costs calculated in accordance with (2) above, may be made in May of each year based on April revisions in approved schedules of deliveries of project and nonproject water for Contractors for such year. A further adjustment shall be made in the following year based on actual deliveries of project and nonproject water for Contractors; *provided, however*, that in the event no deliveries are made through a pumping plant, the adjustments shall not be made for that year at that plant.

(4) To the extent the monies received or to be received by the State from all Contractors for off-aqueduct power costs in any year are determined by the State to be less than the amount required to pay the off-aqueduct power costs in such year, the State may allocate and charge that amount of off-aqueduct power costs to the Agency and other Contractors in the same manner as costs under the capital component of the Transportation Charge are allocated and charged. After that amount has been so allocated, charged and collected, the State shall provide a reallocation of the amounts allocated pursuant to this paragraph (4), such reallocation to be based on the allocations made pursuant to (2) and (3) above for that year, or in the event no such allocation was made for that year, on the last previous allocation made pursuant to (2) and (3) above. Any such reallocation of costs incurred prior to the Billing Transition Date shall include appropriate interest thereon at the Project Interest Rate.

(e) The total minimum operation, maintenance, power and replacement component due that year from each Contractor shall be the sum of the allocations made under the proportionate use of facilities method provided in subdivision (b) of this article and the allocations made pursuant to subdivision (d) of this article for each Contractor.

(f) Notwithstanding provisions of Articles 25(a) through 25(c) and 25(e), minimum operation, maintenance, power, and replacement costs associated with deliveries through East Branch Enlargement Facilities as defined in Article 49(a) shall be collected under the minimum operation, maintenance, power, and replacement component of the East Branch Enlargement Transportation Charge as determined under Article 49(e).

26. TRANSPORTATION CHARGE -- VARIABLE OPERATION, MAINTENANCE AND POWER COMPONENT.

The provisions of this article shall apply to costs Incurred both prior to and on or after the Billing Transition Date.

(a) **Purpose.** The variable operation, maintenance, and power component of the Transportation Charge shall return to the State those costs of the Project Transportation Facilities necessary to deliver water to the Contractor which constitute operation, maintenance, power and replacement costs Incurred in an amount which is dependent upon and varies with the amount of Project Water delivered to the Contractor and which are allocated to the Contractor pursuant to (1) and (2) below; *provided* that to the extent permitted by law, the State may establish reserve funds to meet anticipated variable replacement costs; and deposits in such reserve funds by the State: (1) shall be made in such amounts that such reserve funds will be adequate to meet such anticipated costs as they are incurred, and (2) shall be deemed to be a part of the variable replacement costs for the year in which such deposits are made.

(b) **Determination.** The amount of this variable operation, maintenance, and power component shall be determined as follows:

(1) *Determination of Charge Per Acre-Foot.* There shall be computed for each calendar year for each aqueduct reach of the Project Transportation Facilities a charge per acre-foot of water which will return to the State the total projected variable operation, maintenance and power costs of the reach for such calendar year. This computation shall be made by dividing such total by the number of acre-feet of Project Water estimated to be delivered from or through the reach to all Contractors during the year.

(2) *Determination of Charge Per Reach to the Contractor.* The amount of the variable component shall be the product of the sum of the charges per acre-foot of water, determined under (1) above, for each aqueduct reach necessary to deliver water to the Contractor, and the number of acre-feet of Project Water delivered to the Contractor during the year through such reach; *provided* that when Project Water has been requested by a Contractor and delivery thereof has been commenced by the State, and, through no fault of the State, such water is wasted as a result of failure or refusal by the Contractor to accept delivery thereof, the amount of such variable component to be paid by such Contractor during such period shall be the product of the above sum and the sum of the number of acre-feet of Project Water delivered to the Contractor and the number of acre-feet wasted.

(c) **Credit Relating to Project Aqueduct Power Recovery Plants.** There shall be credited against the amount of the variable operation, maintenance, and power component to be paid by each Contractor, as determined pursuant to subdivision (a) of

this article, a portion of the projected net value of any power recovered during the respective year at project aqueduct power recovery plants located upstream on the particular aqueduct reach from the delivery structures for delivery of Project Water to the Contractor. Such portion shall be in an amount which bears the same proportion to such projected net value that the number of acre-feet of Project Water delivered to the Contractor through such plants during the year bears to the number of acre-feet of Project Water delivered to all Contractors through such plants during the year.

(d) **Determination of Total Variable Component Charge.** The amount to be paid each year by the Agency under the variable operation, maintenance, and power component of the Transportation Charge shall be determined in accordance with subdivision (a) of this article for the respective aqueduct reaches in Table L included in Article 24. Such amounts and any appropriate interest thereon for costs incurred prior to the Billing Transition Date shall be set forth by the State in Table N as soon as designs and cost estimates are prepared by it subsequent to receipt of requests from the Agency as to the maximum monthly delivery capability to be provided in each aqueduct reach for transport and delivery of Project Water to the Agency, pursuant to Article 17(a); *provided* that the amounts set forth in Table N shall be subject to redetermination by the State in accordance with Article 28.

**TABLE N
TRANSPORTATION CHARGE -- ESTIMATED VARIABLE OPERATION, MAINTENANCE,
AND POWER COMPONENT
AGENCY**

Year	Total Annual Payment by Agency*
1**	
2	
3	
4	

* Payments start with year of initial water delivery.

** Year in which the State commences construction of the Project Conservation Facilities.

(This table was labeled Table F in original contract provisions)

(e) **No Separate Variable Component for East Branch Enlargement Facilities.** There shall be no separate variable operation, maintenance, and power component for deliveries of water through East Branch Enlargement Facilities defined in Article 49(a).

27. TRANSPORTATION CHARGE -- REPAYMENT SCHEDULE.

The amounts to be paid by the Agency for each year under the Capital Cost and minimum operation, maintenance, power, and replacement components of the Transportation Charge, and under the variable operation, maintenance, and power component of such charge on the basis of then estimated deliveries, shall be set forth by the State in Table O as soon as designs and cost estimates have been prepared by it subsequent to receipt of requests from the Agency as to the maximum monthly delivery capability to be provided in each aqueduct reach for transport and delivery of Project Water to the Agency, pursuant to Article 17(a), which Table O shall constitute a summation of Tables I, K, M, and N; *provided* that each of the amounts set forth in Table O shall be subject to redetermination by the State in accordance with Article 28; *provided further* that the principles and procedures set forth in Articles 24, 25, and 26 shall be controlling as to such amounts. Such amounts shall be paid by the Agency in accordance with the provisions of Article 29.

**TABLE O
REPAYMENT SCHEDULE--TRANSPORTATION CHARGE
AGENCY**

Year	Capital Cost Component	Minimum Component	Variable Component	Total
1*				
2**				
3				
4				

* Year in which State commences construction of Project Transportation Facilities.

** Year of first payment.

(This table was labeled Table G in original contract provisions)

**28. DELTA WATER CHARGE AND TRANSPORTATION CHARGE --
REDETERMINATION.**

(a) **Redetermination of Transportation Charges for Costs Incurred Prior to the Billing Transition Date.** The provisions of this subdivision (a) shall apply only to costs Incurred prior to the Billing Transition Date.

(1) *Determinative Factors Subject to Retroactive Change.* The State shall redetermine the values and amounts set forth in Tables H through O (referred to in the original contract provisions as Tables B through G) of this contract in the year following the year in which the State commences construction of the Project Transportation Facilities and each year thereafter during the Project Repayment Period in order that the Transportation Charge to the Agency and the components thereof may accurately reflect the increases or decreases from year to year in projected costs, outstanding reimbursable indebtedness of the State Incurred prior to the Billing Transition Date to construct the Project Transportation Facilities described in Table G of this contract, Annual Table A Amounts, estimated deliveries, Project Interest Rate, and all other factors which are determinative of such charges. In addition, each such redetermination shall include an adjustment of the components of the Transportation Charge to be paid by the Agency for succeeding years which shall account for the differences, if any, between those factors used by the State in determining the amounts of such components for all preceding years and the factors as then currently known by the State. Such adjustment shall be computed by the State and paid by the Agency or credited to the Agency's account in the manner described in (b) and (c) below.

(2) *Adjustment: Transportation Charge -- Capital Component For Costs Incurred Prior to the Billing Transition Date.* Adjustments for prior underpayments or overpayments of the capital component of the Transportation Charge to the Agency for costs Incurred prior to the Billing Transition Date, together with accrued interest charges or credits thereon computed at the then current Project Interest Rate on the amount of the underpayment or overpayment and compounded annually for the number of years from the year the underpayment or overpayment occurred to and including the year following the redetermination, shall be paid in the year following the redetermination; *provided* that the Agency may elect to exercise the option whereby when the redetermined Transportation Charge for the following year, with adjustments, including adjustments of the operation, maintenance, power, and replacement components provided for in subdivision (a)(3) of this article, is more or less than the last estimate of the charge provided pursuant to Article 27 for the corresponding year, without adjustments, an amount equal to the total of such difference shall be deducted

from or added to the adjusted capital component for that year and paid or credited in accordance with the following schedule:

Percent that Transportation Charge for costs Incurred prior to the Billing Transition Date differs from last estimate (+ or -)	Period, in years, for amortizing the difference in indicated charge
for 10% or less	no amortization
more than 10%, but not more than 20%	2
more than 20%, but not more than 30%	3
more than 30%, but not more than 40%	4
more than 40%	5

Such payments or credits shall be equal semi-annual amounts of principal and interest on or before the 1st day of January and the 1st day of July, with interest computed at the Project Interest Rate and compounded annually, during varying amortization periods as set forth in the preceding schedule; *provided* that for the purpose of determining the above differences in the Transportation Charge for costs Incurred prior to the Billing Transition Date, the variable operation, maintenance, and power component shall be computed on the basis of the same estimated Project Water deliveries as was assumed in computing pursuant to Article 26(c).

(3) *Adjustment: Transportation Charge -- Minimum and Variable Components for costs Incurred prior to the Billing Transition Date.* One-twelfth of the adjustments for prior underpayments or overpayments of the Agency's minimum and variable operation, power, and replacement components for each year shall be added or credited to the corresponding components to be paid in the corresponding month of the year following the redetermination, together with accrued interest charges or credits thereon computed at the then current Project Interest Rate on the amount of the underpayment or overpayment and compounded annually for the number of years from the year the underpayment or overpayment occurred to and including the year following the redetermination.

(4) *Exercise of Option.* The option provided for in subdivision (a)(2) of this article shall be exercised in writing on or before the January 1 due date of the first payment of the capital component of the Transportation Charge for the year in which the option is to become effective. Such option, once having been exercised, shall be applicable for all of the remaining years of the Project Repayment Period.

(5) *Project Interest Rate Adjustments.* Notwithstanding the provisions of subdivision (a)(2) of this article, adjustments for prior overpayments and underpayments shall be repaid beginning in the year following the redetermination by application of a unit rate per acre-foot which, when paid for the projected portion of the Agency's Annual Table A Amount will return to the State, during the Project Repayment Period, together with interest thereon computed at the Project Interest Rate and compounded annually, the full amount of the adjustments resulting from financing after January 1, 1987, from all bonds, advances, or loans listed in Article 1(ad) except for Article 1(ad)(3) and except for bonds issued by the State under the Central Valley Project Act after January 1, 1987 for facilities not listed among the Water System Facilities in Article 1(ap). Notwithstanding the immediately preceding exception, such amortization shall also apply to any adjustments in this component charge resulting from a change in the Project Interest Rate due to any refunding after January 1, 1986 on bonds issued under the Central Valley Project Act. However, amortization of adjustments resulting from items listed in subdivisions (1)(ad)(4) through (7) of Article 1 shall be limited to a period which would allow the Department to repay the debt service on a current basis until such time as bonds are issued to reimburse the source of such funding. In no event shall this amortization period be greater than the Project Repayment Period.

(6) *No Adjustment of Water System Facility Revenue Bond Financing Costs.* The use of Water System Facility Revenue Bonds for financing facilities listed in Article 1(ap) shall not result in adjustments for prior underpayments or overpayments of the capital component of the Transportation Charge to the Agency under the provisions of this article. In place of making such adjustments, charges to the Agency for Water System Facility Revenue Bond Financing Costs will be governed by Article 50(a).

(b) **Redetermination of Delta Water Charges and Transportation Charges for Costs Incurred On or After the Billing Transition Date.** The provisions of this subdivision (b) shall apply only to costs Incurred on or after the Billing Transition Date.

(1) *Determinative Factors Subject to Retroactive Change.* The State shall redetermine the values and amounts set forth in Tables B through F and Tables J through O of this contract each calendar year commencing on or after the Billing Transition Date in order that the Delta Water Charge and the Transportation Charge to the Agency for costs Incurred on or after the Billing Transition Date and the components thereof may accurately reflect the increases or decreases from year to year in projected costs, outstanding reimbursable indebtedness of the State Incurred to construct Project Conservation Facilities and Project Transportation Facilities, Annual Table A Amounts, estimated deliveries, and all other factors which are determinative of such charges. In addition, each such redetermination shall include an adjustment of the components of the Delta Water Charge and Transportation Charge to be paid by the Agency for

succeeding years which shall account for the differences, if any, between those factors used by the State in determining the amounts of such components for all preceding years and the factors as then currently known by the State, as applicable. Such adjustment shall be computed by the State and paid by the Agency or credited to the Agency's account in the manner described in subdivisions (b)(2) and (b)(3) of this article.

(2) *Adjustment: Delta Water Charge and Transportation Charge -- Capital Components for Costs Incurred On or After the Billing Transition Date.* Adjustments for prior underpayments or overpayments of the capital component of the Delta Water Charge and the Transportation Charge to the Agency for costs Incurred on or after the Billing Transition Date shall be paid in the year following the redetermination.

(3) *Adjustment: Delta Water Charge and Transportation Charge -- Minimum and Variable Components for Costs Incurred On or After the Billing Transition Date* One-twelfth of the adjustments for prior underpayments or overpayments of the Agency's minimum operation, maintenance, power, and replacement component and variable operation, maintenance and power component of the Delta Water Charge and Transportation Charge for each year shall be added or credited to the corresponding components to be paid in the corresponding month of the year following the redetermination.

29. TIME AND METHOD OF PAYMENT OF DELTA WATER CHARGE AND TRANSPORTATION CHARGE.

The provisions of this article shall apply to costs Incurred both prior to and on or after the Billing Transition Date. References to the Delta Water Charge shall include the Delta Water Charge for costs Incurred prior to the Billing Transition Date and the Delta Water Charge for costs Incurred on or after the Billing Transition Date, separately, as applicable, and references to the Transportation Charge shall include the Transportation Charge for costs Incurred prior to the Billing Transition Date and the Transportation Charge for costs Incurred on or after the Billing Transition Date, separately, as applicable.

(a) Initial Payments.

(1) *Delta Water Charge.* Payments by the Agency under the Delta Water Charge shall commence in the Year of Initial Water Delivery to the Agency.

(2) *Capital Component of the Transportation Charge.* Payments by the Agency under the capital component of the Transportation Charge shall commence in the year following the year in which the State commences construction of the Project Transportation Facilities.

(3) *Minimum Operation, Maintenance, Power, and Replacement Component.* Payments by the Agency under the minimum operation, maintenance, power, and replacement component of the Transportation Charge shall commence for each aqueduct reach in the year following the year in which construction of that reach is completed.

(4) *Variable Operation, Maintenance, Power, and Replacement Component.* Payments by the Agency under the variable operation, maintenance, power and replacement component of the Transportation Charge shall commence in the Year of Initial Water Delivery to the Agency.

(b) **Annual Statement of Charges.** The State shall, on or before July 1 of each year, commencing with the year preceding the year in which payment of the respective charge is to commence pursuant to this article, furnish the Agency with a written statement of the following items:

(1) the charges to the Agency for the next succeeding year under the capital components and minimum operation, maintenance, power, and replacement components of the Delta Water Charges and Transportation Charges; *provided* that charges for Financing Costs shall be stated as separate items in the Statement of Charges;

(2) the unit charges to the Agency for the next succeeding year under the variable operation, maintenance, power and replacement components of the Delta Water Charge and Transportation Charge; and

(3) the total charges to the Agency for the preceding year under the variable operation, maintenance, power and replacement components of such Delta Water Charge and Transportation Charge; *provided* that through December 31, 1969, the Delta Water Charge shall be based upon a unit rate of \$3.50 per acre-foot and shall be paid by the Contractors on the basis of their respective Annual Table A Amounts, as provided in Article 22(b).

All such statements shall be accompanied by the latest revised copies of the documents amendatory to Article 22 and of the tables included in Articles 24 through 27, together with such other data and computations used by the State in determining the amounts of the above charges as the State deems appropriate.

(c) **Monthly Statements.** The State shall, on or before the fifteenth day of each month of each year, commencing with the Year of Initial Water Delivery to the Agency, furnish the Agency with a statement of the charges to the Agency for the preceding month under the variable operation, maintenance, power and replacement components of the Delta Water Charge and Transportation Charge. Such charges shall be determined by the State in accordance with the relevant provisions of Articles 22 and 26 of this contract, upon the basis of metered deliveries of Project Water to the Agency, except as otherwise provided in those articles.

(d) **Semiannual Payments of Capital Components.** The Agency shall pay to the State, on or before January 1 of each year, one-half (1/2) of the charge to the Agency for the year under the capital component of the Delta Water Charge and one-half (1/2) of the charge to the Agency for the year under the capital component of the Transportation Charge, as such charges are stated pursuant to subdivision (b) of this article; and shall pay the remaining one-half (1/2) of each of such charges on or before July 1 of that year.

(e) **Monthly Payments of Minimum Operation, Maintenance, Power, and Replacement Component.** The Agency shall pay to the State, on or before the first day of each month of each year, one-twelfth (1/12) of the sum of the charges to the Agency for the year under the minimum operation, maintenance, power, and replacement components of the Delta Water Charge and Transportation Charge, respectively, as such charges are stated pursuant to subdivision (b) of this article.

(f) **Monthly Payments of Variable Operation, Maintenance, Power, and Replacement Component.** The Agency shall pay to the State on or before the fifteenth day of each month of each year, the charges to the Agency under the variable operation, maintenance, power, and replacement components of the Delta Water Charge and Transportation Charge, respectively, for which a statement was received by

the Agency during the preceding month pursuant to subdivision (c) of this article, as such charges are stated in such statement.

(g) **Contest of Charges.** In the event that the Agency in good faith contests the accuracy of any statement submitted to it pursuant to subdivision (b) or (c) of this article, it shall give the State notice thereof at least ten (10) days prior to the day upon which payment of the stated amounts is due. To the extent that the State finds the Agency's contentions regarding the statement to be correct, it shall revise the statement accordingly, and the Agency shall make payment of the revised amounts on or before the due date. To the extent that the State does not find the Agency's contentions to be correct, or where time is not available for a review of such contentions prior to the due date, the Agency shall make payment of the stated amounts on or before the due date, but may make the contested part of such payment under protest and seek to recover the amount thereof from the State.

50. WATER SYSTEM FACILITY REVENUE BOND FINANCING COSTS.

(a) **Water System Facility Revenue Bonds to Finance Capital Costs Incurred Prior to the Billing Transition Date.** The provisions of this subdivision (a) shall apply to the Financing Costs of Revenue Bonds issued to finance Water System Facility Capital Costs Incurred prior to the Billing Transition Date. Charges to all Contractors for such Financing Costs shall return to the State each year an amount equal to the Financing Costs the State incurs in that year for such Water System Facility Revenue Bonds.

(1) *Elements of Charge.* Annual charges to recover such Water System Facility Revenue Bond Financing Costs shall consist of two elements.

(A) The first element shall be an annual charge to the Agency for repayment of Capital Costs of Water System Facilities as determined under Articles 22(a) and 24(a) of this contract with interest at the Project Interest Rate. For conservation facilities, the charge shall be a part of the capital component of the Delta Water Charge in accordance with the provisions of Article 22(a) applicable to Capital Costs Incurred prior to the Billing Transition Date. For transportation facilities, the charge shall be a part of the capital component of the Transportation Charge in accordance with the provisions of Article 24(a) applicable to Capital Costs Incurred prior to the Billing Transition Date.

(B) The second element shall be the Agency's share of a Water System Facility Revenue Bond Surcharge to be paid in lieu of a Project Interest Rate adjustment. The total annual amount to be paid by all Contractors under this element shall be the difference between the total annual charges under the first element and the annual Financing Costs of the related Water System Facility Revenue Bonds. The amount to be paid by each Contractor shall be calculated annually as if the Project Interest Rate were increased to the extent necessary to produce revenues from all Contractors sufficient to pay such difference for that year. In making that calculation, adjustments in the Agency's transportation capital component charges for prior overpayments and underpayments shall be determined as if amortized over the remaining years of the Project Repayment Period.

(2) *Identification of Surcharge on Invoices.* The Water System Facility Revenue Bond Surcharge will be identified in the Agency's invoice.

(3) *Timing of Surcharge Payments.* Surcharge payments shall be made in accordance with Article 29(f) of this contract.

(4) *Termination of Surcharge.* The Water System Facility Revenue Bond Surcharge under Article 50(a)(1)(B) shall cease for each series of Water

System Facility Revenue Bonds when that series is fully repaid. However, the annual charge determined pursuant to Article 50(a)(1)(A) shall continue to be collected for the time periods otherwise required under Articles 22 and 24.

(5) *Reduction of Charges.* After the Department has repaid the California Water Fund in full and after each series of Water System Facility Revenue Bonds is repaid, the Department will reduce the charges to all Contractors in an equitable manner in a total amount that equals the amount of the charges under Article 50(a)(1)(A) that the Department determines is not needed for future financing of facilities of the System which, in whole or in part, will serve the purposes of the water supply contract with the Agency.

(b) **Water System Facility Revenue Bonds to Finance Capital Costs Incurred On or After the Billing Transition Date.** The provisions of this subdivision (b) shall apply to the Financing Costs of Revenue Bonds issued to finance Water System Facility Capital Costs Incurred on or after the Billing Transition Date. Charges to all Contractors for such Financing Costs shall return to the State each year an amount equal to the Financing Costs the State incurs in that year for such Water System Facility Revenue Bonds. The amount of this charge shall be calculated in two steps as follows:

(1) *Allocation of Water System Facility Capital Costs.* Capital Costs Incurred on or after the Billing Transition Date of Water System Facilities that are conservation facilities shall be allocated among all Contractors in proportion to each Contractor's Maximum Annual Table A Amount. Capital Costs Incurred on or after the Billing Transition Date of Water System Facilities that are transportation facilities shall be allocated among all Contractors in accordance with Article 24(c).

(2) *Determination of Annual Financing Cost Amounts.* The State shall determine and charge the Agency each year the amount of the Financing Costs the State incurs in that year for the Water System Facility Revenue Bonds issued to finance such Water System Facility Capital Costs allocated to the Agency.

(c) **Provisions Applicable to All Water System Facility Revenue Bonds.** The provisions of this article shall apply to all Water System Facility Revenue Bonds.

(1) *Credits for Excess Amounts.* The State shall provide credits to the Contractors for excess reserve funds, excess debt service coverage, interest, and other earnings of the State in connection with payment of the Financing Costs of such Water System Facility Revenue Bonds, when and as permitted by the applicable bond resolution or indenture. When such credits are determined by the State to be available, such credits shall be promptly provided to the Contractors and shall be in proportion to the payments of Water System Facility Revenue Bond Financing Costs from each Contractor. Reserves, bond debt

service coverage, interest, and other earnings may be used to retire bonds.

(2) *Allocation of Maturities Permitted.* When calculating charges for Water System Facility Revenue Bond Financing Costs, the State may allocate portions of particular maturities of Water System Facility Revenue Bonds and the Financing Costs associated with such maturities to particular Water System Facilities, in order to establish a reasonable relationship between the Economic Useful Life of such facilities and the term of bonds issued to finance such facilities, and may determine the Financing Costs allocated to the Agency on the basis of such maturity allocation.

(3) *Supplemental Bills for Unanticipated Financing Costs.* The State may submit a supplemental bill to the Agency for the year if necessary to meet unanticipated costs for Water System Facility Revenue Bond Financing Costs for which the State can issue a statement of charges under this article and any other article of this contract providing for payments that are pledged to the payment of Revenue Bonds issued to finance Project Facility Capital Costs allocated to the Agency. The relative amounts of any supplemental billing made to the Agency and to other Contractors for Revenue Bond purposes shall be governed by the otherwise applicable article. Payment of any supplemental billing shall be due thirty days after the date of the invoice.

(4) *Insurance on Contractor Obligations.* To the extent economically feasible and justifiable, as determined by the State after consultation with Contractors, the State shall maintain insurance or other forms of security protecting bondholders and non-defaulting Contractors against costs resulting from the failure of any Contractor to make the payments required by this article.

(5) *Consultation on Financing Plan.* Before issuing each series of Water System Facility Revenue Bonds, the State shall consult with the Contractors, prepare a plan for the State's future financing of Water System Facilities, and give the Agency an opportunity to comment on the plan. The plan shall include but not be limited to the size of any Water System Facility Revenue Bond issuances and the form of any necessary resolutions, indentures or supplements.

(6) *Defaults.*

(A) If a Contractor defaults partially or entirely on its payment obligations with respect to Water System Facility Revenue Bond Financing Costs and sufficient insurance or other security protecting the non-defaulting Contractors is not provided under subdivision (c)(4) of this article, the State shall allocate a portion of the default to each non-defaulting Contractor. The Agency's share of the default shall be equal to an amount determined by multiplying the total default amount to be charged to all non-defaulting Contractors by the ratio that the Agency's

Maximum Annual Table A Amount bears to the total of the Maximum Annual Table A Amounts of all non-defaulting Contractors. However, such amount shall not exceed in any year 25 percent of the Water System Facility Revenue Bond Financing Costs that are otherwise payable by the Agency in that year. The amount of default to be charged to non-defaulting Contractors shall be reduced by any receipts from insurance protecting non-defaulting Contractors and bond debt service coverage from a prior year and available for such purpose.

(B) If a Contractor defaults partially or entirely on its payment obligations under this article, the State shall also pursuant to Article 20, upon six months' notice to the defaulting Contractor, suspend water deliveries under Article 20 to the defaulting Contractor so long as the default continues. The suspension of water deliveries shall be proportional to the ratio of the default to the total Water System Facility Revenue Bond Financing Cost payments due from the defaulting Contractor. However, the State may reduce, eliminate, or not commence suspension of deliveries pursuant to this subparagraph if it determines suspension in the amounts otherwise required is likely to impair the defaulting Contractor's ability to avoid further defaults or that there would be insufficient water for human consumption, sanitation, and fire protection. The State may distribute the suspended water to the non-defaulting Contractors on terms it determines to be equitable.

(C) During the period of default, credits otherwise due the defaulting Contractor shall be applied to payments due from the defaulting Contractor.

(D) Except as otherwise provided in subparagraph (c) of this article, the defaulting Contractor shall repay the entire amount of the default to the State with interest compounded annually at the Surplus Money Investment Fund rate before water deliveries that had been suspended shall be fully resumed to that Contractor. If the defaulting Contractor makes a partial repayment of its default, the Department may provide a proportional restoration of suspended deliveries. The amount of the default to be repaid shall include any amounts previously received by the State from insurance proceeds, bond debt service coverage, or other reserves, and payments from other Contractors pursuant to this subparagraph (c)(6). The defaulting Contractor shall not be entitled to any

make-up water deliveries as compensation for any water deliveries suspended during the period when the Contractor was in default.

(E) At such time as the default amount is repaid by the defaulting Contractor, the non-defaulting Contractors shall receive credits in proportion to their contributions towards the amount of the default with interest collected by the State on the defaulted amount.

(F) In the event there is an increase in the amount a non-defaulting Contractor contributes to reserves and/or bond debt service coverage, such increase shall be handled in the same manner as provided in subparagraph (a) of this article.

(G) Action taken pursuant to this subdivision shall not deprive the State of or limit any remedy provided by this contract or by law for the recovery of money due or which may become due under this contract.

(7) *No Article 51 Reduction.* Amounts of Water System Facility Revenue Bond Financing Costs payable under this contract shall not be affected by any reductions in payments pursuant to Article 51.

(8) *Contract Extension.* In the event the Contract Extension Amendment takes effect, but not all Contractors sign the amendment, the following shall apply: If and to the extent that the charges under Article 50(b)(1) and 50(b)(2) of the water supply contracts of Contractors that have not executed the Contract Extension Amendment (“non-signing Contractors”) are not sufficient to recover the annual Financing Costs that relate to Revenue Bonds issued to finance capital costs that are Incurred after the Billing Transition Date and are allocable to such non-signing Contractors, the amount of the shortfall shall be determined. Such shortfall shall be charged to the Contractors that have executed the Contract Extension Amendment (“signing Contractors”) in proportion to each such signing Contractor’s total Water System Facility Revenue Bond Financing Cost charges under Article 50(b) of this contract.

51. FINANCIAL ADJUSTMENTS

(a) Article Expiration

This Article 51 shall be effective through December 31, 2035 and shall be of no further effect on and after January 1, 2036; provided, however, that the provisions of this Article 51 may, to the extent applicable, continue to be used and applied on and after January 1, 2036 for the purpose of truing up amounts owed by the Agency to the State or by the State to the Agency for the calendar years up to and ending with calendar year 2035.

(b) State Water Facilities Capital Account

(1) The State shall establish a State Water Facilities Capital Account to be funded from revenues available under Water Code section 12937(b)(4). Through procedures described in this article and as limited by this article, the State may consider as a revenue need under subdivision (c)(2)(v) of this article and may deposit in the State Water Facilities Capital Account the amounts necessary to pay capital costs of the State Water Facilities for which neither general obligation bond nor revenue bond proceeds are available, including but not limited to planning, reconnaissance and feasibility studies, the San Joaquin Valley Drainage Program and, through the year 2000, the CALFED Bay-Delta Program.

(2) The Director of the Department of Water Resources shall fully consult with the Contractors and consider any advice given prior to depositing funds into this account for any purposes. Deposits into this account shall not exceed the amounts specified in subdivision (c)(2)(v) of this article.

(3) The State shall use revenue bonds or other sources of moneys rather than this account to finance the costs of construction of any major capital projects.

(4) Five years following the Contract Extension Amendment Effective Date, the SWRDS Finance Committee shall review the State Water Facilities Capital Account to determine whether to recommend to the Director that this account be closed. If the Director determines to close the account, the State shall transfer any balance in the account to the SWRDS Support Account.

(5) Unless closed sooner, the State Water Facilities Capital Account shall terminate on December 31, 2035 and the State shall transfer any balance in such account to the SWRDS Support Account.

(c) Calculation of Financial Needs

(1) Each year the State shall calculate in accordance with the timing provisions of Articles 29 and 31 the amounts that would have been charged (but for this article) to each Contractor as provided in other provisions of this contract.

(2) Each year the State shall also establish its revenue needs for the following year for the following purposes, subject to the following limitations:

(i) The amount required to be collected under the provisions of this contract, other than this article, with respect to all revenue bonds issued by the State for Project Facilities.

(ii) The amount required for payment of the reasonable costs of the annual maintenance and operation of the State Water Resources Development System and the replacement of any parts thereof as described in Water Code section 12937(b)(1). These costs shall not include operation and maintenance costs of any Federal Central Valley Project facilities constructed by the United States and acquired by the State of California after 1994, other than the State's share of the joint use facilities which include San Luis Reservoir, the San Luis Canal and related facilities.

(iii) The amount required for payment of the principal of and interest on the bonds issued pursuant to the Burns-Porter Act as described in Water Code section 12937(b)(2).

(iv) Any amount required for transfer to the California Water Fund in reimbursement as described in Water Code section 12937(b)(3) for funds utilized from said fund for construction of the State Water Resources Development System.

(v) For the years 1998 and thereafter, the amount needed for deposits into the State Water Facilities Capital Account as provided in subdivision (b) of this article, but (A) not more than \$6 million per year for the years 1998, 1999 and 2000, and (B) not more than \$4.5 million per year for the years 2001 and thereafter.

(3) The State shall reduce the annual charges in the aggregate for all Contractors by the amounts by which the hypothetical charges calculated pursuant to subdivision (c)(1) above exceed the revenue needs determined pursuant to subdivision (c)(2) above; provided that the reduction in annual charges in the aggregate for all Contractors shall not exceed \$48 million in any year beginning with the first calendar year following the Contract Extension Amendment Effective Date. The provisions regarding the reduction in annual charges that were in effect prior to the Contract Extension Amendment Effective Date shall continue to apply to

the entire calendar year in which the Contract Extension Amendment Effective Date occurs. The reductions under this article shall be apportioned among the Contractors as provided in subdivisions (d), (e), (f) and (g) of this article. Reductions to Contractors shall be used to reduce the payments due from the Contractors on each January 1 and July 1; provided, however, that to the extent required pursuant to subdivision (h) of this article, each Agricultural Contractor shall pay to the Agricultural Rate Management Trust Fund an amount equal to the reduction allocated to such Agricultural Contractor. Any default in payment to the trust fund shall be subject to the same remedies as any default in payment to the State under this contract. To determine whether the reduction in annual charges in the aggregate for all Contractors equals the \$48 million limit specified in this subdivision (c)(3), it shall be assumed that all Contractors have executed the Contract Extension Amendment and will share in the available rate reductions consistent with the proportions as provided in this contract, regardless of whether one or more Contractors do not receive a reduction under their respective Water Supply Contracts.

(4) The supplemental billing provisions authorized under this Article 51(c)(4) shall remain in effect through December 31, 2035, unless the Director determines in his or her discretion to eliminate the use of supplemental billing prior to that date or the Director in his or her discretion accepts a recommendation from the SWRDS Finance Committee to eliminate the use of supplemental billing prior to that date.

(i) The State shall inform the SWRDS Finance Committee if the available System cash balances are projected by the State to fall during the succeeding one hundred twenty (120) days to an amount below an amount equal to ninety (90) days operating expenditures. The SWRDS Finance Committee shall make a recommendation in light of such circumstances to the Director.

(ii) The State may submit a supplemental billing to the Agency for the year in an amount not to exceed the amount of the prior reductions for such year under this Article if necessary to meet unanticipated costs for purposes identified in Water Code Section 12937(b)(1) and (2) for which the State can issue billings under other provisions of this contract, subject to the following procedures and limitations:

(a) The State may only issue supplemental bills pursuant to the provisions of this Article 51(c)(4) when available System cash

balances are projected to be less than the amount equal to 90 days operating expenditures.

(b) The term “available System cash balances,” for purposes of subdivision (a) of this Article 51(c)(4)(ii) shall mean available amounts in the following California Water Resources Development Bond Fund accounts: System Revenue Account (to the extent the funds in the System Revenue Account are not projected to be needed for payment of Burns-Porter General Obligation Bond debt service within the next two years), General Operating Account, SWRDS Reinvestment Account, and SWRDS Support Account (to the extent the funds in the SWRDS Support Account are not projected to be needed for non-reimbursable expenditures within the next two years).

(c) The term “operating expenditures” for purposes of subdivision (a) of this Article 51(c)(4)(ii) shall mean the costs described in California Water Code Section 12937(b) chargeable to the State Water Project as water supply.

(d) Any supplemental billing made to the Agency for these purposes shall be in the same proportion to the total supplemental billings to all Contractors for these purposes as the prior reduction in charges to the Agency in that year bears to the total reduction in charges to all Contractors in that year and shall be treated as reducing the amount of the reduction made available for that year to the Contractor by the amount of the supplemental bill to the Contractor.

(5) The State may also submit a supplemental billing to the Agency for the year if necessary to meet unanticipated costs for revenue bond debt service and coverage for which the State can issue a statement of charges under provisions of this contract other than this article. The relative amounts of any supplemental billing made to the Agency and to other Contractors for revenue bond purposes shall be governed by such other applicable provisions of this contract.

(6) Payment of any supplemental billing shall be due thirty days after the date of the invoice. Delinquency and interest on delinquent amounts due shall be governed by Article 32.

(d) Apportionment of Reductions between Agricultural and Urban Contractors:

(1) Commencing with the first calendar year following the Contract Extension Amendment Effective Date, the State shall apportion available reductions for each year in accordance with this Article.

(2) Annual reductions in the aggregate amount of \$48 million are projected to be available in the first calendar year following the Contract Extension Amendment Effective Date and each succeeding year through calendar year 2035 and shall be applied as follows:

(i) If reductions are available in an aggregate amount that equals \$48 million, \$11,856,000 of reductions shall be apportioned among the Agricultural Contractors, and \$36,144,000 of reductions shall be apportioned among the Urban Contractors.

(ii) If reductions are available in an aggregate amount less than \$48 million in any of these years, the reductions shall be divided on a 24.7%-75.3% basis between the Agricultural Contractors and the Urban Contractors respectively.

(3) No Contractor shall be entitled to receive in any year any additional reductions, including any additional reductions to make up for deficiencies in past projected reductions and any additional reductions above an aggregate annual amount of \$48 million.

(4) Reductions in annual charges to a Contractor pursuant to this Article 51 (d) shall only be made prospectively beginning with the later of the first calendar year following the Contract Extension Amendment Effective Date or the first calendar year following the date the Contractor executes the Contract Extension Amendment. Apportionments of reductions shall be calculated on the assumption that all Contractors have executed such amendment.

(e) Revenues and Reports

(1) Each year, beginning with the first calendar year commencing after the Contract Extension Amendment Effective Date, the Director shall determine the amount of available Article 51(e) Amounts. The Director shall determine the aggregate amount that would have been charged to all Contractors in any year but for this Article 51 and from that amount shall deduct the sum of

(i) the amount of revenues needed for the purposes specified in subdivisions (c)(2)(i), (ii), (iii), (iv) and (v) plus

(ii) \$48 million.

The remaining amount, if any, shall be referred to herein as “Article 51(e) Amounts”.

(2) The State shall allocate available Article 51(e) Amounts as follows: The Director in his or her discretion shall allocate and transfer or deposit up to 80% of available Article 51(e) Amounts, as determined on a projected basis, and up to 100% of available Article 51(e) Amounts, as determined on an actual basis, into the General Operating Account, the SWRDS Support Account and/or the SWRDS Reinvestment Account. Any Article 51(e) Amounts determined on an actual basis to be remaining in the Systems Revenue Account after the Director allocates and transfers such amounts to the General Operating Account, the SWRDS Support Account and/or the SWRDS Reinvestment Account shall remain in the Systems Revenue Account and shall be tracked separately in the State’s Financial Information System. The Director shall have full discretion regarding the use of the amounts remaining in the Systems Revenue Account.

(3) The State shall prepare and distribute an Annual Rate Reduction Determination Report setting out the factors used to determine reductions in rates pursuant to Article 51(c). The report shall include a display of the distribution of gross annual revenues before, among other items, recreation and fish and wildlife expenditures, contributions to the State Water Facilities Capital Account and reduction in rates pursuant to Article 51(c). The report shall also include a display of the distribution and/or allocation of net annual revenues after reduction in rates pursuant to Article 51(c), to the General Operating Account, SWRDS Support Account, SWRDS Reinvestment Account, 51(e) Sub-Account of the Systems Revenue Account, Davis-Dolwig Fund, State Water Facilities Capital Account, and Suspended Costs, as applicable.

(4) The System Financial Activity Report, which is required to be prepared quarterly pursuant to Article 61(d), shall include annual and accumulated Article 51(e) Amounts and expenditure activity, including the beginning balance, the annual activity and the ending balance for the year for each fund or account into which Article 51(e) Amounts have been transferred or deposited. The System Financial Activity Report should also have sufficient detail to provide comprehensive accounting of annual Article 51(e) Amounts and the uses of the annual Article 51(e) Amounts to enable the SWRDS Finance Committee to assess the use of these amounts.

(f) **Apportionment of Reductions Among Urban Contractors.**

Reductions in annual charges apportioned to Urban Contractors under subdivision (d) of this article shall be further allocated among Urban Contractors pursuant to this subdivision. The amount of reduction of annual charges for each Urban Contractor shall be based on each Urban Contractor's proportionate share of total allocated capital costs as calculated below, for both project conservation and project transportation facilities, repaid by all Urban Contractors over the project repayment period.

(1) The conservation capital cost component of the reduction allocation shall be apportioned on the basis of maximum annual Table A amount. Each Urban Contractor's proportionate share shall be the same as the percentage of that Contractor's maximum annual Table A amount to the total of all Urban Contractors' maximum annual Table A.

(2) The transportation capital cost component of the reduction allocation shall be apportioned on the basis of transportation capital cost component repayment obligations, including interest over the project repayment period. Each Urban Contractor's proportionate share shall be the same as the percentage that the Contractor's total transportation capital cost component repayment obligation is of the total of all Urban Contractors' transportation capital cost component repayment obligations.

(i) Recalculations shall be made annually through the year 1999. Beginning in the year 2000 recalculations shall be made every five years unless an Urban Contractor requests a recalculation for an interim year and does so by a request in writing delivered to the Department by January 1 of the year in which the recalculation is to take place.

(ii) The transportation capital cost component repayment obligations, for purposes of this Article 51(f), shall be based in the year of recalculation on the then most recent Department of Water Resources Bulletin 132, Table B-15, "Capital Cost Component of Transportation Charge for Each Contractor," or its equivalent, excluding any costs or Table A amount associated with transfers of Table A amounts from Agricultural Contractors pursuant to Article 53.

(3) To reflect the relative proportion of the conservation capital cost component and the transportation capital cost component to the total of all capital cost repayment obligations, the two cost components shall be weighted as follows:

(i) The conservation capital cost component shall be weighted with a thirty percent (30%) factor. The weighting shall be accomplished by multiplying each Urban Contractor's percentage of maximum annual Table A Amounts as calculated in subdivision (f)(1) of this article by thirty percent (30%).

(ii) The transportation capital cost component shall be weighted with a seventy percent (70%) factor. The weighting shall be accomplished by multiplying each Urban Contractor's percentage of transportation capital cost component repayment obligations as calculated in subdivision (f)(2) of this article by seventy percent (70%).

(iii) A total, weighted capital cost percentage shall be calculated for each Urban Contractor by adding the weighted conservation capital cost component percentage to their weighted transportation capital cost component percentage.

(4) The total amount of the annual charges to be reduced to Urban Contractors in each year shall be allocated among them by multiplying the total amount of annual charges to be reduced to the Urban Contractors by the total, weighted capital cost percentages for each such Contractor. If the amount of the reduction to an Urban Contractor is in excess of that Contractor's payment obligation to the Department for that year, such excess shall be reallocated among the other Urban Contractors.

(5) In the case of a permanent transfer of urban Table A amounts, the proportionate share of annual charge reductions associated with that Table A amount shall be transferred with the Table A amount to the buying Contractor. In the case of an Table A amount transfer by either Santa Barbara County Flood Control and Water Conservation District or San Luis Obispo County Flood Control and Water Conservation District, the reductions in annual charges to that agency shall be allocated (a) on the basis of that Table A amount being retained by that agency which bears Coastal Branch Phase II transportation costs, (b) on the basis of that Table A amount being retained by that agency which does not bear Coastal Branch Phase II transportation costs, and (c) on the basis of the balance of that agency's Table A amount which also does not bear Coastal Branch Phase II transportation costs.

(g) Apportionment of Reductions Among Agricultural Contractors.

(1) Reductions in annual charges apportioned to Agricultural Contractors under subdivision (d) of this article shall be allocated among the Agricultural Contractors pursuant to this subdivision. The amount of reduction of annual charges for each Agricultural Contractor for the years 1997 through 2001 shall be based on each Agricultural Contractor's estimated proportionate share of the total project costs, excluding the variable operation, maintenance, power and replacement components of the Delta Water Charge and the Transportation Charge and also excluding off-aqueduct power charges, to be paid by all Agricultural Contractors for the years 1997 through 2035, calculated without taking into account this article. For purposes of these calculations, Kern County Water

Agency's and Dudley Ridge Water District's estimated project costs shall not include any costs associated with the 45,000 acre-feet of Annual Table A Amounts being permanently relinquished by those Contractors pursuant to subdivision (j) of Article 53. Also, for purposes of these calculations, an Agricultural Contractor's estimated project costs shall not be reduced by the transfer of any of the 130,000 acre-feet of Annual Table A Amounts provided for in subdivisions (a) through (i) of Article 53. The proportionate shares for 1997 through 2001 shall be calculated as follows:

(i) Each Agricultural Contractor's statement of charges received on July 1, 1994, shall be the initial basis for calculating the proportionate shares for the five years 1997 through 2001.

(ii) Each Agricultural Contractor's estimated capital and minimum components of the Delta Water Charge and the Transportation Charge (excluding off-aqueduct power charges) and Water Revenue Bond Surcharge shall be totaled for the years 1997 through 2035.

(iii) Kern County Water Agency and Dudley Ridge Water District totaled costs shall be reduced for the 45,000 acre-feet of annual Table A amount being permanently relinquished by them.

(iv) Any reductions in an Agricultural Contractor's totaled costs resulting from the transfer of any of the 130,000 acre-feet of annual Table A amount shall be re-added to that Contractor's costs.

(v) Each Agricultural Contractor's proportionate share shall be computed by dividing that Contractor's total costs by the total costs for all Agricultural Contractors determined pursuant to subparagraphs (ii), (iii) and (iv) above.

(2) The reductions in annual charges, for 1997 through 2001, shall be calculated using the method described in subdivision (g)(1) of this article.

(3) The allocation shall be recalculated using the same method described in subdivision (g)(1) of this article every five years beginning in 2002, if any Agricultural Contractor requests such a recalculation. Any recalculation shall be based on project cost data beginning with the year that the recalculation is to become effective through 2035.

(h) Agricultural Rate Management Trust Fund.

(1) Establishment. Through a trust agreement executed contemporaneously with this amendment, the State and the Agricultural Contractors that sign the Monterey Amendments shall establish the Agricultural Rate Management Trust Fund with a mutually agreed independent trustee.

(2) Separate Accounts. The trustee shall maintain within the trust fund a separate account for each Agricultural Contractor that signs the trust agreement to hold deposits made pursuant to this article.

(3) Deposits. Each Agricultural Contractor that signs the trust agreement shall deposit into such Contractor's account within the trust fund, at the same time as payments would otherwise be required by this contract to be made to the State, an amount equal to the amount by which such Contractor's charges under this contract have been reduced by reason of this article, until the balance in such Contractor's account within the trust fund is the same percentage of \$150,000,000 as such Contractor's percentage share of reductions made available to all Agricultural Contractors as specified in subdivision (g) of this article. In 2002 and every fifth year thereafter, the Agricultural Contractors will review the maximum accumulation in the trust fund (the "Cap") and determine whether the cap should be adjusted. However, the Cap shall not be reduced below an aggregate of \$150,000,000 for all Agricultural Contractor accounts.

(4) Trust Fund Disbursements.

(i) In any year in which the State's allocation of water to an Agricultural Contractor by April 15th of that year is less than one-hundred percent (100%) of the Contractor's requested annual Table A amount for that year, the trustee shall, to the extent there are funds in that Contractor's account, distribute to the State from such account for the benefit of that Contractor an amount equal to the percentage of the total of that Contractor's statement of charges for that year, as redetermined by the State on or about May 15th of that year, for (a) the Delta Water Charge; (b) the capital cost and minimum operation, maintenance, power and replacement components of the Transportation Charge (including off-aqueduct power charges); and (c) the water system revenue bond surcharge, that is equal to the percentage of that Contractor's annual Table A amount for that year that was not allocated to it by the State by April 15th of that year.

(ii) In addition to the provisions of subdivision (h)(4)(i) of this article, if on April 15 of any year any of the irrigable land within the Tulare Lake Basin Water Storage District (Tulare) is flooded, and Tulare in writing requests the trustee to do so, the trustee shall, to the extent there are funds

in Tulare's account, distribute to the State from such account for the benefit of Tulare an amount equal to the percentage of the total of Tulare's statement of charges for that year, as redetermined by the State on or about May 15th of that year, for (a) the Delta Water Charge; (b) the capital cost and minimum components of the Transportation Charge (including off-aqueduct power charges); and (c) the water system revenue bond surcharge, that is equal to the percentage of the irrigable land within Tulare that is flooded on April 15.

(iii) Each Agricultural Contractor shall remain obligated to make payments to the State as required by other articles in this contract. Any amount to be disbursed pursuant to subdivisions (h)(4)(i) and (h)(4)(ii) shall be paid by the trustee to the State on July 1 of the year involved and shall be credited by the State toward any amounts owed by such respective Agricultural Contractor to the State as of that date. However, an Agricultural Contractor may direct the trustee to make the disbursement to that Agricultural Contractor which shall in turn make the payment to the State as required by other provisions of this contract. If the amount to be disbursed exceeds the amount owed to the State by such Contractor as of July 1, the excess shall be disbursed by the Trustee to the State at the time of and in payment of future obligations owed to the State by such Contractor. Alternatively, upon the request of such Contractor, all or part of the excess shall be paid by the trustee to that Contractor in reimbursement of prior payments by the Contractor to the State for that year.

(5) Payment of Supplemental Bills. In any year in which a supplemental bill has been submitted to an Agricultural Contractor pursuant to subdivision (c)(4) of this article, such supplemental bill shall be treated as reducing by an equal amount the obligation of such Contractor for that year to make payments into the Agricultural Rate Management Trust Fund. To the extent that such Contractor has already made payments to the trust fund in an amount in excess of such Contractor's reduced trust fund payment obligation, such Contractor may request the trustee to use the excess from the trust fund to pay the supplemental bill.

(6) Discharge of Payment Obligation. Each payment to the State by the trust fund shall discharge and satisfy the Agricultural Contractor's obligation to pay the amount of such payment to the State. No reimbursement of the trust fund by the Agricultural Contractor for such payments shall be required. However, each Agricultural Contractor shall continue to make deposits to the trust fund matching the amount of each year's reductions as provided in subdivision (d) of this article so long as the amount in that Contractor's account is less than its share of the Cap.

(7) Distribution of Funds in Excess of the Cap. Whenever accumulated funds (including interest) in an Agricultural Contractor's account in the trust fund exceed that Contractor's share of the Cap, or the estimated remaining payments

the Contractor is required to make to the State prior to the end of the project repayment period, that Contractor may direct the trustee to pay such excess to the Contractor.

(8) Termination of Trust Fund. At the end of the project repayment period, the Agricultural Rate Management Trust Fund shall be terminated and any balances remaining in the accounts for each of the Agricultural Contractors shall be disbursed to the respective Agricultural Contractors.

(i) **Definitions. For the purposes of this article, the following definitions will apply:**

(1) "Agricultural Contractor" shall mean the following agencies as they now exist or in any reorganized form:

- (i) County of Kings,
- (ii) Dudley Ridge Water District,
- (iii) Empire West Side Irrigation District,
- (iv) Kern County Water Agency for 848,130 acre-feet of its Table A amount,
- (v) Oak Flat Water District,
- (vi) Tulare Lake Basin Water Storage District.

(2) "Urban Contractor" shall mean every other agency having a long term water supply contract with the State as they exist as of the date of this amendment or in any reorganized form as well as Kern County Water Agency for 134,600 acre-feet of its Table A amount.

(j) **Except as provided in subdivisions (c)(4) and (c)(5),** this article shall not be interpreted to result in any greater State authority to charge the Contractors than exists under provisions of this contract other than this article.

NEW CONTRACT ARTICLE

II. ARTICLE 61 IS ADDED TO THE CONTRACT AS A NEW ARTICLE AS FOLLOWS:

61. FINANCIAL ACCOUNTS AND ACTIVITIES

(a) General Operating Account

(1) The State shall maintain a General Operating Account to provide the moneys needed for the following purposes:

(i) To pay or provide for the payment of System costs which are reimbursable by one or more Contractors under their respective Water Supply Contracts in the event System revenues available for such payment are insufficient for such purpose; or

(ii) To pay or provide for the payment of System costs for any System purpose in the event of a System emergency as defined in Article 61(a)(1)(iii).

(iii) A System Emergency, as used in this Article 61(a)(1)(ii) shall mean an immediate, urgent, critical, unexpected, or impending situation that, in the judgment of the Director may cause or pose a risk of causing injury, loss of life, damage to the property, impairment of the financial condition, and/or interference with the normal activities of the System which requires immediate attention and remedial action.

(2) The maximum amount in the General Operating Account shall be set, adjusted and funded as follows:

(i) Upon the Contract Extension Amendment Effective Date, the maximum amount shall be \$150 million.

(ii) On or before the first September 1 occurring five (5) years after the Contract Extension Amendment Effective Date and every five (5) years thereafter, the State shall present a business case analysis of the maximum amount reasonably necessary or appropriate to be maintained in the General Operating Account, including an evaluation of the maximum amount and its relationship to the business risks associated with the System cash flow, to the SWRDS Finance Committee for recommendation to the Director regarding a General Operating Account maximum amount

adjustment, provided that the maximum amount shall not be less than \$150 million.

(iii) To fund the General Operating Account to its maximum amount, the Director may, in his or her discretion, transfer to the General Operating Account (1) amounts determined to be available pursuant to Article 51(e); (2) earnings from the investment of amounts in the General Operating Account; (3) amounts in the SWRDS Reinvestment Account; and (4) amounts in the SWRDS Support Account.

(iv) If the Director determines to decrease the maximum amount pursuant to Article 61(a)(2)(ii), or the maximum amount is otherwise exceeded, the excess amount in the General Operating Account shall be transferred to the SWRDS Reinvestment Account.

(v) The State shall replenish the amounts used from the General Operating Account (1) through charges to the Contractors to the extent the Contractors are obligated to reimburse the State for the costs paid with such amounts and (2) from the SWRDS Support Account or other available revenues (including the sources described in subparagraph (iii) of this Article 61(a)(2)) for costs not reimbursable by the Contractors under their respective Water Supply Contracts.

(vi) General Operating Account investment earnings shall be used to fund the General Operating Account to its maximum amount or, in the Director's discretion, transferred to the SWRDS Support Account and/or the SWRDS Reinvestment Account.

(3) The State shall prepare monthly reports on the balance in and use of the General Operating Account for the Director, and shall provide those reports to the SWRDS Finance Committee. The SWRDS Finance Committee may periodically review reporting frequency and make recommendations to the Director regarding reporting frequency.

(b) SWRDS Reinvestment Account

(1) Commencing with the Contract Extension Amendment Effective Date, the State shall establish and maintain a SWRDS Reinvestment Account to provide a continuing source of investment revenue to provide amounts to be transferred to or deposited in the General Operating Account, the SWRDS Reinvestment Account, and the SWRDS Support Account.

(2) To fund the SWRDS Reinvestment Account, the Director may, in his or her discretion, transfer to the SWRDS Reinvestment Account (i) amounts determined to be available pursuant to Article 51(e), (ii) earnings from the

investment of amounts in the SWRDS Reinvestment Account, (iii) payments by the Contractors for capital costs funded from the SWRDS Reinvestment Account, (iv) amounts from the SWRDS Support Account, and (v) amounts from the General Operating Account.

(3) Amounts in the SWRDS Reinvestment Account may be used and/or invested as follows:

(i) To pay capital costs of project facilities to the extent those costs are reimbursable by one or more Contractors under their respective Water Supply Contracts. Such capital costs shall be reimbursed to the State in accordance with item 5 of this subparagraph (b) below.

(ii) To pay capital costs of project facilities pending reimbursement of the State with the proceeds of revenue bonds issued by the State; and

(iii) To make temporary investments in accordance with the statutory limitations on such investments.

(4) The State shall prepare regular reports on the SWRDS Reinvestment Account for the Director and shall provide those reports to the SWRDS Finance Committee. The State shall consult with the SWRDS Finance Committee about the investments and activities to be funded from the SWRDS Reinvestment Account.

(5) *Amortization of Costs Financed with Amounts in the SWRDS Reinvestment Account.* Charges to amortize Project Facility Capital Costs paid with amounts from the SWRDS Reinvestment Account shall return to the State, in equal annual amounts over an amortization period determined by the State, the amount of each such cost together with an interest charge on the unamortized balance thereof.

(i) The length of such amortization periods may be from ten (10) to fifty (50) years, *provided* that if the capital asset has an Economic Useful Life of less than ten (10) years, the amortization period may be a comparable period of less than ten (10) years.

(ii) The interest charge shall be at a rate equal to the market interest rate at the time the cost is Incurred on municipal Revenue Bonds with the following characteristics:

(a) the same rating as the rating on Revenue Bonds issued by the State to finance Project Facilities, and

(b) the same term as the length of the amortization period, all as determined by the State.

(iii) For the purposes of this subdivision (b)(5), the State may aggregate the Capital Costs of each project facility Incurred during each calendar year and determine a composite interest rate and a composite amortization period applicable to the amortization of such costs.

(iv) The amortization charges relating to the costs Incurred during each calendar year shall commence the calendar year starting one year after the end of the calendar year in which such costs were Incurred, and the amount to be amortized shall include capitalized interest for the period from the date or dates the costs are Incurred to the date of commencement of amortization.

(c) **SWRDS Support Account**

(1) Commencing with the Contract Extension Amendment Effective Date, the State shall establish and maintain a SWRDS Support Account to provide a source of funds to pay System costs that are not chargeable to the Contractors under their respective Water Supply Contracts and for the payment of which there are no other monies available.

(2) To fund the SWRDS Support Account, the Director may, in his or her discretion, transfer to the SWRDS Support Account (i) amounts determined to be available pursuant to Article 51(e); (ii) amounts in the SWRDS Reinvestment Account, (iii) investment earnings in the General Operating Account; (iv) earnings from the investment of amounts in the SWRDS Support Account; and (v) other available revenues. The State shall not charge the Agency to replenish the SWRDS Support Account for costs not otherwise chargeable to the Agency under this contract.

(3) If the State is reimbursed or other amounts are appropriated and received for a cost paid from the SWRDS Support Account, the State shall deposit the amount reimbursed or received in the SWRDS Support Account.

(4) The State shall prepare regular reports on the SWRDS Support Account for the Director and shall provide those reports to the SWRDS Finance

Committee. The State shall consult with the SWRDS Finance Committee about the investments and activities to be funded from the SWRDS Support Account.

(d) System Financial Activity Report and Reporting Principles

(1) The State shall prepare and distribute quarterly a System Financial Activity Report that contains the following information:

(i) By fund or account, the activity in the following funds and accounts: the General Operating Account, the SWRDS Support Account, the SWRDS Reinvestment Account, the 51(e) Sub-Account of the Systems Revenue Account, the Davis-Dolwig Fund, and the State Water Facilities Capital Account, and the activity with respect to suspended costs.

(ii) The data in the System Financial Activity Report shall be auditable, which includes an audit trail from the costing ledger (currently the Utility Cost Accounting Billing System, as of the Contract Extension Amendment Effective Date) to the general ledger (currently SAP, as of the Contract Extension Amendment Effective Date) or the Bulletin 132 estimates to the System Financial Activity Report.

(2) Appendix B, entitled System Reporting Principles, contains principles and guidelines which shall be followed, to the extent applicable, in the preparation of System financial reports and financial management reports.

(e) State Water Resources Development System Finance Committee

(1) The State shall establish a joint State and Contractors finance committee, which shall be referred to as the State Water Resources Development System Finance Committee or SWRDS Finance Committee. The membership of the SWRDS Finance Committee shall include both representatives from the State and the Contractors.

(2) The primary purpose of the SWRDS Finance Committee shall be to make recommendations to the Director concerning the financial policies of the System. The State and the Contractors shall describe the scope of the SWRDS Finance Committee in a charter mutually agreeable to the State and the Contractors.

(f) Cost Recovery

In general, the State should seek reimbursement for all System costs from the appropriate customers and users of System facilities. With respect to those

System costs that are reimbursable by the Contractors, the State should allocate financial responsibility for such costs in a manner that is both lawful and equitable, and which endeavors to recover such costs from the appropriate Contractors. If the State proposes to not charge any Contractor the full amount that the State is entitled to charge the Contractor under the contract, the State shall present a written proposal to the SWRDS Finance Committee for purposes of developing a recommendation to the Director regarding the proposal. The State shall submit such proposal in writing to the SWRDS Finance Committee 90 days in advance of the Director issuing any decision and within such 90 day period the SWRDS Finance Committee shall provide the Director with a recommendation regarding such proposal. Such proposals shall comply with the structure set out in the SWRDS Finance Committee charter referenced in Article 61(e)(2).

NEW CONTRACT APPENDIX

III. APPENDIX B IS ADDED TO THE CONTRACT AS A NEW APPENDIX AND SHALL READ AS FOLLOWS:

APPENDIX B SYSTEM REPORTING PRINCIPLES

- A. During the term of the water supply contracts, it is likely that financial reports and financial management reports will change in scope, nature, and frequency. Regardless of the exact reports used, such reports shall follow the below principles and guidelines to the extent applicable.
1. Principle 1: Financial reporting will be generated from the general ledger or data warehouse of the financial information system (system of record), such as SAP. The financial system of record is the authoritative source for financial reporting data values in a system. To ensure data integrity, there must be one, and only one, system of record for financial reporting values.
 2. Principle 2: Financial reporting is not limited to annual financial statements but will be developed for regular reporting periods.
 3. Principle 3: Financial management reporting generated from other financial systems, such as Utility Cost Accounting Billing System (UCABS), will identify and analyze significant variances from prior years or budgets.
 4. Principle 4: Financial reporting and financial management reporting will identify unusual items and exceptions, and these items will be documented, reviewed, and resolved by management.
 5. Principle 5: DWR will use standardized System-wide business rules and utilize a centralized financial system, such as SAP, UCABS, or other system, to provide controls/validations to ensure data integrity and reliable reporting.
 6. Principle 6: DWR will use standardized data integrity rules in the development and publication of reports, including but not limited to the following:
 - (1) Data integrity refers to the accuracy and consistency of data stored in a database, data warehouse, data mart or other construct.
 - (2) Data integrity processes verify that data has remained unaltered in transit from creation to reception or remains unaltered in transit from one system to the next. Data used outside of the Enterprise Resource Planning (ERP) systems to meet the reporting needs of Program will undergo any number of operations in support of decision-making, such as capture, storage,

retrieval, update and transfer. It is important to have confidence that during these operations, the data will be kept free from corruption, modification and remain unaltered.

- (3) Data with “integrity” has a complete or whole structure. Data values are standardized according to a data model and/or data type. All characteristics of the data must be correct – including business rules, relations, dates, definitions and lineage – for data to be complete.
- (4) Data integrity is imposed within an ERP database when it is created and is authenticated through the ongoing use of error checking and validation routines.
- (5) Data integrity state or condition is to be measured by the validity and reliability of the data values.
- (6) Data integrity service and security maintains information exactly as it was input, and is auditable to affirm its reliability.

The SWRDS Finance Committee is charged with providing financial policy recommendations to the Director, and the Director has final discretion on whether or not to accept the recommendations. While the SWRDS Finance Committee is not charged with reviewing the content of financial reports, timely and accurate financial reporting and financial management reporting provides technical committees access to useful information that can be used to formulate proposals on financial policy matters that may be brought to the SWRDS Finance Committee.

IT IS FURTHER MUTUALLY AGREED that the following provisions, which shall not be part of the Water Supply Contract text, shall be a part of this Amendment and be binding on the Parties.

AMENDMENT IMPLEMENTING AND ADMINISTRATIVE PROVISIONS

1. EFFECTIVE DATE OF CONTRACT EXTENSION AMENDMENT

(a) The Contract Extension Amendment shall take provisional effect (“provisional effective date pursuant to subparagraph (a)”) on the last day of the calendar month in which both of the following occur: (i) the State and 15 or more Contractors, with an aggregate maximum annual Table A amount exceeding 3,200,000 acre feet, have executed (or committed in a form satisfactory to the State to execute) the Contract Extension Amendment and (ii) no legal action addressing the validity or enforceability of the Contract Extension Amendment or any aspect thereof has been filed within sixty days of such execution or, if filed, a final judgment of a court of competent jurisdiction has been entered sustaining or validating the Contract Extension Amendments. Subject to subparagraph (b), the provisional effective date pursuant to paragraph (a) shall be the Contract Extension Amendment Effective Date if the conditions set out in subparagraph (e) are met.

(b) If any part of the Contract Extension Amendment of any Contractor is determined by a court of competent jurisdiction in a final judgment or order to be invalid or unenforceable, the Contract Extension Amendments of all Contractors shall be of no force and effect except as provided in subparagraph(c).

(c) The unenforceability and lack of effectiveness of all Contractors’ Contract Extension Amendments as provided for in subparagraph (b) may be avoided only if the part of the Contract Extension Amendment determined to be invalid or unenforceable is explicitly waived in writing by the State and 15 or more Contractors, with an aggregate maximum annual Table A amount exceeding 3,200,000 acre feet , in which case the Contract Extension Amendment shall take provisional effect (“provisional effective date pursuant to subparagraph (c)”) on the last day of the calendar month in which the requisite waivers are received, but only as to those Contractors submitting such a waiver in writing, subject to subparagraph (e). The provisional effective date pursuant subparagraph (c) shall become the Contract Extension Amendment Effective Date if the conditions set out in subparagraph (e) are met.

(d) If any Contractor has not executed a Contract Extension Amendment or has not submitted a waiver pursuant to subparagraph (c), whichever is applicable, within sixty (60) days of the provisional effective date pursuant to subparagraph (a) or the provisional effective date pursuant to subparagraph (c), as applicable, the amendment shall not take effect as to such Contractor, unless the Contractor and the State, in its discretion, thereafter execute such Contractor’s contract extension

amendment or the Contractor thereafter submits, and the State in its discretion accepts, the waiver, whichever applies, in which case the Contract Extension Amendment Effective Date for purposes of that Contractor's contract and any associated terms shall be as agreed upon by the State and Contractor.

(e) (1) If at the end of the applicable 60-day period specified in subparagraph (d), 24 or more Contractors with an aggregate maximum annual Table A amount exceeding 3,950,000 acre feet have executed the amendment (or committed to execute the amendment in a form satisfactory to the State) or submitted a waiver pursuant to subparagraph (c), as applicable, the provisional effective date pursuant subparagraph (a) or the provisional effective date pursuant to subparagraph (c), as applicable, shall become the Contract Extension Amendment Effective Date.

(2) If at the end of the applicable 60 day period specified in subparagraph (d), 24 or more Contractors with an aggregate maximum annual Table A amount exceeding 3,950,000 acre feet have not executed (or committed to execute) the amendment or submitted a waiver pursuant to subparagraph (c), as applicable, then the State, after consultation with the Contractors that have executed (or committed to execute) the amendment or submitted a waiver, as applicable, shall within 30 days following such 60 day period determine in its discretion whether to make the provisional effective date pursuant to subparagraph (a) or the provisional effective date pursuant to subparagraph (c), as applicable, the Contract Extension Amendment Effective Date. The State shall promptly notify all Contractors of the State's determination. If the State determines, pursuant to this subparagraph 1(e)(2) to allow the contract amendment to take effect, it shall take effect only as to those Contractors consenting to the amendment taking effect pursuant to this subparagraph 1(e)(2)

(f) (1) During the pendency of a legal action addressing the validity or enforceability of the Contract Extension Amendment, the State and a minimum of 24 Contractors with an aggregate maximum annual Table A amount exceeding 3,950,000 acre feet which have executed (or committed to execute) the Contract Extension Amendment may agree in writing to waive any limitation barring the Contract Extension Amendment from taking effect until a final judgment of a court of competent jurisdiction has been entered (including to waive the "no force and effect " provision in subsection (b)) and instead allow the Contract Extension Amendment to take effect as to such Contractors, subject to such conditions, if any, agreed upon, by the State and such contractors. In such case, the State shall promptly notify all Contractors of the effective date of the Contract Extension Amendment.

(2) If, during the pendency of a legal action addressing the validity or enforceability of the Contract Extension Amendment, less than 24 Contractors with an aggregate maximum annual Table A amount exceeding 3,950,000 acre feet have agreed in writing to waive any limitation barring the Contract Extension Amendment from taking effect until a final judgment of a court of competent jurisdiction has been entered as provided in subsection (1)(f)(1) above, then a Contractor which has so

agreed in writing may request the State to consider allowing the contract extension amendment to take effect with the agreement of less than 24 Contractors. Upon receiving such a request, the State, after consultation with the Contractors that have agreed in writing to waive any limitation as provided in subsection (1)(f)(1) above, may determine in its discretion whether to allow the Contract Extension Amendment to take effect with less than 24 Contractors agreeing in writing to waive the limitation. The State shall promptly notify all Contractors if the State's determines to allow the Contract Extension Amendment to take effect, and include in such notice the effective date of the Contract Extension Amendment and any conditions that would apply. If the State determines, pursuant to this subparagraph 1(f)(2) to allow the contract amendment to take effect, it shall take effect only as to those Contractors consenting to the amendment taking effect pursuant to subparagraph 1(f)(1).

2. POST BILLING TRANSITION DATE ESTIMATES

If the State determines it to be necessary, the State may rely on estimates and later true-up for billing and reporting purposes in the initial years after the Billing Transition Date.

3. WAIVER AND RELEASE:

Subject to the Contract Extension Amendment taking effect, the Agency does hereby forever waive, release and discharge the State, and its current and former officers, agents and employees, from any and all past and present protests, claims, damages, actions and causes of action of every kind and description, now existing or hereafter arising, known or unknown, that were or could be or could have been asserted relating to the State's adjustment made prior to the execution date of this Contract Extension Amendment in connection with the proportional responsibility, for System facilities south of and including the Dos Amigos Pumping Plant, between (i) water supply and (ii) recreation and fish and wildlife enhancement.

4. OTHER CONTRACT PROVISIONS:

Except as amended by this amendment, all provisions of the contract shall be and remain the same and in full force and effect, provided, however, that any reference to the definition of a term in Article 1, shall be deemed to be a reference to the definition of that term, notwithstanding that the definition has been re-lettered within Article 1. In preparing a consolidated contract, the parties agree to update all such references to reflect the definitions' lettering within Article 1.

STATE WATER PROJECT WATER SUPPLY CONTRACT EXTENSION AMENDMENT
Preliminary Execution Version
10/22/2018

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment on the date first above written.

Approved as to Legal Form
and Sufficiency:

STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES

Chief Counsel
Department of Water Resources

Director

SANTA BARBARA COUNTY FLOOD
CONTROL AND WATER CONSERVATION
DISTRICT

Signature

Title

Date