



## CENTRAL COAST WATER AUTHORITY

### MEMORANDUM

April 20, 2021

**TO:** CCWA Board of Directors

**FROM:** Ray A. Stokes  
Executive Director 

**SUBJECT:** Amendment No. 21: Water Management Amendment to the State Water Project Contract

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#### RECOMMENDATIONS

1. Receive update regarding the Santa Barbara County Flood Control and Water Conservation District's (District) action on Amendment No. 21, the Water Management Amendment, to the State Water Project Contract.
2. Provide direction regarding CCWA's response.

#### DISCUSSION

##### Background:

Beginning in January, 2021, District staff proposed numerous and changing limitations and conditions on the District's execution of Amendment No. 21 that would not only deprive CCWA and its participants of the benefits of Amendment No. 21, but would also result in immediate adverse impacts, include a recommendation that all out-of-county transfer be prohibited.

In light of the District's changing conditions and the fact that many were not well defined or understood by CCWA staff, CCWA staff requested that the District provide the proposed conditions in writing.

On March 22, 2021, District staff notified CCWA staff that CCWA should make a proposal instead.

At its meeting on April 14, 2021, the CCWA Board of Directors authorized the Board Chair to send a letter to the Santa Barbara County Board of Supervisors requesting that the Board of Supervisors approve execution of Amendment #21, the Water Management Amendment to the State Water Contract, without conditions.

The next day, on April 15, 2021, District staff published its Agenda Report and corresponding staff Powerpoint presentation, together with a proposed Resolution, for

the Board of Supervisors' meeting on April 20, 2021.<sup>1</sup> The Agenda Report recommends that the Board of Supervisors, acting as the District's Board of Directors, adopt a Resolution entitled: "A Resolution to Approve Water Management Tools Amendment (Amendment 21) to State Water Project Water Supply Contract Subject to Certain Limitations to Maintain Local Water Supply" (District Resolution). The District Resolution was not provided to CCWA staff in advance and CCWA staff had no knowledge of the proposed limitations contained in the District Resolution, other than as generally described by District staff in prior meetings.

On April 16, 2021, CCWA Board Chair wrote to the Board of Supervisors, for the fourth time, requesting approval of Amendment No. 21 without conditions.

On April 19, 2021, CCWA staff submitted an additional comment letter specifically objecting to the limitations contained in the District Resolution.

On April 20, 2021, the Board of Supervisors voted 5-0 to approve execution of Amendment No. 21 and adopted the District Resolution as proposed, which includes the following provisions:

4. That the Water Supply Amendment to the State Water Contract, Amendment No. 21, shall be implemented in a manner to address protection of the existing long-term water supplies of the County, recognizing that the SWP is a regional supply and should be used to balance water needs within the County, under the follow principles:
  - a. That requests for purchases of water outside the County to meet local water supply needs are generally recognized as beneficial and may be reviewed and approved by Director of the District, or his or her designee.
  - b. That transfers and sales of SWP water should be prioritized to purveyors inside the County to preserve and maximize the County's available water supplies.
  - c. That all requests for sales and transfers of SWP water outside the County, in accordance with Amendment 21, shall be presented to the Board for approval only after there are no in-county transfer options and the sale or transfer meets the following criteria;
    - i. That exchanges should be a minimum 1:1 so that they will not reduce the long-term water supplies, unless otherwise approved by the Board based on evidence of the benefits of the proposed transaction to the County.

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<sup>1</sup> All referenced documents are attached to this staff report.

- ii. That sales of local SWP water to SWP Contractors outside the County would be considered for approval by the Board based on meeting the following:
  - 1. Right of first refusal for in-county agencies be offered first at a reasonable cost to in-county water purveyors; and
  - 2. That any sale of SWP outside the County also show an equivalent replacement of a new local supply.
  
- d. Changes in conditions may necessitate additional requirements, and changes in water supplies will require the Board to evaluate any transaction based on in-county conditions at the time.”

**Analysis of District Resolution:**

a. Purchases of Water

This provision does not appear to impose limitations on purchases. District staff is authorized to review and approve purchases. It is unclear whether District staff has discretion to condition or deny any purchase.

b. Transfers and Sales

This provision appears to be consistent with CCWA’s Resolution No. 2021-01 adopting a First Right of Refusal Rule and requires all CCWA participants to first offer any water proposed for sale outside of the County to other participants. However, the next provision (below) modifies the minimum pricing requirements.

c. Board of Supervisor Approval

This provision requires Board of Supervisor approval of all proposed out-of-county sales. Proposed sales may be presented to the Board of Supervisors only after there are no in-county transfer options – presumably this means that no other CCWA participant has elected to purchase the water pursuant to paragraph b above, but this is not clear; it could mean that the water must be offered to *non*-participants as well – and additional criteria are satisfied. As a result, District staff has broad discretion to determine whether the criteria have been satisfied before any proposed sale is presented to the Board of Supervisors for their consideration. Further, given that the Board of Supervisors retains approval authority, the Board of Supervisors could impose further conditions on any out-of-county sale not specified in the Resolution itself. As a result, the District staff and the Board of Supervisors will be making water supply and management decisions for individual CCWA participants, instead of the staff and elected officials of those agencies, each of which is responsible for managing their water supplies on behalf of their customers.

Only balanced exchanges, or unbalanced exchanges in favor of CCWA's participants, are allowed, unless the Board of Supervisors makes an exception based on "evidence of the benefits of the proposed transaction to the County." The Resolution also appears to make exchanges subject to a right of first refusal by other CCWA participants, but this is not clear. CCWA's Resolution No. 2021-01 applies to transfers only. Because the Water Management Amendment allows for the sale of water between SWP Contractors, it is highly unlikely other SWP Contractors will enter into balanced exchange agreements. The only possibility of doing an exchange in the future would be on an unbalanced basis. The Water Management Amendment allows for exchanges depending on the DWR allocation percentage of up to 5:1. Resolution effectively eliminates the possibility that CCWA would ever be able to use the exchange provisions of the Water Management Amendment.

This provision also conflicts with CCWA's Resolution No. 2021-01 by requiring that out-of-county sales must be offered at a "reasonable cost." It is unclear what a "reasonable cost" is, but it is clear that District staff and Board of Supervisors will decide and make the final determination, not CCWA's participants who are the parties to the proposed sale. It is possible that a transfer that satisfies CCWA's Resolution No. 2021-01 is not acceptable to the District staff and Board, and therefore is denied.

This provision also discriminates between and among CCWA participants by requiring that the sale – presumably the CCWA participant proposing the sale – "show an equivalent replacement of a new local water supply." Although no further details or criteria are provided, based on earlier conversations with District staff, we believe District staff intends this to mean that a CCWA participant proposing to sell water outside the County, must first demonstrate that they have developed a new local water supply source that is already producing water. Some CCWA participants may not have the need, capacity or financial resources to develop alternative water supplies before engaging in sales of surplus SWP supplies and therefore they would not be permitted to engage in sales at all. Further, this provision would defeat the entire purpose of the proposed sale – to generate funding for other purposes.

d. Additional Conditions

This provision makes clear that the Board of Supervisors may impose additional conditions and requirements on transfers and exchanges in the future.

### **Implementation of Transfers and Exchanges Pursuant to the District Resolution**

In addition to the issues discussed above, the District Resolution will make implementation of any proposed transfer or exchange more complicated, more expensive and potentially infeasible. CCWA staff anticipates that some transfer decisions, such as the sale of Article 21 carryover water, will need to be made quickly – i.e., within a matter of days – which will be impossible to do given the criteria set

forth in the Resolution and the need to obtain both District staff and District Board approval in advance. The District Resolution substantially increases CCWA's and thus its participants' administrative burden of implementing Amendment No. 21.

## **Conclusion**

The District's action likely will have the effect of prohibiting many if not most out-of-county sales that otherwise would have been available under Amendment No. 21 and therefore are available to all other State Water Contractors. The District Resolution deprives CCWA participants of the benefits of Amendment No. 21 and likely will result in a waste of water and higher costs for all of CCWA's participants and their customers, the ratepayers. As a result, the District's action significantly impairs the ability of the CCWA participants with independently elected boards and councils to do the job that their constituents elected them to do. The District Resolution and the Board of Supervisors' comments on April 20, 2021, imply that the District knows better how to manage the water supplies of almost every major city and water district in Santa Barbara County than the staff and boards and councils elected for that purpose.

RAS

Attachments



BOARD OF SUPERVISORS  
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors  
105 E. Anapamu Street, Suite 407  
Santa Barbara, CA 93101  
(805) 568-2240

**Department Name:** Flood Control  
**Department No.:** 054  
**For Agenda Of:** April 20, 2021  
**Placement:** Departmental  
**Estimated Time:** 40 minutes on  
April 20, 2021  
**Continued Item:** Yes  
**If Yes, date from:** February 2, 2021,  
March 2, 2021  
**Vote Required:** Majority

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**TO:** Board of Directors, Flood Control and Water Conservation District

**FROM:** Department Scott D. McGolpin, Public Works Director, (805) 568-3010  
Director(s)  
Contact Info: Thomas D. Fayram, Deputy Public Works Director, (805) 568-3436

**SUBJECT:** State Water Project Contract Amendment 21

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**County Counsel Concurrence**

As to form: Yes

**Auditor-Controller Concurrence**

As to form: N/A

**Other Concurrence:** County Executive Office

**Recommended Actions:**

That the Board of Directors:

Consider the request of the Central Coast Water Authority to approve Amendment 21 (Water Management Amendment) to the State Water Contract as follows:

- a) Approve and adopt the attached Resolution entitled "A Resolution to Approve Water Management Tools Amendment (Amendment 21) to State Water Project Water Supply Contract subject to Certain Limitations to Maintain Local Water Supply" that establishes conditions of use of Amendment 21 to protect and secure water supplies for the entire County;
- b) Approve and authorize the Public Works Director to sign and execute Amendment 21 with the State of California and return to the Board with any such transactions involving a sale of State Water outside the County, only after such conditions set forth in the above resolution are met; and
- c) Determine that the proposed actions are not a project under the California Environmental Quality Act, pursuant to Guidelines Section 15378(b)(5), organization or administrative activities that will not result in a direct or indirect physical change in the environment.

**Summary Text:**

This item is on the agenda to consider Amendment 21 to the State Water Project (SWP) Contract. On February 2, 2021, your Board considered Amendments 20 (contract extension) and 21 (water management tools) and continued those actions to the March 2, 2021 Board meeting. On March 2, 2021, your Board approved Amendment 20 and directed staff to work with the Central Coast Water Authority (CCWA) to define a way to implement Amendment 21 without harm to the County's regional long-term water supplies.

The proposed Resolution recommended by this action will allow implementation of Amendment 21 in a manner to ensure no net loss of long-term water supplies for the County. It will also allow, as CCWA has recently noted as an important need, the purchase of additional water supplies through the SWP. As seen in the most recent drought, CCWA was able to acquire emergency supplies and import water in excess of the current year Table A allocation, and CCWA has expressed concern that additional supplies may be needed soon given current worsening drought conditions. The Resolution also protects regional supplies by requiring any SWP water sale be first offered to CCWA member agencies to solve any regional supply imbalances or shortages at a reasonable cost.

The Resolution provides guidance on any transaction under Amendment 21 including the following:

- a. That requests for purchases of water outside the County to meet local water supply needs are generally recognized as beneficial and may be reviewed and approved by Director of the Flood Control District (District), or his or her designee.
- b. That transfers and sales of SWP water should be prioritized to purveyors inside the County to preserve and maximize the County's available water supplies.
- c. That all requests for sales and transfers of SWP water outside the County, in accordance with Amendment 21, shall be presented to the Board for approval only after there are no in-county transfer options and the sale or transfer meets the following criteria;
  - a. That exchanges should be a minimum 1:1 so that they will not reduce the long-term water supplies, unless otherwise approved by the Board based on evidence of the benefits of the proposed transaction to the County.
  - b. That sales of local SWP water to SWP Contractors outside the County would be considered for approval by the Board based on meeting the following:
    - i. Right of first refusal for in-county agencies be offered first at a reasonable cost to in-county water purveyors; and
    - ii. That any sale of SWP outside the County also show an equivalent replacement of a new local supply.

There are several water supply concerns regionally. First, the State announced the allocation for the SWP was reduced to 5% of the Table A amounts. For all of Santa Barbara County that amounts to 2,276 acre-feet. Second, local supplies are also impacted by a very dry year (~50% of average). With Cachuma supplies mostly committed, it is uncertain if any new allocation of water will be available this October. Water Agency staff will work with the Cachuma Member Units and Bureau of Reclamation on this issue. Supplies from Cachuma are being impacted by State Water Board Orders and possible future actions by resources agencies may make further reductions. Lastly, the Sustainable Groundwater Management Act may limit ground water extraction in some areas in the future.

The erosion of reliability of the SWP makes these supplies critical to meeting the County's water needs in future droughts.

**Background:**

The District entered into a contract with Department of Water Resources (DWR) in 1963 to receive an allocation of up to 57,700 acre-feet per year (AFY) of water from the SWP. The District then began making annual payments to DWR for its share of the capital costs of the project.

The SWP is an important element of the County's overall water supplies and deliveries of SWP water helps offset use/overuse of groundwater and complements other local supplies. Delivery of high quality water (low in Total Dissolved Solids) provides additional benefits to water purveyors as well. As other existing supplies, such as surface reservoirs, are now and will continue to deliver far less water than originally developed. For example, the Cachuma Project now has shown its inability to provide its original planned allocations through a drought period.

In the early 1980s, after an unsuccessful bond election to pay for local facilities, several water purveyors opted to assume responsibility for payment for 45,486 AFY of the District's allocation through a series of Water Supply Retention Agreements. Up until approximately 1986, the District made all payments to DWR for the capital costs of the SWP.

In 1991, CCWA was formed by various water purveyors to manage the delivery of State Water to Santa Barbara County. Under the management of CCWA, the Coastal Branch connection to the SWP was studied, as required by CEQA, and completed in 1995 with a design capacity of 39,078 AFY. Since then, CCWA has operated the Coastal Branch and distributed water to its member water purveyors. In addition, with the execution of the Transfer of Financial Responsibility Agreement (TFRA) with the District, CCWA has been responsible for fiscal matters relating to State Water, including all the payments to DWR and protecting the District in the event that one or more of its member units fail to meet its financial obligations. To date neither CCWA nor the District have ever defaulted on SWP payments.

**Fiscal and Facilities Impacts:**

Budgeted: Yes

Narrative:

Management of the water supply agreements are ongoing programs and staff time is included every year in the budget in the Water Resources Division of the Public Works Department. However, pursuant to the TFRA costs relating to management of the SWP are reimbursed by CCWA.

**Special Instructions:**

Direct the Clerk of the Board to send a certified copy of the resolution and minute order to the Flood Control District office, Attn: Christina Lopez.



State Water Project Contract Amendment 21

Agenda Date: April 20, 2021

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Attachment A: A Resolution to Approve Water Management Tools Amendment (Amendment 21) to State Water Project Water Supply Contract subject to Certain Limitations to Maintain Local Water Supply

Attachment B: Copy of SWP Contract Amendment No. 21 (Final Version)

**Authored by:**

Thomas D. Fayram, Deputy Public Works Director, (805) 568-3436

cc: Jeff Frapwell, Assistant CEO

# State Water Project Contract Amendment 21

**Board of Directors Meeting of April 20, 2021**

**Santa Barbara County Flood Control and Water  
Conservation District**

**(San Luis Reservoir)**

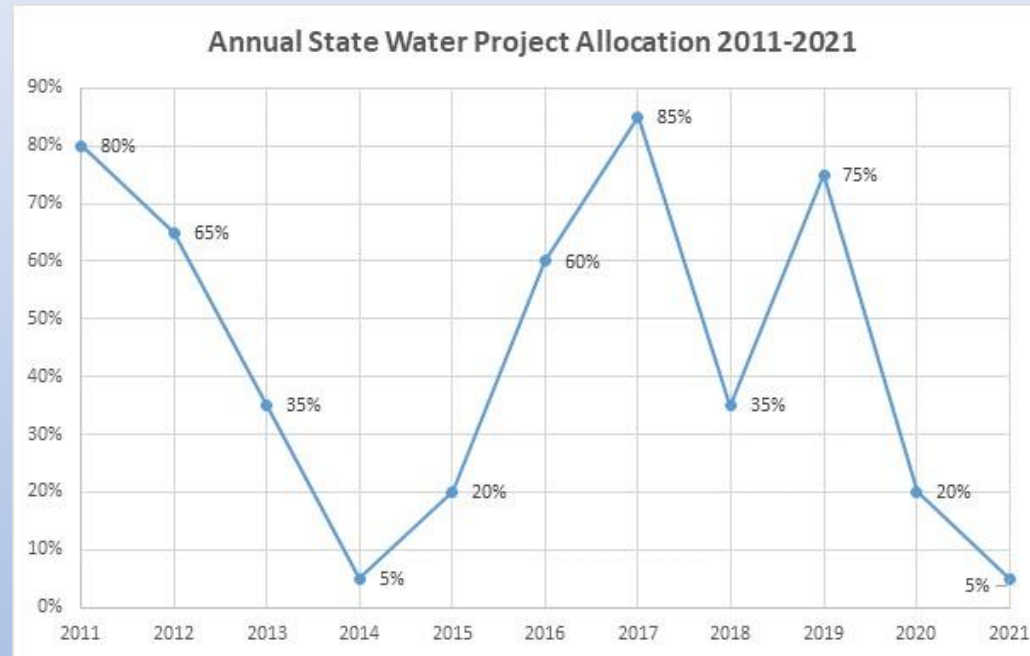
# Amendment 21 – Water Management Amendment

- Allows the purchase of water from other SWP Contractors
- Allows the sale of SWP water out of Santa Barbara County to other Contractors
- Potential regional benefits in cooperation with San Luis Obispo County
  - Unusable SLO Table A can help augment supplies in both SLO and Santa Barbara Counties
  - Could address pressures to use SB Table A in SLO
  - Work with CCWA on agreements

# Amendment 21

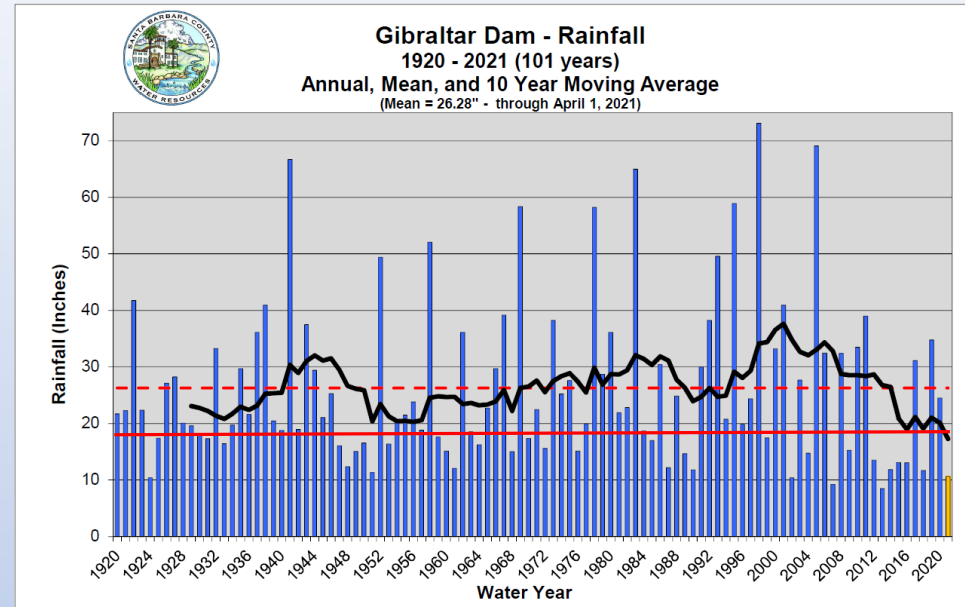
## New threats to County water supplies

- Reduction in yield of surface reservoirs
  - Cachuma, Gibraltar, Jamison, and Twitchell
- Reduction in reliability of SWP
- Potential impacts of Sustainable Groundwater Management Act
  - Possible need to reduce pumping or invest in new supplies to meet sustainable yield limitations



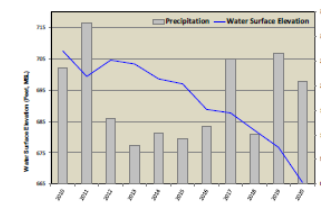
# Amendment 21

- Current Conditions
  - Water Year 20-21
    - ~50% rain year
    - 10 year trailing rainfall average
- Supply Conditions
  - 5% SWP allocation
  - Cachuma conditions
  - Groundwater levels in most basins have not recovered from 2012-2018 drought



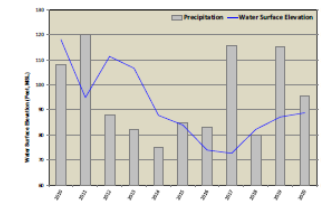
**EASTERN MANAGEMENT AREA**  
Santa Ynez Uplands: State Well 6N/29W-8P2  
Land Surface Elevation 910'  
Well Depth N/A

**SUMMARY:** Water levels in the western portion of the Eastern Management Area have continued to drop in recent years. Water levels within the uplands and foothills to the east as illustrated in the corresponding graph have historically remained stable, showing some gradual declines in recent years. Water levels within the alluvium along the river have historically remained stable.



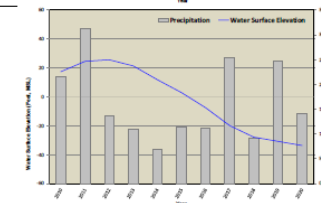
**FOOTHILL GROUNDWATER BASIN**  
Foothill: State Well 4N/28W-12H4  
Land Surface Elevation 176'  
Well Depth 290'

**SUMMARY:** Water levels drop during extended years of drought (1945-1951, 1984-1990, and 2012-2018), and have not rebounded to pre-drought levels. General trends indicate continued increases in storage following above average precipitation in 2017 and 2019.



**GOLETA GROUNDWATER BASIN**  
Goleta: State Well 4N/28W-8B10  
Land Surface Elevation 42'  
Well Depth 212'

**SUMMARY:** Water levels drop during extended years of drought (1945-1951, 1984-1990, and 2012-2018), and have not rebounded to pre-drought levels. Water levels continue to drop following above average precipitation in 2017 and 2019.



# Amendment 21

## Recommended Actions:

1. Approve and authorize execution of Amendment 21;  
and
2. Implement the conditions outlined in the Resolution  
and the staff report:
  - a) Allow CCWA to seek water for purchase;
  - b) Work with CCWA to keep our Table A in-County to  
protect local supplies; and
  - c) Continue discussion with CCWA on addressing water  
supply issues.



# Questions



**RESOLUTION OF THE  
BOARD OF DIRECTORS OF THE SANTA BARBARA COUNTY  
FLOOD CONTROL AND WATER CONSERVATION DISTRICT  
STATE OF CALIFORNIA**

**A RESOLUTION TO APPROVE WATER )  
MANAGEMENT TOOLS AMENDMENT )  
(AMENDMENT 21) TO STATE WATER )  
PROJECT WATER SUPPLY CONTRACT )  
SUBJECT TO CERTAIN LIMITATIONS )  
TO MAINTAIN LOCAL WATER SUPPLY )**      **RESOLUTION NO. \_\_\_\_\_**

**WHEREAS**, the California Department of Water Resources (DWR) owns, operates, and maintains the California State Water Project (SWP), which delivers water throughout California, including to Santa Barbara County, and

**WHEREAS**, DWR has entered into the water supply contract with the Santa Barbara County Flood Control and Water Conservation District (District) on February 26, 1963, to provide water supply from the SWP to Santa Barbara County from the SWP (Water Supply Contract), and

**WHEREAS**, the Central Coast Water Authority (CCWA) is a joint powers authority comprised of eight member agencies, and is a wholesale water provider to 13 water districts and private companies in Santa Barbara County, and another 11 water purchasers in San Luis Obispo County, and

**WHEREAS**, CCWA was formed in 1991 to construct, manage, and operate Santa Barbara County's local facilities for distribution and treatment of the SWP water supply for the District, and

**WHEREAS**, the District has transferred certain rights and responsibilities under the Water Supply Contract with DWR to CCWA, as documented in the 1991 Transfer of Financial Right Agreement, and

**WHEREAS**, DWR and SWP Contractors negotiated a water supply contract amendment creating new tools for water management, Amendment 21 to the Water Supply Contract, including clarifying rules on exchanges and allowing direct sale of water between SWP contractors, and

**WHEREAS**, in a letter dated October 28, 2020, CCWA requested that the District's Board of Directors execute the Water Management Amendment, and

**WHEREAS**, the Board considered CCWA's request on March 2, 2021 and April 2, 2021 but highlighted concerns, and



**WHEREAS**, between 1963 and 1986 the entire County tax base paid for SWP capital costs in recognition that the entire County required a stable external supply of water for residents and businesses, and

**WHEREAS**, between 2012 and 2019, and possibly continuing to this day, the County experience a severe drought, and

**WHEREAS**, sale of water from CCWA member agencies to SWP contractors outside of the County is detrimental to the County-wide water supply unless sold to another in County purveyor, or accompanied by a replacement supply.

**NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS**, that the Board of Directors of the District declares and directs as follows:

1. That the foregoing recitals are true and correct.
2. That a stable water supply for the County is essential for public health and safety, as well as economic stability Countywide.
3. That the recent drought illustrated that the County's water supplies were not adequate to meet the water supply needs within the County resulting in areas of the County reverting to severe reductions in water use.
4. That the Water Supply Amendment to the SWP Contract, Amendment 21, shall be implemented in a manner to address protection of the existing long-term water supplies of the County, recognizing that the SWP is a regional supply and should be used to balance water needs within the County, under the follow principles:
  - a. That requests for purchases of water outside the County to meet local water supply needs are generally recognized as beneficial and may be reviewed and approved by Director of the District, or his or her designee.
  - b. That transfers and sales of SWP water should be prioritized to purveyors inside the County to preserve and maximize the County's available water supplies.
  - c. That all requests for sales and transfers of SWP water outside the County, in accordance with Amendment 21, shall be presented to the Board for approval only after there are no in-county transfer options and the sale or transfer meets the following criteria;
    - i. That exchanges should be a minimum 1:1 so that they will not reduce the long-term water supplies, unless otherwise approved by the Board based on evidence of the benefits of the proposed transaction to the County.
    - ii. That sales of local SWP water to SWP Contractors outside the County would be considered for approval by the Board based on meeting the following:
      1. Right of first refusal for in-county agencies be offered first at a reasonable cost to in-county water purveyors; and
      2. That any sale of SWP outside the County also show an equivalent replacement of a new local supply.

- d. Changes in conditions may necessitate additional requirements, and changes in water supplies will require the Board to evaluate any transaction based on in-county conditions at the time.

**PASSED, APPROVED, AND ADOPTED** by the Board of Directors of the Santa Barbara County Flood Control and Water Conservation District, State of California, on this \_\_\_\_\_ day of \_\_\_\_\_, 2021 by the following vote:

**AYES:**

**NAYS:**

**ABSENT:**

**ABSTAIN:**

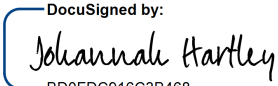
ATTEST:  
 MONA MIYASATO,  
 COUNTY EXECUTIVE OFFICER  
 Ex Officio Clerk of the Board Directors  
 of the Santa Barbara County Flood  
 Control and Water Conservation District

ACCEPTED AND AGREED:  
 SANTA BARBARA COUNTY FLOOD  
 CONTROL AND WATER CONSERVATION  
 DISTRICT

By: \_\_\_\_\_  
 Deputy

By: \_\_\_\_\_  
 Bob Nelson, Chair, Board of Directors

APPROVED AS TO FORM:  
 MICHAEL C. GHIZZONI  
 COUNTY COUNSEL

By:  \_\_\_\_\_  
 Deputy

STATE OF CALIFORNIA  
CALIFORNIA NATURAL RESOURCES AGENCY  
DEPARTMENT OF WATER RESOURCES

AMENDMENT NO. 21 (THE WATER MANAGEMENT AMENDMENT)  
TO WATER SUPPLY CONTRACT  
BETWEEN  
THE STATE OF CALIFORNIA DEPARTMENT OF WATER RESOURCES  
AND  
SANTA BARBARA COUNTY FLOOD CONTROL AND WATER CONSERVATION  
DISTRICT

THIS AMENDMENT to the Water Supply Contract is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ 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."

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## RECITALS

- A. The State and the Agency entered into and subsequently amended a water supply contract (the “contract”), dated February 26, 1963, 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. The State and the Agency, in an effort to manage water supplies in a changing environment, explored non-structural solutions to provide greater flexibility in managing State Water Project (SWP) water supplies; and
- C. The State and the Agency, in an effort to support the achievement of the coequal goals for the Delta set forth in the Delta Reform Act, sought solutions to develop water supply management practices to enhance flexibility and reliability of SWP water supplies while the Agency is also demonstrating its commitment to expand its water supply portfolio by investing in local water supplies; and
- D. The State and the Agency, in response to the Governor’s Water Resiliency Portfolio, wish to maintain and diversify water supplies while protecting and enhancing natural systems without changing the way in which the SWP operates; and
- E. The State and the Agency sought to create a programmatic solution through transfers or exchanges of SWP water supplies that encourages regional approaches among water users sharing watersheds and strengthening partnerships with local water agencies, irrigation districts, and other stakeholders; and
- F. The State and the Agency, in an effort to comply with the Open and Transparent Water Data Platform Act (Assembly Bill 1755), sought means to create greater transparency in water transfers and exchanges; and
- G. The State, the Agency and representatives of certain other SWP Contractors have negotiated and agreed upon a document (dated May 20, 2019), the subject of which is “ Draft Agreement in Principle for the SWP Water Supply Contract Amendment for Water Management” (the “Agreement in Principle”); and
- H. The Agreement in Principle describes that the SWP Water Supply Contract Amendment for Water Management “supplements and clarifies terms of the SWP water supply contract that will provide greater water management regarding transfers and exchanges of SWP water within the SWP service area”; the principles agreed to achieve this without relying upon increased SWP diversions or changing the way in which the SWP operates, and are consistent with all applicable contract and regulatory requirements; and

- I. 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 “SWP Water Supply Contract Amendment for Water Management”; and
- J. The State and the Agency desire to implement continued service through the contract and under the terms and conditions of this “SWP Water Supply Contract Amendment for Water Management”;

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

### **AMENDED CONTRACT TEXT**

**ARTICLE 1 IS AMENDED TO ADD THE FOLLOWING DEFINITIONS, PROVIDED THAT IF THIS WATER MANAGEMENT AMENDMENT TAKES EFFECT BEFORE THE CONTRACT EXTENSION AMENDMENT TAKES EFFECT, THE ADDITIONS HEREIN SHALL CONTINUE IN EFFECT AFTER THE CONTRACT EXTENSION AMENDMENT TAKES EFFECT NOTWITHSTANDING THE CONTRACT EXTENSION AMENDMENT'S DELETION AND REPLACEMENT OF ARTICLE 1 IN ITS ENTIRETY:**

**1. Definitions**

- (au) **"Article 56 Carryover Water"** shall mean water that the Agency elects to store under Article 56 in project surface conservation facilities for delivery in a subsequent year or years.

**ARTICLES 21 and 56 ARE DELETED IN THEIR ENTIRETY AND REPLACED WITH THE FOLLOWING TEXT:**

**21. Interruptible Water Service**

**(a) Allocation of Interruptible Water**

Each year from water sources available to the project, the State shall make available and allocate interruptible water to contractors in accordance with the procedure in Article 18(a). Allocations of interruptible water in any one year may not be carried over for delivery in a subsequent year, nor shall the delivery of interruptible water in any year impact the Agency's approved deliveries of Annual Table A Amount or the Agency's allocation of water for the next year. Deliveries of interruptible water in excess of the Agency's Annual Table A Amount may be made if the deliveries do not adversely affect the State's delivery of Annual Table A Amount to other contractors or adversely affect project operations. Any amounts of water owed to the Agency as of the date of this amendment pursuant to former Article 12(d), any contract provisions or letter agreements relating to wet weather water, and any Article 14(b) balances accumulated prior to 1995, are canceled. The State shall hereafter use its best efforts, in a manner that causes no adverse impacts upon other contractors or the project, to avoid adverse economic impacts due to the Agency's inability to take water during wet weather.

**(b) Notice and Process for Obtaining Interruptible Water**

The State shall periodically prepare and publish a notice to contractors describing the availability of interruptible water under this Article. To obtain a supply of interruptible water, including a supply from a transfer of interruptible water, the Agency shall execute a further agreement with the State. The State will timely process such requests for scheduling the delivery of the interruptible water.

**(c) Rates**

For any interruptible water delivered pursuant to this Article, the Agency shall pay the State the same (including adjustments) for power resources (including on-aqueduct, off-aqueduct, and any other power) incurred in the transportation of such water as if such interruptible water were Table A Amount water, as well as all incremental operation, maintenance, and replacement costs, and any other incremental costs, as determined by the State. The State shall not include any administrative or contract preparation charge. Incremental costs shall mean those nonpower costs which would not be incurred if interruptible water were not scheduled for or delivered to the Agency. Only those contractors not participating in the repayment of the capital costs of a reach shall be required to pay any use of facilities charge for the delivery of interruptible water through that reach.

**(d) Transfers of Interruptible Water**

- (1) Tulare Lake Basin Water Storage District, Empire West-Side Irrigation District, Oak Flat Water District, and County of Kings may transfer to other contractors a portion of interruptible water allocated to them under subdivision (a) when the State determines that interruptible water is available.
- (2) The State may approve the transfer of a portion of interruptible water allocated under subdivision (a) to contractors other than those listed in (d)(1) if the contractor acquiring the water can demonstrate a special need for the transfer of interruptible water.
- (3) The contractors participating in the transfer shall determine the cost compensation for the transfers of interruptible water.



The transfers of interruptible water shall be consistent with Articles 56(d) and 57.

**56. Use and Storage of Project Water Outside of Service Area and Article 56 Carryover Water**

**(a) State Consent to Use of Project Water Outside of Service Area**

Notwithstanding the provisions of Article 15(a), the State hereby consents to the Agency storing Project Water in a groundwater storage program, project surface conservation facilities and in nonproject surface storage facilities located outside its service area for later use by the Agency within its service area and to the Agency transferring or exchanging Project Water outside its service area consistent with agreements executed under this contract.

**(b) Groundwater Storage Programs**

The Agency shall cooperate with other contractors in the development and establishment of groundwater storage programs. The Agency may elect to store Project Water in a groundwater storage program outside its service area for later use within its service area. There shall be no limit on the amount of Project Water the Agency can store outside its service area during any year in a then existing and operational groundwater storage program.

**(1) Transfers of Annual Table A Amount stored in a groundwater storage program outside a contractor's service area.**

In accordance with applicable water rights law and the terms of this Article, the Agency may transfer any Annual Table A Amount stored on or after the effective date of the Water Management Amendment in a groundwater storage program outside its service area to another contractor for use in that contractor's service area. These transfers must comply with the requirements of Articles 56(c)(4)(i)-(v), (6) and (7), and Article 57. The Agency will include these transfers in its preliminary water delivery schedule required in Article 12(a).

**(2) Exchanges of any Annual Table A Amount stored in a groundwater storage program outside a contractor's service area.**

In accordance with applicable water rights law and the terms of this Article, the Agency may exchange any Annual Table A Amount stored on or after the effective date of the Water Management Amendment in a groundwater storage program outside its service area with another contractor for use in that contractor's service area. These exchanges must comply with the requirements in Article 56(c)(4)(i)-(v). The Agency shall include these exchanges in its preliminary water delivery schedule pursuant to Article 12(a).

**(c) Article 56 Carryover Water and Transfers or Exchanges of Article 56 Carryover Water**

- (1) In accordance with any applicable water rights laws, the Agency may elect to use Article 56 Carryover Water within its service area, or transfer or exchange Article 56 Carryover Water to another contractor for use in that contractor's service area in accordance with the provisions of subdivision (c)(4) of this Article. The Agency shall submit to the State a preliminary water delivery schedule on or before October 1 of each year pursuant to Article 12(a), the quantity of water it wishes to store as Article 56 Carryover Water in the next succeeding year, and the quantity of Article 56 Carryover Water it wishes to transfer or exchange with another contractor in the next succeeding year. The amount of Project Water the Agency can add to storage in project surface conservation facilities and in nonproject surface storage facilities located outside the Agency's service area each year shall be limited to the lesser of the percent of the Agency's Annual Table A Amount shown in column 2 or the acre-feet shown in column 3 of the following table, depending on the State's final Table A water supply allocation percentage as shown in column 1. For the purpose of determining the amount of Project Water the Agency can store, the final water supply allocation percentage shown in column 1 of the table below shall apply to the Agency. However, there shall be no limit to storage in nonproject facilities in a year in which the State's final water supply allocation percentage is one hundred percent. These limits shall not apply to water stored pursuant to Articles 12(e) and 14(b).

| 1.<br>Final Water Supply<br>Allocation Percentage | 2.<br>Maximum Percentage of<br>Agency's Annual Table<br>A Amount That Can Be<br>Stored | 3.<br>Maximum Acre-Feet<br>That Can Be Stored |
|---|--|---|
| 50% or less                                       | 25%  | 100,000                                       |
| 51%   | 26%  | 104,000                                       |
| 52%   | 27%  | 108,000                                       |
| 53%   | 28%  | 112,000                                       |
| 54%   | 29%  | 116,000                                       |
| 55%   | 30%  | 120,000                                       |
| 56%   | 31%  | 124,000                                       |
| 57%   | 32%  | 128,000                                       |
| 58%   | 33%  | 132,000                                       |
| 59%   | 34%  | 136,000                                       |
| 60%   | 35%  | 140,000                                       |
| 61%   | 36%  | 144,000                                       |
| 62%   | 37%  | 148,000                                       |
| 63%   | 38%  | 152,000                                       |
| 64%   | 39%  | 156,000                                       |
| 65%   | 40%  | 160,000                                       |
| 66%   | 41%  | 164,000                                       |
| 67%   | 42%  | 168,000                                       |
| 68%   | 43%  | 172,000                                       |
| 69%   | 44%  | 176,000                                       |
| 70%   | 45%  | 180,000                                       |
| 71%   | 46%  | 184,000                                       |
| 72%   | 47%  | 188,000                                       |
| 73%   | 48%  | 192,000                                       |
| 74%   | 49%  | 196,000                                       |
| 75% or more                                       | 50%  | 200,000                                       |

- (2) Storage capacity in project surface conservation facilities at any time in excess of that needed for project operations shall be made available to requesting contractors for storage of project and Nonproject Water. If such storage requests exceed the available storage capacity, the available capacity shall be allocated among contractors requesting storage in proportion to their Annual Table A Amounts for that year. The Agency may store water in excess of its allocated share of capacity as long as capacity is available for such storage.
- (3) If the State determines that a reallocation of excess storage capacity is needed as a result of project operations or because of the exercise of a contractor's storage right, the available capacity shall be reallocated among contractors requesting storage in proportion to their respective Annual

Table A Amounts for that year. If such reallocation results in the need to displace water from the storage balance for any contractor or noncontractor, the water to be displaced shall be displaced in the following order of priority:

First, water, if any, stored for noncontractors;

Second, water stored for a contractor that previously was in excess of that contractor's allocation of storage capacity; and

Third, water stored for a contractor that previously was within that contractor's allocated storage capacity.

The State shall determine whether water stored in a project surface water conservation facility is subject to displacement and give as much notice as feasible of a potential displacement. If the Agency transfers or exchanges Article 56 Carryover Water pursuant to this subdivision to another contractor for storage in such facility, the State shall recalculate the amount of water that is subject to potential displacement for both contractors participating in the transfer or exchange. The State's recalculation shall be made pursuant to subdivision (4) of this Article.

**(4) Transfers or Exchanges of Article 56 Carryover Water**

The Agency may transfer or exchange its Article 56 Carryover Water as provided in this subdivision under a transfer or an exchange agreement with another contractor. Water stored pursuant to Articles 12(e) and 14(b) and Nonproject Water shall not be transferred or exchanged. Transfers or exchanges of Article 56 Carryover Water under this subdivision shall comply with subdivision (f) of this Article and Article 57 as applicable, which shall constitute the exclusive means to transfer or exchange Article 56 Carryover Water.

On or around January 15 of each year, the State shall determine the maximum amount of Article 56 Carryover Water as of January 1 that will be available for transfers or exchanges during that year. The State's determination shall be consistent with subdivisions (c)(1) and (c)(2) of this Article.

The State shall timely process requests for transfers or exchanges of Article 56 Carryover Water by participating contractors. After execution of the transfer or exchange agreement between the State and the contractors participating in the transfer or exchange, the State shall recalculate each contractor's storage amounts for the contractors participating in the transfer or exchange. The State's recalculation shall result in an increase by an amount of water within the storage amounts for the contractor receiving the water and a decrease by the same amount of water for the contractor transferring or exchanging water. The State's recalculation shall be based on the criteria set forth in the State's transfer or exchange agreement with the participating contractors. The State's calculations shall also apply when a contractor uses Article 56 Carryover Water to complete an exchange.

Transfers and exchanges of Article 56 Carryover Water shall meet all of the following criteria:

- (i) Transfers or exchanges of Article 56 Carryover Water are limited to a single-year. Project Water returned as part of an exchange under subdivision (c)(4) may be returned over multiple years.
- (ii) The Agency may transfer or exchange an amount up to fifty percent (50%) of its Article 56 Carryover Water to another contractor for use in that contractor's service area.
- (iii) Subject to approval of the State, the Agency may transfer or exchange an amount greater than 50% of its Article 56 Carryover Water to another contractor for use in that contractor's service area. The Agency seeking to transfer or exchange greater than 50% of its Article 56 Carryover Water shall submit a written request to the State for approval. The Agency making such a request shall demonstrate to the State how it will continue to meet its critical water needs in the current year of the transfer or exchange and in the following year.

- (iv) The contractor receiving the water transferred or exchanged under subdivisions (4)(i) or (ii) above shall confirm in writing to the State its need for the water that year and shall take delivery of the water transferred or exchanged in the same year.
  - (v) Subject to the approval of the State, the Agency may seek an exception to the requirements of subdivisions (4)(i), (ii), and (iii) above. The Agency seeking an exception shall submit a written request to the State demonstrating to the State the need for 1) using project surface conservation facilities as the transfer or exchange point for Article 56 Carryover Water if the receiving contractor cannot take delivery of the transfer or exchange water in that same year, 2) using project surface conservation facilities for the transfer or exchange of one contractor's Article 56 Carryover Water to another contractor to reduce the risk of the water being displaced, or 3) for some other need.
- (5) The restrictions on storage of Project Water outside the Agency's service area provided for in this subdivision (c), shall not apply to storage in any project off-stream storage facilities constructed south of the Delta after the date of the Monterey Amendment.
- (6) For any Project Water stored outside its service area pursuant to subdivisions (b) and (c), the Agency shall pay the State the same (including adjustments) for power resources (including on-aqueduct, off-aqueduct, and any other power) incurred in the transportation of such water as the Agency pays for the transportation of Annual Table A Amount to the reach of the project transportation facility from which the water is delivered to storage. If Table A Amount is stored, the Delta Water Charge shall be charged only in the year of delivery to interim storage. For any stored water returned to a project transportation facility for final delivery to its service area, the Agency shall pay the State the same for power resources (including on-aqueduct, off-aqueduct, and any other power) incurred in the transportation of such water calculated from the point of

return to the aqueduct to the turn-out in the Agency's service area. In addition, the Agency shall pay all incremental operation, maintenance, and replacement costs, and any other incremental costs, as determined by the State, which shall not include any administrative or contract preparation charge. Incremental costs shall mean those nonpower costs which would not be incurred if such water were scheduled for or delivered to the Agency's service area instead of to interim storage outside the service area. Only those contractors not participating in the repayment of a reach shall be required to pay a use of facilities charge for use of a reach for the delivery of water to, or return of water from, interim storage.

- (7) If the Agency elects to store Project Water in a nonproject facility within the service area of another contractor it shall execute a contract with that other contractor prior to storing such water which shall be in conformity with this Article and will include at least provisions concerning the point of delivery and the time and method for transporting such water.

**(d) Non-Permanent Water Transfers of Project Water**

Notwithstanding the provisions of Article 15(a), the State hereby consents to the Agency transferring Project Water outside its service area in accordance with the following:

- (1) The participating contractors shall determine the duration and compensation for all water transfers, including single-year transfers, Transfer Packages and multi-year transfers.
- (2) The duration of a multi-year transfer shall be determined by the participating contractors to the transfer, but the term of the transfer agreement shall not extend beyond the term of the Contract with the earliest term.
- (3) A Transfer Package shall be comprised of two or more water transfer agreements between the same contractors. The State shall consider each proposed water transfer within the package at the same time and shall apply the transfer criteria pursuant to Article 57 in the review and approval of each transfer. The State shall not consider a Transfer Package as an exchange.

**(e) Continuance of Article 12(e) Carry-over Provisions**

The provisions of this Article are in addition to the provisions of Article 12(e), and nothing in this Article shall be construed to modify or amend the provisions of Article 12(e). Any contractor electing to transfer or exchange Project Water during any year in accordance with the provisions of subdivision (c) of this Article, shall not be precluded from using the provisions of Article 12(e) for carrying over water from the last three months of that year into the first three months of the succeeding year.

**(f) Bona Fide Exchanges Permitted**

Notwithstanding the provisions of Article 15(a), the State hereby consents to the Agency exchanging Project Water outside its service area consistent with this Article. Nothing in this Article shall prevent the Agency from entering into bona fide exchanges of Project Water for use outside the Agency's service area with other parties for Project Water or Nonproject Water if the State consents to the use of the Project Water outside the Agency's service area. Also, nothing in this Article shall prevent the Agency from continuing those exchange or sale arrangements entered into prior to September 1, 1995. Nothing in this Article shall prevent the Agency from continuing those exchange or sale arrangements entered into prior to the effective date of this Amendment which had previously received any required State approvals. The State recognizes that the hydrology in any given year is an important factor in exchanges. A "bona fide exchange" shall mean an exchange of water involving the Agency and another party where the primary consideration for one party furnishing water to another party is the return of a substantially similar amount of water, after giving due consideration to the hydrology, the length of time during which the water will be returned, and reasonable payment for costs incurred. In addition, the State shall consider reasonable deductions based on expected storage or transportation losses that may be made from water delivered. The State may also consider any other nonfinancial conditions of the return. A "bona fide exchange" shall not involve a significant payment unrelated to costs incurred in effectuating the exchange. The State, in consultation with the contractors, shall have authority to determine whether a proposed exchange of water constitutes a "bona fide exchange" within the meaning of this paragraph and not a disguised sale.

**Exchanges of Project Water**



Exchanges of Project Water shall be consistent with Article 57. In addition, the State shall apply the following criteria to its review of each exchange of Project Water as set forth below:

(1) **Exchange Ratio**

Exchange ratio shall mean the amount of water delivered from a contractor's project supply in a year to another contractor compared to the amount of water returned to the first contractor in a subsequent year by the other contractor. All exchanges shall be subject to the applicable exchange ratio in this Article as determined by the allocation of available supply for the Annual Table A Amount at the time the exchange transaction between the contractors is executed.

- (a) For allocations greater than or equal to 50%, the exchange ratio shall be no greater than 2 to 1.
- (b) For allocations greater than 25% and less than 50%, the exchange ratio shall be no greater than 3 to 1.
- (c) For allocations greater than 15% and less than or equal to 25%, the exchange ratio shall be no greater than 4 to 1.
- (d) For allocations less than or equal to 15%, the exchange ratio shall be no greater than 5 to 1.

(2) **Cost Compensation**

The State shall determine the maximum cost compensation calculation using the following formula:

The numerator shall be the exchanging contractor's conservation minimum and capital and transportation minimum and capital charges, including capital surcharges. DWR will set the denominator using the State Water Project allocation which incorporates the May 1 monthly Bulletin 120 runoff forecast.

If the Agency submits a request for approval of an exchange prior to May 1, the State shall provide timely approval with the obligation of the contractors to meet the requirement of the maximum compensation. If the maximum compensation is exceeded because the agreement between the

contractors is executed prior to the State Water Project allocation as defined in (c)(2) above, the contractors will revisit the agreement between the two contractors and make any necessary adjustments to the compensation. If the contractors make any adjustments to the compensation, they shall notify the State.

**(3) Period During Which the Water May Be Returned:**

The period for the water to be returned shall not be greater than 10 years and shall not go beyond the expiration date of this Contract. If the return of the exchange water cannot be completed within 10 years, the State may approve a request for an extension of time.

**(g) Other Transfers**

Nothing in this Article shall modify or amend the provisions of Articles 15(a), 18(a) or Article 41, except as expressly provided for in subdivisions (c) and (d) of this Article and in subdivision (d) of Article 21.

## NEW CONTRACT ARTICLES

### ARTICLE 57 IS ADDED TO THE CONTRACT AS A NEW ARTICLE AS FOLLOWS:

#### 57. Provisions Applicable to Both Transfers and Exchanges of Project Water

- (a) Nothing in this Article modifies or limits Article 18 (a).
- (b) Transfers and exchanges shall not have the protection of Article 14(b).
- (c) The Agency may be both a buyer and seller in the same year and enter into multiple transfers and exchanges within the same year.
- (d) Subject to the State's review and approval, all transfers and exchanges shall satisfy the following criteria:
  - (1) Transfers and exchanges shall comply with all applicable laws and regulations.
  - (2) Transfers and exchanges shall not impact the financial integrity of the State Water Project, Transfers and exchange agreements shall include provisions to cover all costs to the State for the movement of water such as power costs and use of facility charge.
  - (3) Transfers and exchanges shall be transparent, including compliance with subdivisions (g) and (h) of this Article.
  - (4) Transfers and exchanges shall not harm other contractors not participating in the transfer or exchange.
  - (5) Transfers and exchanges shall not create significant adverse impacts to the service area of each contractor participating in the transfer or exchange.
  - (6) Transfers and exchanges shall not adversely impact State Water Project operations.
- (e) The Agency may petition the State and the State shall have discretion to approve an exception to the criteria set forth in subdivision (d) in the following cases:
  - (1) When a transfer or an exchange does not meet the criteria, but the Agency has determined that there is a compelling need to proceed with the transfer or exchange.

- (2) When the Agency has received water in a transfer or an exchange and cannot take all of the water identified in the transaction in the same year, the Agency may request to store its water consistent with Article 56(c), including in San Luis Reservoir.
- (f) The State will timely process such requests for scheduling the delivery of the transferred or exchanged water. Contractors participating in a transfer or an exchange shall submit the request in a timely manner.
- (g) The Agency shall, for each transfer or exchange it participates in, confirm to the State in a resolution or other appropriate document approving the transfer or exchange, including use of Article 56(c) stored water, that:
  - (1) The Agency has complied with all applicable laws.
  - (2) The Agency has provided any required notices to public agencies and the public.
  - (3) The Agency has provided the relevant terms to all contractors and to the Water Transfers Committee of the State Water Contractors Association.
  - (4) The Agency is informed and believes that the transfer or exchange will not harm other contractors.
  - (5) The Agency is informed and believes that the transfer or exchange will not adversely impact State Water Project operations.
  - (6) The Agency is informed and believes that the transfer or exchange will not affect its ability to make all payments, including payments when due under its Contract for its share of the financing costs of the State's Central Valley Project Revenue Bonds.
  - (7) The Agency has considered the potential impacts of the transfer or exchange within its service area.
- (h) **Dispute Resolution Process Prior to Executing an Agreement**

The State and the contractors shall comply with the following process to resolve disputes if a contractor that is not participating in the transfer or exchange claims that the proposed transfer and/or exchange has a significant adverse impact.

- (1) Any claim to a significant adverse impact may only be made after the Agency has submitted the relevant terms pursuant to Article

57(g)(3) and before the State approves a transfer or an exchange agreement.

- (2) In the event that any dispute cannot be resolved among the contractors, the State will convene a group including the Department's Chief of the State Water Project Analysis Office, the Department's Chief Counsel and the Department's Chief of the Division of Operations or their designees and the contractors involved. The contractor's representatives shall be chosen by each contractor. Any contractor claiming a significant adverse impact must submit written documentation to support this claim and identify a proposed solution. This documentation must be provided 2 weeks in advance of a meeting of the group that includes the representatives identified in this paragraph.
- (3) If this group cannot resolve the dispute, the issue will be taken to the Director of the Department of Water Resources and that decision will be final.

## **WATER MANAGEMENT AMENDMENT IMPLEMENTING AND ADMINISTRATIVE PROVISIONS**

**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.

### **1. EFFECTIVE DATE OF WATER MANAGEMENT AMENDMENT**

- (a) The Water Management Amendment shall take effect (“Water Management Amendment effective date”) on the last day of the calendar month in which the State and 24 or more contractors have executed the Water Management Amendment, unless a final judgment by a court of competent jurisdiction has been entered that the Water Management Amendment is invalid or unenforceable or a final order has been entered that enjoins the implementation of the Water Management Amendment.
- (b) If any part of the Water Management Amendment of any contractor is determined by a court of competent jurisdiction in a final judgment or order to be invalid or unenforceable, the Water Management Amendments of all contractors shall be of no force and effect unless the State and 24 or more contractors agree any the remaining provisions of the contract may remain in full force and effect.
- (c) If 24 or more contractors have not executed the Water Management Amendment by February 28, 2021 then within 30 days the State, after consultation with the contractors that have executed the amendment, shall make a determination whether to waive the requirement of subdivision (a) of this effective date provision. The State shall promptly notify all contractors of the State’s determination. If the State determines, pursuant to this Article to allow the Water Management Amendment to take effect, it shall take effect only as to those consenting contractors.
- (d) If any contractor has not executed the Water Management Amendment within sixty (60) days after its effective date pursuant to subdivisions (a) through (c) of this effective date provision, this Amendment shall not take effect as to such contractor unless the contractor and the State, in its discretion, thereafter execute such contractor’s Water Management Amendment, in which case the Water Management Amendment effective date for purposes of that contractor’s Amendment shall be as agreed upon by the State and contractor, and shall replace the effective date identified in subdivision (a) for that contractor.

**2. ADMINISTRATION OF CONTRACTS WITHOUT WATER MANAGEMENT AMENDMENT**

The State shall administer the water supply contracts of any contractors that do not execute the Water Management Amendment in a manner that is consistent with the contractual rights of such contractors. These contractors' rights are not anticipated to be affected adversely or benefited by the Water Management Amendments.

**3. 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.

**4. DocuSign**

The Parties agree to accept electronic signatures generated using DocuSign as original signatures.

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

\_\_\_\_\_  
Date

Approved as to Form:

SANTA BARBARA COUNTY FLOOD  
CONTROL AND WATER  
CONSERVATION DISTRICT

\_\_\_\_\_  
General Counsel  
Santa Barbara County Flood Control  
and Water Conservation District

\_\_\_\_\_  
General Manager

\_\_\_\_\_  
Date