

SETTLEMENT AGREEMENT BETWEEN CONTRA COSTA WATER DISTRICT AND THE CALIFORNIA DEPARTMENT OF WATER RESOURCES

This Settlement Agreement (this “**Agreement**”) between Contra Costa Water District (“**CCWD**”) and the California Department of Water Resources (“**DWR**” and, together with CCWD, each a “**Party**” and, collectively, the “**Parties**”), is made as of the reference date of 7/26/2023. Capitalized terms not otherwise defined in this Agreement shall have the meanings set forth in Section 12 of this Agreement.

RECITALS

- A. WHEREAS**, in July 2022, DWR published a Delta Conveyance Project Draft Environmental Impact Report (“**2022 Draft EIR**”) to analyze a proposed project to construct and operate additional State Water Project (“**SWP**”) facilities consisting of (i) water diversion intake structures located in the Northern Sacramento-San-Joaquin Delta (“**Northern Intakes**”); (ii) facilities to convey water from the Northern Intakes to ultimately connect to the SWP California Aqueduct (“**Conveyance Facilities**”); and (iii) with a maximum diversion of 6,000 cubic feet per second. For purposes of this Agreement, a project that includes all three of these components constitutes the “**Delta Conveyance Project**”.
- B. WHEREAS**, because DWR has not completed the CEQA process for the Delta Conveyance Project or determined whether to approve a project or project alternative, DWR may determine no project should be approved or choose to approve an alternative or variation or hybrid of project alternatives identified in the 2022 Draft EIR. For purposes of this Agreement, a “**Conforming Project Alternative**” is a project that includes all three of the following components: the Northern Intakes, Conveyance Facilities, and maximum diversions within the range of 3,000 to 7,500 cubic feet per second.
- C. WHEREAS**, the 2022 Draft EIR states that the Delta Conveyance Project and Conforming Project Alternatives will be operated in compliance with (i) requirements to allow sufficient flow to bypass the new Northern Intakes and remain in the Sacramento River as specified in Table 3-15 of the 2022 Draft EIR, as may be modified during the applicable permitting processes prior to operations; and (ii) requirements that there must be continued use of existing intakes in the south Delta by refraining from diverting from the Northern Intakes above a total low-level pumping quantity of 900 cubic feet per second unless the combined rate of diversion at the Export Facilities in the South Delta is at least approximately 3,000 cubic feet per second. For the purposes of this Agreement, the requirements specified above, or similar Delta Conveyance Project or Conforming Project Alternative operational requirements that are at least as protective of water quality at CCWD’s intake, constitute the “**Operational Requirements**”.

- D. WHEREAS**, the 2022 Draft EIR states that DWR’s fundamental purpose in proposing the Delta Conveyance Project is to develop new diversion and conveyance facilities in the Delta that are necessary to restore and protect the reliability of SWP water deliveries, and potentially Central Valley Project (“**CVP**”) water deliveries south of the Delta, consistent with the state’s Water Resilience Portfolio, in a cost-effective manner.
- E. WHEREAS**, DWR and the United States Department of the Interior, Bureau of Reclamation (“**Reclamation**”) together previously proposed a different project, referred to as the California WaterFix (“**WaterFix**”).
- F. WHEREAS**, on March 24, 2016, CCWD and DWR entered into a settlement agreement titled Agreement for Mitigation of Impacts to Contra Costa Water District from Construction and Operation of Bay Delta Conservation Plan/ California WaterFix (“**2016 WaterFix Mitigation Agreement**”).
- G. WHEREAS**, the Parties disagree as to whether and to what extent the 2016 WaterFix Mitigation Agreement establishes obligations of the Parties with respect to the Delta Conveyance Project or Conforming Project Alternatives.
- H. WHEREAS**, the Parties disagree as to whether the Delta Conveyance Project and Conforming Project Alternatives would result in significant impacts to CCWD; CCWD contended that WaterFix would result in significant water quality and water supply impacts to CCWD and its customers and CCWD has similar concerns regarding the Delta Conveyance Project and Conforming Project Alternatives, while DWR disagrees that the Delta Conveyance Project and Conforming Alternatives would result in significant impacts to water quality, including in the vicinity of CCWD’s intakes, and result in adverse impacts to CCWD’s water supplies.
- I. WHEREAS**, DWR intends to file a water rights change petition with the State Water Resources Control Board (“**State Board**”) seeking to add the Northern Intakes as new points of diversion and/or points of re-diversion to SWP water rights permits and, potentially, support Reclamation in seeking to add the Northern Intakes as new points of diversion and/or points of re-diversion to CVP water rights permits, in connection with the Delta Conveyance Project or a Conforming Project Alternative (“**Delta Conveyance Project Change of Point of Diversion**”).
- J. WHEREAS**, absent an undisputed, enforceable and binding agreement to address CCWD’s concerns about potential impacts from the Delta Conveyance Project or Conforming Project Alternative to CCWD and its customers and to ensure possible increased costs to CCWD resulting from the alleged impacts caused by the Delta Conveyance Project are avoided, CCWD has threatened to submit comments on the 2022 Draft EIR and, as appropriate, commence litigation arising under the California Environmental Quality Act (“**CEQA**”), California Water Code, and other statutes and

regulations to challenge actions and final decisions by DWR and other permitting agencies regarding the Delta Conveyance Project or Conforming Project Alternative, if approved by DWR after completion of CEQA.

- K. WHEREAS**, without abandoning the position of the Parties arising from the 2016 WaterFix Mitigation Agreement or CCWD's alleged harms described in Recitals H and J, because the Parties desire to settle their disagreements in lieu of litigation and to avoid CCWD's potential water rights protest of any petition for a Delta Conveyance Project Change in Point of Diversion, the Parties have agreed on the measures fully set forth in this Agreement.
- L. WHEREAS**, the Parties intend that capacity in the Delta Conveyance Project or Conforming Project Alternative to deliver CCWD's water supplies pursuant to this Agreement will not reduce SWP supplies or interfere with or reduce use of the Conveyance Facilities by DWR and the DCP Participants.
- M. WHEREAS**, the Parties recognize that DWR has not decided whether or on what conditions to approve the Delta Conveyance Project or Conforming Project Alternatives, and the Parties intend that, except with regard to the obligation to study the facilities contemplated in this Agreement and, if after compliance with CEQA and DWR decision whether to approve the Delta Conveyance Project or Conforming Project Alternative, to implement the terms of this Agreement as appropriate, this Agreement in no way affects the independent judgment to be exercised and findings required to be made by DWR or CCWD under CEQA.
- N. WHEREAS**, this Agreement is intended to protect CCWD and its customers in the event that DWR approves and implements the Delta Conveyance Project or a Conforming Project Alternative; therefore, this Agreement is intended to bind CCWD and its successors and assigns to comply with the terms of this Agreement. By entering into this Agreement CCWD does not endorse or otherwise support approval and implementation of the Delta Conveyance Project or a Conforming Project Alternative.
- O. WHEREAS**, DWR will benefit from CCWD's agreement, as described in Section 5 of this Agreement, not to commence litigation to enforce the 2016 WaterFix Mitigation Agreement; not to submit comments opposing or support or assist any other party in opposing or commencing litigation challenging the Delta Conveyance Project or Conforming Project Alternative CEQA compliance document; not to submit a protest and not to support or assist any other protestant in protesting the Delta Conveyance Project Change of Point of Diversion, incidental take permits and other permits and approvals to the extent such permits and approvals are specific to the Delta Conveyance Project or Conforming Project Alternative; and not to oppose or support or assist any other party in opposing the Delta Conveyance Project or Conforming Project Alternative in any other regulatory process for the Delta Conveyance Project or

Conforming Project Alternative. Therefore, this Agreement is intended to bind DWR and its successors and assigns to comply with the terms of this Agreement including but not limited to providing conveyance capacity in the Conveyance Facilities and conveying water to CCWD as specified by this Agreement.

NOW, THEREFORE, FOR FULL AND VALUABLE CONSIDERATION, THE RECEIPT AND SUFFICIENCY OF WHICH IS HEREBY ACKNOWLEDGED, AND BASED UPON THE FOREGOING RECITALS AND THE TERMS, CONDITIONS, COVENANTS, OBLIGATIONS AND AGREEMENTS CONTAINED BELOW, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. EFFECTIVENESS, CEQA REVIEW AND TERM OF AGREEMENT

- 1.1** Effective Date. Unless otherwise specified by the terms of this Agreement, all of this Agreement's terms, conditions, covenants, obligations and agreements shall be effective as of the date that it is executed by both Parties.
- 1.2** Term. Unless this Agreement is earlier terminated by mutual written agreement of the Parties, the terms of this Agreement, including but not limited to the obligations to operate, maintain, repair and replace the Interconnection Facilities, to provide capacity in the Conveyance Facilities, and to convey CCWD's water, shall remain in effect for the entire duration that the Delta Conveyance Project or any Conforming Project Alternative is in operation. For the avoidance of doubt, this Agreement shall be effective from and after the effective date hereof, including, without limitation, at any such time that is prior to, during, or after the design, construction, operation or use of the Delta Conveyance Project or Conforming Project Alternative.
- 1.2.1** The Parties agree and acknowledge that DWR must complete CEQA review before it can approve, construct, operate, or use the Delta Conveyance Project or Conforming Project Alternative. In conducting its CEQA review, DWR reserves all of its rights, powers and discretion under CEQA with regard to the Delta Conveyance Project or Conforming Project Alternative, including, to the extent permitted under applicable law, but without limiting any of DWR's obligations under this Agreement, (i) the authority to adopt mitigation measures and/or an alternative project design, configuration, capacity or location in order to avoid or reduce any identified significant environmental impacts; (ii) the authority to deny approval of the Delta Conveyance Project or Conforming Project Alternative based on any significant environmental impact that cannot be mitigated; and (iii) the authority to approve the Delta Conveyance Project or Conforming Project Alternative notwithstanding any significant environmental

impact that cannot be mitigated, if DWR adopts a statement of overriding considerations. CCWD similarly reserves all of its rights, powers and discretion under CEQA with regard to any decision by CCWD on whether and how to approve any connection to or use of the Delta Conveyance Project or Conforming Project Alternative.

1.2.2 The Parties further agree and acknowledge that DWR also must complete CEQA review before it can approve, construct, operate or use any Interconnection Facilities described in this Agreement. Pursuant to this Agreement, DWR will identify construction and operation of the Interconnection Facilities as a mitigation measure in the CEQA compliance document for the Delta Conveyance Project and will include an evaluation of the environmental effects of such mitigation for the Delta Conveyance Project. Further, any new CEQA document for a project that meets the definition of the Delta Conveyance Project or a Conforming Project Alternative will continue to include the Interconnection Facilities as a mitigation measure. As CEQA requires a lead agency to assess the reasonably foreseeable direct and indirect impacts of the implementation of mitigation, DWR reserves all of its rights, powers and discretion under CEQA with regard to the potential environmental impacts of Interconnection Facilities, including, to the extent permitted under applicable law, but without limiting any of DWR's obligations under this Agreement, (i) the authority to adopt mitigation measures and/or an alternative project design, configuration, capacity or location in order to avoid or reduce any identified significant environmental impacts; (ii) the authority to deny approval of the Interconnection Facilities based on any significant environmental impact that cannot be mitigated; and (iii) the authority to approve the Interconnection Facilities notwithstanding any significant environmental impact that cannot be mitigated, if DWR determines that these significant and unavoidable impacts are outweighed by the project's social, economic or other benefits. CCWD similarly reserves all of its rights, powers and discretion under CEQA with regard to any decision by CCWD on whether and how to approve any operation or use of the Interconnection Facilities.

1.2.3 If DWR approves and commences construction of the Delta Conveyance Project or any Conforming Project Alternative, DWR shall construct the Interconnection Facilities described in Section 3.1 of this Agreement. However, if DWR approves the Delta Conveyance Project or any Conforming Project Alternative with a diversion capacity of 3,000 cubic feet per second to less than 4,500 cubic feet per second, the Parties will meet and confer. This Agreement was not developed

based on a capacity in this range, so the Parties will negotiate in good faith to determine to what extent, based upon mutual agreement, the Interconnection Facilities should be implemented or the size of the Interconnection Facilities (see Section 3.1), Minimum Conveyance Capacity (see Section 2.4.1), and payment terms (see Sections 2.5, 2.6, and 3.2) should be adjusted. Additionally, if DWR approves the Delta Conveyance Project or any Conforming Project Alternative and DWR later approves a project to add to or otherwise modify the Conveyance Facilities to increase total maximum diversions above 7,500 cubic feet per second, DWR shall remain obligated to construct the Interconnection Facilities specified by this Agreement and the Parties will meet and confer to assess whether the location, size or capacity of the Interconnection Facilities or the Minimum Conveyance Capacity described in Section 2.4.1 of this Agreement should be changed by mutual agreement in relation to such increase in the maximum diversions of the Conveyance Facilities. If DWR approves the Delta Conveyance Project or any Conforming Project Alternative and DWR later approves a project or project modification to reduce total maximum diversions below 3,000 cubic feet per second, DWR shall not remain obligated to construct the Interconnection Facilities specified by this Agreement, and DWR shall not remain obligated to convey any water to CCWD under any of the terms in Section 2.

1.2.4 If DWR approves the Delta Conveyance Project or any Conforming Project Alternative, and DWR later approves, constructs and operates a project to add to or otherwise modify the Conveyance Facilities to increase total maximum diversions above 7,500 cubic feet per second, DWR shall, at a minimum, remain obligated to comply with the terms of this Agreement, including the obligations to operate, maintain, repair and replace the Interconnection Facilities and to make available the capacities to convey water to CCWD through the Conveyance Facilities and convey water to CCWD through the Conveyance Facilities and Interconnection Facilities, and the Parties will meet and confer to assess whether the operations of the Conveyance Facilities and Interconnection Facilities should be changed by mutual agreement in relation to such an increase in maximum diversions.

1.2.5 As described in Section 5 of this Agreement, CCWD shall not challenge or oppose the Delta Conveyance Project or a Conforming Project Alternative that is consistent with the Operational Requirements. If DWR approves and operates a Delta Conveyance Project as defined in Recital A or a Conforming Project Alternative as defined in Recital B, and that is not or will not be consistent with the Operational

Requirements as defined in Recital C, CCWD may, as described in Section 5 of this Agreement, challenge or oppose such a new or modified project, but such challenge or opposition shall be limited to the scope of the incremental impacts from that change or modification. If DWR approves the Delta Conveyance Project or any Conforming Project Alternative, and DWR later proposes or approves a project to add to or otherwise modify the Conveyance Facilities to increase total maximum diversions above 7,500 cubic feet per second, CCWD may challenge or oppose such a project or project modification as long as CCWD has first sought to meet and confer as described in Sections 1.2.3 and 1.2.4 of this Agreement, and CCWD's challenge or opposition relates to effects that CCWD contends differ in type, extent or magnitude from the effects of a project that meets the definition of the Delta Conveyance Project or Conforming Project Alternative and is consistent with the Operational Requirements.

1.2.6 Twenty years after the first full month of operation of the Delta Conveyance Project or a Conforming Project Alternative, and every twenty (20) years thereafter, the Parties will assess the status of the Agreement. DWR and CCWD will characterize whether the water quality impacts associated with the Delta Conveyance Project or Conforming Project Alternative have similar magnitude and extent to those anticipated by the Parties at the time of execution, when considering climate change effects, sea level rise, and changes in regulatory requirements and policy decisions that are then in effect at each twenty (20) year evaluation period. The Parties will work together in good faith to determine whether to adjust and how to adjust, upon mutual agreement, the Minimum Conveyance Capacity described in Section 2.4.1 and the payment terms described in Sections 2.5, 2.6, and 2.9 of this Agreement. The Parties will make the mutually agreed upon adjustments.

2. CONVEYANCE OF WATER TO CCWD FROM AN ALTERNATE HIGH-QUALITY SOURCE

2.1 Conveyance of CCWD's Water. This Agreement requires construction of new Interconnection Facilities that would connect the Delta Conveyance Project or Conforming Project Alternative to CCWD Facilities. As described in Section 3 of this Agreement, the Interconnection Facilities would have a minimum firm operating capacity of 50 cubic feet per second; however, DWR and CCWD may consider and mutually agree to increase the Interconnection Facilities' firm operating capacity from 50 cubic feet per second to up to 150 cubic feet per second to provide additional flexibility in the timing of deliveries. If DWR commences operation of the Delta Conveyance Project or a Conforming Project

Alternative, DWR shall provide capacity within the Conveyance Facilities to deliver CCWD's water to CCWD (i) with the Minimum Conveyance Capacity described in Section 2.4.1 of this Agreement; (ii) up to the maximum capacity of the Interconnection Facilities; and (iii) according to the provisions described in Section 2.7 of this Agreement. The method of conveying the water to CCWD shall be as described in Section 2.2 or Section 2.3 of this Agreement, and costs of conveying water through the Conveyance Facilities to the Interconnection Valve shall be as described in Section 2.5 and Section 2.6 of this Agreement. CCWD shall identify whether the water conveyed to it by DWR is: (a) water diverted pursuant to CCWD's CVP Contract Supply; (b) water diverted under CCWD's Los Vaqueros water right, provided that it is within the amount and season then authorized in the LV Water Right Permit and providing the Delta is then in Excess Water Conditions; (c) transfer water purchased by CCWD, provided that CCWD has purchased the transfer water and obtained all necessary permits and approvals; (d) water exchanged with CCWD's CVP Contract Supply or CCWD's other water supplies; or (e) or any combination of (a), (b), (c), or (d). This Agreement does not increase the total amount of water that CCWD otherwise would be entitled to divert pursuant to its CVP Contract Supply and LV Water Right Permit, or any water transfers. DWR will not use the Delta Conveyance Project or Conforming Project Alternative facilities to deliver excess flows to CCWD pursuant to subsection (b) of this Section 2.1 if the delivery would reduce total SWP diversions. This Agreement also does not change any existing approval process for identification, scheduling, or allocation of water diverted pursuant to CCWD's CVP Contract Supply, LV Water Right Permit, or any water transfers or exchanges. CCWD water supply conveyed pursuant to this Agreement may be used as CCWD deems appropriate in its sole discretion.

2.2 Method of Conveyance. The normally expected method of conveying the water described in Section 2.1 of this Agreement shall be through the Interconnection Facilities described in Section 3.1 of this Agreement.

2.3 Alternate Method of Conveyance. In its sole discretion and subject to all necessary regulatory approvals to be obtained by CCWD, but only when DWR would otherwise be obligated to convey water under Section 2.4, DWR may elect to but in no circumstance is required to convey water to CCWD through East Bay Municipal Utility District's ("**EBMUD**") capacity share of the Freeport Regional Water Authority's ("**FRWA**") Intake ("**Freeport Intake**") and the existing or modified interconnection between EBMUD's Mokelumne Aqueduct No. 2 and CCWD's Los Vaqueros Pipeline ("**Alternate Method**"). The Parties acknowledge that conveyance of water to CCWD via the Freeport Intake and interconnection between CCWD and EBMUD's Mokelumne Aqueduct No. 2 would be governed by a wheeling agreement between CCWD, EBMUD and

FRWA, which would provide that use of the Freeport Intake and other facilities will not adversely affect EBMUD or Sacramento County Water Agency or their respective contractual commitments and water rights, the FRWA, or EBMUD's customers, prior commitments, or capital project or operational needs.

2.4 Conveyance Capacity. Commencing with the first “**Operational Year**” (defined to be the one-year period from December 1 of each year through the following November 30) following DWR's start-up and testing of the Conveyance Facilities, DWR will make conveyance capacity available in the Conveyance Facilities for CCWD, over the course of each Operational Year, as follows:

2.4.1 The minimum annual capacity per Operational Year made available by DWR to CCWD shall allow 18,000 acre-feet of CCWD water supplies to move through the Conveyance Facilities to the Interconnection Facilities (“**Minimum Conveyance Capacity**”), subject only to Regulatory Restrictions (see definition in Section 2.7.2 of this Agreement), a Force Majeure event described in Section 2.10 of this Agreement, a state emergency described in Section 2.11 of this Agreement, or required maintenance, repair or replacement described in Section 2.12 of this Agreement.

- (a)** To provide the Minimum Conveyance Capacity, DWR shall (i) provide capacity in the Conveyance Facilities of at least 50 cubic feet per second dedicated to CCWD and, upon request by CCWD, shall convey water to CCWD at a rate of at least 50 cubic feet per second (if requested) during the months of July, August, September, October and November; and (ii) from December to June, provide at least 3,000 acre-feet of capacity in the Conveyance Facilities dedicated to CCWD and, upon request by CCWD, shall convey at least 3,000 acre-feet of water to CCWD (approximately equivalent to 50 cubic feet per second for one month).
- (b)** If DWR chooses to provide all or a portion of the Minimum Conveyance Capacity through the Alternate Method of conveyance described in Section 2.3, CCWD will coordinate the timing and amount of water with EBMUD, subject to a separate wheeling agreement between EBMUD, CCWD and FRWA.
- (c)** DWR does not plan to use the Conveyance Facilities during any period when Delta water quality requirements are modified under a State Board Temporary Urgency Change Order (“**TUCO**”) applicable to DWR's water rights. If unexpected

conditions arise and there may be some operation of the Conveyance Facilities during a period with such modified requirements, DWR will meet and confer with CCWD before submitting or joining in any petition for a TUCO that may include using the Conveyance Facilities during any period when Delta water quality requirements for the SWP and CVP are modified under a TUCO. The Parties will discuss any unusual conditions under which DWR might use the Conveyance Facilities during the period when Delta water quality requirements for the SWP and CVP are modified, and the Parties will negotiate in good faith to determine whether to adjust the schedule described in Section 2.7 of this Agreement and will make mutually agreed upon adjustments.

2.4.2 DWR will provide conveyance capacity to CCWD above the Minimum Conveyance Capacity at times that there is available capacity in the Delta Conveyance Project or Conforming Project Alternative as follows:

- (a)** Conveyance of water through the Conveyance Facilities to CCWD above the Minimum Conveyance Capacity will be subject to DWR's determination of unused available capacity of the Delta Conveyance Project or Conforming Project Alternative, taking into consideration the Regulatory Restrictions and overall SWP operations. If DWR determines there is unused capacity in the Delta Conveyance Project or Conforming Project Alternative, the first right of refusal for using the capacity will be in the order described below:
 - (i) DCP Participants (DWR moving non-SWP or SWP water)
 - (ii) Parties that hold long-term water supply contracts for the SWP (as of execution of this Agreement) not included in section (i) above (DWR moving non-SWP or SWP water)
 - (iii) CCWD
 - (iv) Other wheeling parties
- (b)** During December through June, if the operation of the Conveyance Facilities is limited to meet a Delta outflow requirement or requirement that is a surrogate for Delta outflow, diversions at the Northern Intakes for conveyance to CCWD will not decrease Delta outflow. If DWR uses any capacity of the Conveyance Facilities to meet its obligations to CCWD

under this Agreement when operation of the Delta Conveyance Project is limited to meet Delta outflow or a surrogate to Delta outflow requirement, CCWD will shift diversions from its existing intake(s) to the proposed Northern Intakes without increasing CCWD's total Delta diversions to ensure there is no net reduction in outflow.

2.5 Costs of Conveyance to the Interconnection Facilities Turnout. The cost structure for operations, maintenance, repair, and replacement varies based on the capacity of the Interconnection Facilities described in Section 3.1 of this Agreement:

2.5.1 Interconnection Facilities of 50 cfs: For all conveyance through the Delta Conveyance Project or Conforming Project Alternative to the Turnout for the Interconnection Facilities, DWR shall bear all costs associated with conveyance of the water through the Conveyance Facilities to the Turnout for the Interconnection Facilities (including, without limitation, capital costs, operational costs including energy costs, and maintenance, repair and replacement costs). The **"Turnout"** is the location that the water would move from the Conveyance Facilities to enter the Interconnection Pump Station.

2.5.2 Interconnection Facilities over 50 cfs: For any conveyance of water through the Delta Conveyance Project or Conforming Project Alternative to the Turnout for the Interconnection Facilities, DWR shall bear all costs, as described in Section 2.5.1 of this Agreement, associated with the conveyance of up to the first 26,000 acre-feet of water annually through the Conveyance Facilities to the Turnout for the Interconnection Facilities. For deliveries over 26,000 acre-feet per Operational Year, CCWD shall pay DWR a conveyance charge within 30 days of receiving an invoice, which charge will provide fair compensation for capital recovery, operations, maintenance, replacement, and variable charges associated with the use of the Delta Conveyance Project or Conforming Project Alternative facilities' capacity from the Northern Intakes to the Turnout for the Interconnection Pump Station consistent with the California Wheeling Statute codified at Water Code sections 1810, et seq., or successor legislation.

2.5.3 If the Alternate Method is used to convey water to CCWD pursuant to this Agreement, DWR shall reimburse CCWD for the amount charged by EBMUD and FRWA consistent with the California Wheeling Statute codified at Water Code sections 1810, et seq., or successor legislation,

for conveyance of the water from the Freeport Intake to the existing or modified interconnection between EBMUD's Mokelumne Aqueduct No. 2 and CCWD's Los Vaqueros Pipeline pursuant to a separate agreement between EBMUD, CCWD and FRWA.

2.6 Costs of Conveyance from the Interconnection Pump Station to CCWD Facilities.

CCWD shall bear actual costs (or, if such costs are part of a larger program, contract, or job description, CCWD shall bear the portion of such actual costs) that are incurred by DWR for conveyance of water from the Interconnection Pump Station Turnout to CCWD's Facilities (including energy costs and maintenance, repair, and replacement costs specific to the Interconnection Facilities).

2.7 Coordination of Scheduled Conveyances. The Parties shall collaborate to schedule conveyances pursuant to this Agreement and as specified below. Subject to this Agreement, DWR will retain discretion regarding operations of the Conveyance Facilities and Interconnection Facilities, as well as the scheduling of conveyances to CCWD.

2.7.1 The Parties will meet with one another to schedule conveyances pursuant to the coordination process and protocols provided in Exhibit C to this Agreement, as may be amended from time to time by mutual written agreement of the Parties.

2.7.2 Prior to and during each Operational Year, DWR will identify a forecasted conveyance schedule that meets the Minimum Conveyance Capacity requirements described in Section 2.4.1 of this Agreement and that also identifies the anticipated opportunities to convey water to CCWD above the Minimum Conveyance Capacity up to the capacity of the Interconnection Facilities, and CCWD will request delivery of water within that schedule (a "**Conveyance Request**"). In addition to a Force Majeure event as described in Section 2.10 of this Agreement, a state emergency as described in Section 2.11 of this Agreement, and required maintenance, repair or replacement as described in Section 2.12 of this Agreement, DWR only may not provide conveyance capacity to CCWD after the capacity is scheduled pursuant to the terms of this Agreement for either of the following two reasons:

(i) DWR is unable to convey water to CCWD due to constraints or restrictions imposed by applicable regulatory authorities having jurisdiction over construction or operation of the Northern Intakes or Conveyance Facilities that prevent the conveyance of CCWD's water through the Conveyance Facilities from the Northern Intakes, including

but not limited to limitations imposed by SWP water rights, limitations imposed by Water Rights Decision D-1641 or updated Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary requirements, federal and California Endangered Species Act requirements, and other permitting requirements imposed by agencies with jurisdiction over the Delta Conveyance Project or Conforming Project Alternative other than DWR (“**Regulatory Restrictions**”), or

(ii) the applicable annual Minimum Conveyance Capacity for that Operational Year already has been made available to CCWD using the methods described by this Agreement (or it is scheduled to be made available in a future month) and there is not available unused capacity in the Conveyance Facilities taking into consideration the physical capacity of the Conveyance Facilities, Regulatory Restrictions, and priority usage of the Conveyance Facilities for or by DCP Participants or SWP Contractors who are not DCP Participants.

2.7.3 If DWR fails to provide conveyance capacity to CCWD within seven (7) days of the schedule agreed to by DWR and CCWD or if DWR fails to deliver water to CCWD as scheduled, and such conveyance by DWR is not then excused due to the circumstances described under the preceding clauses (i) or (ii), a Force Majeure event as described in Section 2.10 of this Agreement, a state emergency as described in Section 2.11 of this Agreement, or required maintenance, repair or replacement as described in Section 2.12 of this Agreement, then, upon further written notice from CCWD to DWR, the Parties shall meet and confer in good faith to resolve the matter. If the Parties cannot resolve the matter within five (5) days of CCWD’s written notice, the matter may be submitted by either Party to arbitration pursuant to Section 7 of this Agreement.

2.8 Water Quality. The Parties acknowledge and understand that DWR will operate the Conveyance Facilities intermittently to capture high flows when available, so there may be times that the Conveyance Facilities are not operating and water will remain in the Conveyance Facilities’ tunnel. The amount of time required to completely replace the tunnel volume will range from less than a day at full capacity to several days at the lowest Delta Conveyance Project or Conforming Project Alternative diversion levels. As a result, whenever DWR is actively diverting flows, those flows would be expected to be sufficient to prevent poor water quality. However, system operations based on hydraulic and hydrologic modeling indicate there would be several months without substantial diversion amounts in most years. During these periods, DWR will use

maintenance flows to divert some water from the river to prevent poor water quality and provide necessary flows to exercise pumping equipment. DWR and CCWD will coordinate operations of the Interconnection Facilities as described in Exhibit C. During periods without substantial diversions within the Conveyance Facilities, a review of maintenance flows and analysis of residence time within the tunnel may be performed and reviewed by the DCP Interconnection Real-Time Operations Workgroup (see Exhibit C) to assess water quality and Interconnection Facilities operations.

2.9 Remedy for not Providing the Minimum Conveyance Capacity. This Section 2.9 does not apply if a Force Majeure event described in Section 2.10 of this Agreement, a state emergency described in Section 2.11 of this Agreement, or required maintenance, repair or replacement described in Section 2.12 of this Agreement prevents DWR from providing the Minimum Conveyance Capacity. If DWR fails to provide the Minimum Conveyance Capacity required under Section 2.4 of this Agreement within an Operational Year, despite CCWD's timely scheduling of delivery of water and its ability to accept such water, the Parties shall meet and confer to attempt to resolve the capacity deficit by mutually agreeable and reasonable means, such as making additional capacity available in upcoming months. If the Parties cannot reach agreement within thirty (30) days after the conclusion of said Operational Year and the failure to provide conveyance capacity within said Operational Year was not due to an excusable event as defined in Section 2.7.2(i) of this Agreement, which event prevented DWR from providing the Minimum Conveyance Capacity to CCWD by the end of said Operational Year, DWR shall pay CCWD, no later than thirty (30) days after the conclusion of said Operational Year, an amount equal to what it would have cost to convey the water deficit¹ for said Operational Year through the Freeport Intake and the interconnection between EBMUD's Mokelumne Aqueduct and CCWD's Los Vaqueros Pipeline under Water Code sections 1810 et seq. DWR shall have no obligation under this Section 2.9 or otherwise to the extent that DWR does not meet its Minimum Conveyance Capacity required under Section 2.4.1 of this Agreement within a given Operational Year because either (i) CCWD fails to request and schedule delivery of such water, (ii) CCWD rejects delivery of water for reasons other than DWR's noncompliance with the provisions of Section 2.8 of this Agreement, or (iii) CCWD informs DWR that it is not able to accept delivery of such water.

2.10 Force Majeure. If, due to Force Majeure as defined herein below, DWR is prevented from providing the Minimum Conveyance Capacity required within

¹ Water deficit for the Operational Year is the difference between the Minimum Conveyance Amount described in Section 2.4.1 of this Agreement or the available CCWD supplies to be conveyed through the Conveyance Facilities, whichever is lower, and the amount of water conveyed to CCWD within such Operational Year.

an Operational Year to CCWD through the Interconnection Facilities described in Section 3.1 of this Agreement, DWR's payment of the remedy otherwise required under Section 2.9 of this Agreement shall be excused for the particular Operational Year in which the Force Majeure conditions prevented such conveyance. "**Force Majeure**" means , with respect to a Party, an event beyond the control of such Party (or any person acting on its behalf), which event (a) does not arise or result from the fault or negligence of such Party (or any Person acting on its behalf) and (b) by its nature would not reasonably have been foreseen by such Party (or such Person), or, if it would reasonably have been foreseen, was unavoidable, and shall include but is not limited to acts of war (declared or undeclared); acts of terrorism; insurrection; revolution; civil commotion; strikes or lock-outs not caused by, or outside the reasonable control of, the Party claiming Force Majeure; riots; earthquakes; fires; floods; tornados or other high-wind events; levee failure; casualties; explosions; landslides; loss of electric power required to operate; acts of the public enemy; epidemics; quarantine restrictions; or litigation that fully enjoins required performance. If either Party is rendered wholly or partly unable to timely perform its obligations under this Agreement because of a Force Majeure event, that Party shall be excused from the performance affected by the Force Majeure event (but only to the extent so affected), provided that (i) the Party affected by the Force Majeure event, as soon as reasonably practicable after obtaining knowledge of the occurrence of the claimed Force Majeure event, gives the other Party prompt oral notice, followed by a written notice reasonably describing the Force Majeure event, (ii) the suspension of or extension of time for performance is of no greater scope and of no longer duration than is required by the Force Majeure event and (iii) the Party affected by such Force Majeure event uses all reasonable efforts to mitigate or remedy its inability to perform as soon as reasonably possible. Further, if DWR operated the Conveyance Facilities during a portion of an Operational Year when it was otherwise not able to operate due to a Force Majeure event, the Minimum Conveyance Capacity as described in Section 2.4.1 shall be modified based on the operations that occurred in that Operational Year. The Minimum Conveyance Capacity shall be adjusted based upon the percentage of time that the Delta Conveyance Project or Conforming Project Alternative was able to operate within the December through June period² of that Operational Year, and the Parties shall adjust the schedule as described in Section 2.7 of this Agreement to reflect the adjusted Minimum Conveyance Capacity. If the adjusted Minimum Conveyance Capacity is greater than what DWR made

² For example, if the Conveyance Facilities were able to operate throughout December to June, the Minimum Conveyance Capacity would remain as specified in Section 2.4.1; if the Conveyance Facilities were able to operate only half of the December to June period, the Minimum Conveyance Capacity for that Operational Year would be reduced to half of that specified in Section 2.4.1.

available during the Operational Year, DWR shall provide to CCWD the remainder of the adjusted Minimum Conveyance Capacity within three (3) years of the cessation of the Force Majeure conditions. DWR will not charge CCWD for conveyance through the Conveyance Facilities of such remaining Minimum Conveyance Capacity and, if DWR provides such remaining Minimum Conveyance Capacity in any year or years following the Operational Year in which the Force Majeure event occurred, such remaining Minimum Conveyance Capacity shall not count toward the total of the 26,000 acre-feet of water per Operational Year for which DWR will not charge a conveyance fee to CCWD pursuant to Section 2.5.2 of this Agreement.

2.11 State Emergencies. During any time period in which a governor-declared drought emergency, any other governor-declared state of emergency, or an SWP-related emergency identified by the DWR Director requires DWR in its discretion to use the full capacity of the Delta Conveyance Project or Conforming Project Alternative for the purpose of meeting otherwise unmet minimum health and safety demands for domestic supply, fire protection, or sanitation, DWR first may utilize the full capacity of the Delta Conveyance Project or Conforming Project Alternative for such purposes; provided however, that if such event occurs, DWR shall attempt in good faith to provide the Minimum Conveyance Capacity to CCWD during any other period or periods of the Operational Year in which use of the full capacity of the Delta Conveyance Project or Conforming Project Alternative is not needed for such health and safety purposes. If it is not possible to reschedule within the same Operational Year, DWR will reschedule the remaining Minimum Conveyance Capacity within three (3) years of the cessation of the state emergency, when feasible. DWR will not charge CCWD for conveyance through the Conveyance Facilities of such remaining Minimum Conveyance Capacity and, if DWR provides such remaining Minimum Conveyance Capacity in any year or years following the Operational Year in which the state emergency occurred, such remaining Minimum Conveyance Capacity shall not count toward the total of the 26,000 acre-feet of water per Operational Year for which DWR will not charge a conveyance fee to CCWD pursuant to Section 2.5.2 of this Agreement. DWR shall notify CCWD of any emergency described in this Section 2.11 in advance of any disruption or reduction in capacity available to CCWD, or as soon as reasonably feasible thereafter.

2.12 Required Maintenance, Repair or Replacement. DWR may temporarily discontinue or reduce the capacity in the Conveyance Facilities available to CCWD hereunder for the purposes of necessary investigation, inspection, maintenance, repair, or replacement of any of the Delta Conveyance Project facilities, Conforming Project Alternative facilities, Interconnection Facilities, or related facilities required for operations (such as DWR's power generation or

distribution facilities) necessary for the delivery of water under Section 2.1 of this Agreement to CCWD. DWR shall notify CCWD as far in advance as possible for any such discontinuance or reduction, except in cases of emergency, in which case advance notice need not be given and DWR shall notify CCWD of such discontinuance or reduction as soon as reasonably feasible. Further, DWR shall minimize the duration of such discontinuance or reduction to the shortest duration that is reasonably feasible.

In the event of any discontinuance or reduction of conveyance capacity pursuant to this Section 2.12, the Parties will collaborate in good faith to reschedule delivery to CCWD through the Conveyance Facilities and Interconnection Facilities of the amount of water that otherwise would have been delivered to CCWD during such discontinuance or reduction period under the water delivery schedule for that Operational Year to other times during the same Operational Year or, if not conveyed during the same Operational Year, DWR will reschedule and deliver that amount during the succeeding Operational Year. DWR will not charge CCWD for conveyance of such rescheduled amount of water and, if the Parties reschedule delivery to any succeeding Operational Year or Years, such rescheduled amount of water shall not count toward the total of the 26,000 acre-feet of water per Operational Year for which DWR will not charge a conveyance fee to CCWD pursuant to Section 2.5.2 of this Agreement.

2.13 Evaluation and Adoption of Mitigation Measures. The following sections of this Agreement are intended to be adopted by DWR as CEQA mitigation measures to address CCWD's alleged potential adverse environmental effects of the Delta Conveyance Project or a Conforming Project Alternative upon CCWD: Sections 2.1, 2.2, 2.3, 2.4, 2.8, and 3.1. Any CEQA compliance document for the Delta Conveyance Project or Conforming Project Alternative shall identify such mitigation measures and evaluate the construction, operational and cumulative impacts of such mitigation measures based upon the conceptual design described in Section 3.1.2 of this Agreement. If DWR elects to approve a Conforming Project Alternative with an alignment that differs from the alignment described in the 2022 Draft EIR for the Delta Conveyance Project, the Parties will meet and confer to identify a revised location for the Interconnection Facilities and DWR will complete any necessary CEQA review of the revised location for the Interconnection Facilities prior to approving the Conforming Project Alternative.

3. INTERCONNECTION FACILITIES

3.1 Development of Interconnection Facilities. To ensure the method for conveying water to CCWD, as described in Section 2.2 of this Agreement, is available to

convey water to CCWD, if its obligation to do so arises under this Agreement, DWR shall design, construct, operate, maintain, repair and replace as needed the facilities necessary to convey water from the Conveyance Facilities to CCWD Facilities (“**Interconnection Facilities**”). DWR shall be owner and operator of the Interconnection Facilities, with the exception of the Interconnection Valve described below. Costs of design, permitting, land acquisition, and construction of the Interconnection Facilities will be allocated as described in Section 3.2 of this Agreement. DWR shall be responsible for complying with all applicable laws, regulations and requirements associated with the design, construction, operation, maintenance, repair, and replacement of the Interconnection Facilities.

- 3.1.1** Unless modified by mutual written agreement of the Parties, the Interconnection Facilities shall consist of the following facilities:
- (a)** A pump station and appurtenant facilities, including power transmission facilities (collectively “**Interconnection Pump Station**”), with a direct connection to the Conveyance Facilities and with a firm operating capacity of 50 cubic feet per second, which may be increased up to 150 cubic per second as described in Section 3.2.3 of this Agreement, with no additional standby/backup capacity, and designed to deliver water to CCWD’s Existing Transfer Pump Station under Full System Head conditions as defined in Exhibit A to this Agreement;
 - (b)** a pipeline and appurtenant facilities with a firm operating capacity of 50 cubic feet per second, which may be increased up to 150 cubic per second as described in Section 3.2.3 of this Agreement, to convey the water from the Interconnection Pump Station to CCWD’s existing conveyance system (“**Interconnection Pipeline**”);
 - (c)** a valve between the Interconnection Pipeline and CCWD’s existing conveyance system (“**Interconnection Valve**”) at the point of interconnection with CCWD’s existing conveyance system; and
 - (d)** all power transmission, instrumentation and communication equipment needed to remotely monitor and operate all Interconnection Facilities.
- 3.1.2** Conceptual design of the Interconnection Facilities includes locating the Interconnection Pump Station on Union Island at a proposed maintenance shaft along the Delta Conveyance Project Bethany

Alignment, as described in the 2022 Draft EIR. Further details of the conceptual design are included in Exhibit A to this Agreement. During detailed design of the Interconnection Facilities, DWR and CCWD may consider and mutually agree to a different design for the Interconnection Facilities which otherwise meets the requirements of this Agreement.

- 3.1.3** The Interconnection Facilities shall be fully operational no later than the first day of full normal operation of the Delta Conveyance Project or Conforming Project Alternative, following Conveyance Facilities start-up and testing.
- 3.1.4** DWR may in its discretion contract with the Delta Conveyance Design and Construction Authority (“**DCA**”) for design and engineering work related to the Interconnection Facilities.
- 3.1.5** DWR and its contractors, as applicable, shall design and construct the Interconnection Facilities in coordination with CCWD. Coordination of permitting, design, construction, maintenance, repair, and replacement of the Interconnection Facilities is described in Exhibit B to this Agreement, which may be modified upon mutual written agreement.

3.2 Funding for Design and Construction of the Interconnection Facilities. DWR shall pay all costs for design of the Interconnection Facilities and shall pay for construction of the Interconnection Facilities as follows:

- 3.2.1** DWR shall secure fee title or permanent easements for the Interconnection Facilities at its sole cost. DWR’s cost of securing fee title or permanent easements for the Interconnection Facilities shall be in addition to DWR’s obligations to pay the costs described in Sections 3.2.2 and 3.2.3 of this Agreement, below. If DWR needs to acquire any easements, rights of way, licenses or other property interest from CCWD for the Interconnection Facilities, CCWD shall not charge DWR, but DWR shall pay any costs to document and record, if necessary, any such property rights.
- 3.2.2** DWR shall pay the full cost associated with construction of Interconnection Facilities to convey water at a firm operating capacity of 50 cubic feet per second with sufficient pressure for the water to reach CCWD’s Existing Transfer Pump Station under Full System Head. DWR agrees to pay for the costs of the facilities described in Exhibit A to this Agreement.

3.2.3 Subject to potential reallocation of design costs as described in Section 4 of Exhibit B to this Agreement, DWR and CCWD may consider and mutually agree to increase the Interconnection Facilities' firm operating capacity from 50 cubic feet per second to up to 150 cubic feet per second. If DWR and CCWD agree to increase the size of the Interconnection Facilities to achieve a firm operating capacity of greater than 50 cubic feet per second, DWR shall support CCWD in seeking associated funding and shall be responsible for paying the amount that is equal to the cost of construction of Interconnection Facilities designed to achieve a 50 cubic feet per second firm operating capacity with sufficient pressure for the water to reach CCWD's Existing Transfer Pump Station under Full System Head. The current estimate for such a 50 cubic feet per second facility as shown in Exhibit A to this Agreement is \$47,160,000 in 2022 United States dollars, which amount shall be escalated to the start of construction of the Interconnection Facilities (currently estimated to be 2035). DWR and CCWD will meet and determine the best method to escalate cost based on industry best practice.

3.3 Permits and Approvals for Interconnection Facilities

3.3.1 Except for costs associated with CCWD obtaining its own water right authorizations, DWR shall at its expense obtain all permits and other approvals necessary for the construction, operation, maintenance, repair, and replacement of the Interconnection Facilities, including any permits or agreements with local reclamation districts.

3.3.2 The Interconnection Facilities are intended as a mitigation measure to be included in the CEQA compliance document for the Delta Conveyance Project or Conforming Project Alternative. As part of its CEQA review, DWR shall evaluate the potential environmental impacts of constructing, operating, and maintaining the Interconnection Facilities, including Interconnection Facilities designed to achieve a capacity of 150 cubic feet per second. The Parties recognize that if, after DWR completes the Final EIR and approves the Delta Conveyance Project or Conforming Project Alternative, DWR later elects to pursue an alternative design for the Interconnection Facilities that differs from the design selected by DWR at the time DWR certifies the Final EIR and approves the Delta Conveyance Project or Conforming Project Alternative, DWR will be responsible for completing any additional CEQA review that may be required. Further, this Agreement does not obligate DWR to pay the cost of CEQA review if CCWD later proposes to modify the Interconnection Facilities after they have been constructed.

3.3.3 DWR shall provide CCWD with copies of all permits issued and other approvals necessary for the Interconnection Facilities, including all necessary CEQA compliance documents.

3.4 Post-Construction Ownership and Responsibilities for Operation, Maintenance, Renewal, and Replacement of Interconnection Facilities

3.4.1 After completion of construction of the Interconnection Facilities, DWR shall own, operate, maintain, repair and replace the Interconnection Pump Station and Interconnection Pipeline so that they are capable of operating in good condition and at their full design capacity at all times.

3.4.2 After completion of construction, start-up, and testing of the Interconnection Valve, DWR shall transfer to CCWD ownership of the Interconnection Valve, subject to CCWD's inspection and acceptance of the Interconnection Valve.

(a) DWR shall retain the fee title or easement for the real property on which the Interconnection Pipeline is located but shall ensure that CCWD has full and complete access to the Interconnection Valve for the purposes of inspecting, maintaining, repairing, and replacing such Interconnection Valve.

(b) CCWD shall be responsible for maintaining, repairing, and replacing all components of the Interconnection Valve so that the Interconnection Valve is capable of operating in good condition and at its full design capacity at all times; provided, however, that DWR shall be responsible for repairing and replacing at its sole cost all components of the Interconnection Valve that are defective due to construction or latent defects consistent with DWR's construction contracting requirements regarding warranty periods, but for a period no less than one year.

3.4.3 DWR and CCWD will coordinate regarding the maintenance, renewal, and replacement of Interconnection Facilities as described in Exhibit B to this Agreement.

3.5 Engineering Design Considerations

3.5.1 The Interconnection Facilities shall be designed using the current industry standards and design criteria.

- 3.5.2** The design of the Interconnection Facilities shall include liquefaction analysis and any necessary design elements to address potential liquefaction induced settlement.
- 3.5.3** The design of the Interconnection Facilities shall evaluate and address potential differential settlement.
- 3.5.4** The Parties shall work in good faith to establish a set of protocols, protective measures and monitoring to address potential levee subsidence associated with construction, maintenance, and replacement of the Interconnection Facilities. Construction of the Interconnection Facilities shall not commence until such protocols and protective measures are established to the Parties' mutual satisfaction.
- 3.5.5** DWR shall ensure that any shafts, permanent pumping equipment or permanent electrical equipment associated with the Interconnection Facilities shall be located on or accessed from a finished grade consistent with U.S. Army Corps of Engineers criteria for flood protection and levee breach, and sufficient for protection in the event of sea level rise as identified at the time the design is completed and for the design life of the Interconnection Facilities, assumed for purposes of this provision to be 50 years.
- 3.5.6** DWR shall as part of the design and construction of the Interconnection Facilities incorporate SCADA or equivalent communications systems into its facility that can communicate with and be controlled remotely using a mutually agreed upon platform and communication protocols.

3.6 Construction, Maintenance, Replacement, and Renewal Considerations

- 3.6.1** Utilizing the Construction Workgroup and Maintenance Workgroup described in Exhibit B to this Agreement, DWR shall coordinate with CCWD any planned construction or maintenance work that will affect the Interconnection Facilities or be conducted on CCWD's Facilities. Written approval from CCWD in the form of a Construction Permit is required prior to any such construction or maintenance work on CCWD-owned facilities or property. An example of a current Construction Permit, that may be updated from time to time, is included in Exhibit E to this Agreement. CCWD shall not charge DWR for the Construction Permit.

- 3.6.2** CCWD shall have access to the construction site and the right to reasonably observe, and comment on construction at all times during the construction of the Interconnection Facilities, and CCWD shall comply with DWR's safety-related protocols related to construction site access. Specific points of connection and coordination with CCWD Facilities shall be scheduled as part of the construction schedule and a detailed connection plan provided by DWR to CCWD a minimum of 90 (ninety) days prior to the connection occurring to allow sufficient time to review, comment and accept the connection plan by CCWD. DWR shall provide CCWD all construction contractor submittals for review and shall provide as-built documents as well as operations and maintenance manuals for all equipment to be owned and operated by CCWD.
- 3.6.3** DWR shall ensure that CCWD has free and safe access to CCWD Facilities at all times during construction, maintenance, repair, and replacement of the Interconnection Facilities. To the extent feasible, any shutdown or shutdowns of CCWD Facilities for the construction, maintenance, repair or replacement of the Interconnection Facilities will be limited to a total of two (2) weeks.
- 3.6.4** DWR shall ensure that all easements for the Interconnection Pipeline and Interconnection Valve provide the ability for CCWD to access the Interconnection Valve without undue burden or delay and without prior written approval, in order to operate, maintain, renew, replace or install Interconnection Valve facilities and appurtenances. DWR shall provide all easements and land agreements to CCWD for its review in advance of finalizing such easements and land agreements.

3.7 Inspections

- 3.7.1** DWR shall inspect the Interconnection Pump Station and the above ground components and appurtenant facilities of the Interconnection Pipeline at least once per year per all manufacturers' recommended maintenance schedules for corrosion, coatings, safety, drainage, security, electrical and mechanical functionality, structural and geotechnical performance, and any other conditions necessary to ensure reliable and safe facility operation. DWR shall be responsible for any inspection of the Interconnection Pipeline, should it be deemed necessary by mutual agreement of the Parties. DWR shall promptly provide the results of such inspections to CCWD.

3.7.2 CCWD shall inspect the Interconnection Valve at least once per year per all manufacturers' recommended maintenance schedules and shall promptly provide the results of such inspections to DWR.

3.8 Testing Plans. CCWD and DWR shall jointly develop multiple startup and testing procedures for the Interconnection Facilities and coordination for the movement of water through the Interconnection Facilities once they have been accepted for testing and operations by both Parties.

3.9 Damage to Facilities

3.9.1 Prior to the commencement of construction, repair, or replacement of the Interconnection Facilities, CCWD shall conduct a pre-construction inspection of those CCWD Facilities that could be affected by construction, repair, or replacement of the Interconnection Facilities. Following completion of construction, repair, or replacement of the Interconnection Facilities, CCWD shall conduct a post-construction inspection of those same CCWD Facilities to determine whether damage to those CCWD Facilities occurred as a result of construction, repair, or replacement activities.

3.9.2 Upon written notice from CCWD describing such damage and the costs to repair the damaged facilities in reasonable detail, DWR shall promptly reimburse CCWD for all costs incurred by CCWD due to damage caused by construction, maintenance, repair, or replacement of the Interconnection Facilities, including but not limited to the costs of repair or replacement of CCWD Facilities. In addition, DWR shall repair or replace any CCWD-owned access roads and levees damaged by construction, maintenance, repair, or replacement of the Interconnection Facilities. If DWR fails to immediately repair or replace said access roads and levees, CCWD shall have the option of conducting such repairs or replacement and DWR shall promptly reimburse CCWD for the costs of such repair or replacement, upon written notice from CCWD describing such costs in reasonable detail.

3.9.3 A discernable loss of CCWD water supply directly or indirectly caused by construction, operation, maintenance, repair, or replacement by DWR or its third-party contractors of the Interconnection Facilities shall be the responsibility of DWR and may be recouped through delivery of the same amount of water to CCWD via the Interconnection Facilities at DWR's sole expense, or in another manner reasonably satisfactory to CCWD and at DWR's expense. This Agreement does not address potential damage to CCWD facilities or loss of CCWD water

supply due to harm that arises during construction of the Conveyance Facilities by DWR or its contractors and therefore does not limit CCWD's ability to pursue damages or any other remedies in such an event.

3.10 Restrictions on Parking and Stockpiling. DWR shall ensure that no construction and maintenance equipment shall park on or over areas identified as CCWD Facilities and no construction material shall be stockpiled on CCWD-owned property or within CCWD easements without CCWD's prior written authorization. DWR shall ensure that equipment and materials hauling activities over CCWD Facilities do not result in excessive loading, and DWR shall submit calculations and measures to reduce loads, such as trench plates, to CCWD for review and approval in advance of commencing any equipment and materials hauling activities over CCWD Facilities.

3.11 Hazardous Materials. DWR shall use, store and dispose of Hazardous Material to be used to construct the facilities described in Section 3 of this Agreement by DWR or DWR's Related Parties only in compliance with any and all applicable federal, state or local environmental health or safety laws, statute, ordinance, rule, regulation or requirement ("**Environmental Laws**"). DWR shall, at DWR's sole cost and expense, promptly undertake such removal or remedial action as may be required by Environmental Laws with regard to any non-de minimis violation of any Environmental Laws with regard to any Hazardous Material used by DWR or DWR's Related Parties. "**Hazardous Material**" shall mean any asbestos-containing materials, petroleum, explosives, toxic materials, or any other substances regulated as hazardous wastes, hazardous materials, hazardous substances, or toxic substances under any Environmental Laws, including but not limited to any substance, pollutant or contaminant listed as hazardous under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. 9601, et seq., and the regulations promulgated pursuant to the Act.

4. EFFECT OF THIS AGREEMENT ON PRIOR AGREEMENTS BETWEEN DWR AND CCWD

4.1 Effect of this Agreement on 1967 DWR-CCWD Agreement. When DWR commences conveyance of water to CCWD consistent with this Agreement, this Agreement shall replace and supersede the 1967 Agreement between CCWD and DWR ("**1967 Agreement**") regarding payment for the effect of SWP operation on water quality at CCWD's Mallard Slough intake, a copy of which is attached hereto as Exhibit D to this Agreement. Before DWR commences conveying water to CCWD water pursuant to this Agreement, and unless the Parties otherwise agree to amend or terminate the 1967 Agreement, it shall

remain in full force and effect and DWR shall continue to make the payments to CCWD specified by the 1967 Agreement.

- 4.2** Effect of this Agreement on 2016 WaterFix Mitigation Agreement. Without admitting to the applicability of the 2016 WaterFix Agreement to the Delta Conveyance Project or Conforming Project Alternative and to the extent that any elements of that agreement are enforceable beyond the approval of the California WaterFix, upon the effective date of this Agreement, the 2016 WaterFix Mitigation Agreement is terminated and the terms of this Agreement shall replace and supersede the 2016 WaterFix Mitigation Agreement. By entering this Agreement, CCWD for itself, and its agents, successors, transferees, assigns and legal representatives acting at the direction of CCWD, hereby agrees to irrevocably, unconditionally, fully and forever release, acquit and discharge DWR and all of its directors, officers, employees, agents, representatives, attorneys, and insurers (hereinafter collectively referred to as “the **DWR Releasees**”), of and from any and all actions, causes of actions, suits, debts, charges, complaints, claims, liabilities, contracts, obligations, promises, agreements, controversies, losses, damages and expenses (including attorneys’ fees and costs actually incurred), of any nature whatsoever, known or unknown, suspected or claimed, fixed or contingent (hereinafter called “**WaterFix Claims**”), whether at law or at equity, which CCWD ever had, now has or may hereafter acquire, as of the Effective Date of this Agreement directly connected to enforcement of the 2016 WaterFix Mitigation Agreement, whether known, unknown, or suspected. For clarity, such release does not limit CCWD’s ability to enforce the terms of this Agreement, including such terms as may overlap with the terms of the 2016 WaterFix Mitigation Agreement.
- 4.3** Release of WaterFix Claims. As limited to the scope described in Section 4.2 of this Agreement, above, CCWD understands and agrees that it may have sustained damages, losses, costs or expenses for which it might have a claim, that are presently unknown or unsuspected, and that such damages; losses, costs and expenses may give rise to additional damages, losses, costs or expenses in the future. It is specifically acknowledged by CCWD that the foregoing release described in Section 4.2 of this Agreement has been agreed upon and given in light of such facts and the Agreement is intended to release the DWR Releasees from potential liability for all such damages, losses, costs and expenses. In this connection, CCWD understands and agrees as part of the inducement for the consideration given for this Agreement that upon the Effective Date of this Agreement, CCWD has read and has otherwise been informed of the meaning of Section 1542 of the California Civil Code, and has consulted with its counsel, and understands the provisions of Section 1542, and hereby expressly waives the rights and benefits conferred upon it by the provisions of Section 1542 of the California Civil Code, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

Rachel Murphy

CCWD Initials

- 4.4** Covenant Not to Sue to Enforce 2016 WaterFix Mitigation Agreement. CCWD agrees, promises and covenants that neither it, nor any person, organization or entity acting on its behalf, will file, charge, claim, sue or cause to be filed, charged or claimed, an action for damages or other relief (including injunctive, declaratory, monetary relief or other) against DWR to enforce the WaterFix Mitigation Agreement described in Sections 4.2 and 4.3, above.

5. CCWD'S NON-OPPOSITION TO DELTA CONVEYANCE PROJECT OR CONFORMING PROJECT ALTERNATIVE

- 5.1** No Challenge to Environmental Document, Project Approval, Certification of Consistency or Any Permits or Authorizations for Delta Conveyance Project or Conforming Project Alternative. As long as the Delta Conveyance Project or Conforming Project Alternative is consistent with the Operational Requirements described by Recital C in this Agreement, CCWD's Board of Directors shall not take a formal Board action in opposition to the approval of the Delta Conveyance Project or Conforming Project Alternative, any Certification of Consistency of the Delta Conveyance Project or Conforming Project Alternative with the Delta Plan, or any permit or other authorization for the Delta Conveyance Project or Conforming Project Alternative to the extent such permit or other authorization is specific to the Delta Conveyance Project or Conforming Project Alternative. Individual CCWD Board members and staff are not prohibited from discussing the Delta Conveyance Project or Conforming Project Alternative, as individuals and with other organizations. As long as the Delta Conveyance Project or Conforming Project Alternative is consistent with the Operational Requirements described by Recital C in this Agreement, CCWD and its staff and consultants acting under the direction of CCWD shall not take any of the following actions with regard to the Delta Conveyance Project or Conforming Project Alternative: file a legal challenge to the Final Environmental Impact Report, the Final Environmental Impact Statement, the Certification of Consistency with the Delta Plan or any permit or other authorization granted for the Delta Conveyance Project or Conforming Project Alternative to the extent

such permit or authorization is specific to construction or operation of the Delta Conveyance Project or Conforming Project Alternative; assert any related cause of action or voluntarily join any related lawsuit as a petitioner, or assist another party in challenging the Delta Conveyance Project or Conforming Project Alternative, including but not limited to voluntarily providing technical data or analysis for the purpose of supporting such challenge; submit any comment letters on the 2022 Draft EIR or subsequent CEQA document for the Delta Conveyance Project or Conforming Project Alternative; or propose or support legislation drafted to limit or negatively affect approval, construction or implementation of the Delta Conveyance Project or Conforming Project Alternative to the extent such legislation is specific to construction or operation of the Delta Conveyance Project or Conforming Action Alternative.

5.2 No Protests of Water Right Petitions for the Delta Conveyance Project or Conforming Project Alternative.

- 5.2.1** If DWR approves the Delta Conveyance Project or Conforming Project Alternative and as long as the Delta Conveyance Project or Conforming Project Alternative is consistent with the Operational Requirements described by Recital C in this Agreement, CCWD shall not file a water rights protest to or otherwise oppose the Delta Conveyance Project Change of Point of Diversion.
- 5.2.2** As long as the Delta Conveyance Project or Conforming Project Alternative is consistent with the Operational Requirements described by Recital C in this Agreement, CCWD shall not provide technical support to assist a protest to the Delta Conveyance Project Change of Point of Diversion. CCWD may elect to provide technical support or otherwise participate in the Delta Conveyance Project Change of Point of Diversion water rights process in support of an action by Reclamation to add the Northern Intakes as a point of diversion for CVP water or in support of implementation of this Agreement.
- 5.2.3** If DWR approves, or makes modifications after approval of, the Delta Conveyance Project or Conforming Project Alternative that change the project in a manner so it is no longer consistent with the Operational Requirements described in Recital C, CCWD's ability to oppose or otherwise participate in processes related to the approval of that change or modification to the Delta Conveyance Project or Conforming Project Alternative shall be limited to the scope of that change or modification.

- 5.3** CVP Participation in Delta Conveyance Project or Conforming Project Alternative. This Agreement shall have no effect on CCWD's right to negotiate with, or bring potential claims against, Reclamation regarding CVP cost allocation or CVP water supply allocations, including but not limited to such cost or CVP water supply allocations that may be considered or approved by Reclamation in connection with possible participation by Reclamation in the Delta Conveyance Project or a Conforming Project Alternative. Further, this Agreement shall have no effect on CCWD's right to negotiate with, or bring claims against, CVP contractors regarding such cost allocation for CVP water. As long as the Delta Conveyance Project or Conforming Project Alternative is consistent with the Operational Requirements described in Recital C, CCWD will not seek additional concessions from DWR regarding any proposed amendments to the Coordinated Operation Agreement that are specific to construction and operation of the Delta Conveyance Project or Conforming Project Alternative; however CCWD may participate, through Reclamation, in review and consideration of any proposed modifications to the Coordinated Operation Agreement, and share technical data with Reclamation, CVP contractors and others regarding the effect of any proposed modifications to the Coordinated Operation Agreement.
- 5.4** Future Projects. Except as described in Sections 5.1 and 5.2 of this Agreement, this Agreement shall have no effect on CCWD's right to comment on, oppose, seek additional mitigation for, or bring claims against, any future project including, without limitation, a future new Delta conveyance project or change to the Delta Conveyance Project or Conforming Project Alternative that deviates from the definitions of the Delta Conveyance Project or Conforming Project Alternative in Recitals A and B of this Agreement, or any project, action, or decision to change operations in a manner that is inconsistent with the Operational Requirements described in Recital C of this Agreement, but only to the extent the change in operations are less protective of water quality at CCWD's intakes .
- 5.5** Future Regulatory Developments. This Agreement shall have no effect on CCWD's right to comment on, support, challenge, or oppose any water quality plans, permits, approvals, regulations, agreements, projects, or any other actions that are not specific to the Delta Conveyance Project or Conforming Project Alternative, including but not limited to any changes to any water quality control plan.

6. COOPERATION IN FACILITATING IMPLEMENTATION OF THIS AGREEMENT AND POTENTIAL FUTURE OPPORTUNITIES FOR COLLABORATION

- 6.1** Los Vaqueros Water Right Petition - Intakes for Conveyance Facilities. The Parties recognize that for DWR to convey to CCWD water diverted pursuant to CCWD's Los Vaqueros Water Right ((State Board Permit 20749/Application 20245; "**LV Right Water Permit**") through the Conveyance Facilities, it would facilitate future implementation of this Agreement for the Northern Intakes that will be used for any Conveyance Facilities to be added as points of diversion on CCWD's LV Water Right Permit, and other approvals may be needed. DWR shall work with CCWD to facilitate these approvals, and DWR shall not protest or oppose any water right petition filed by CCWD to add the Northern Intakes as points of diversion on CCWD's LV Water Right Permit to the extent that it would facilitate future implementation of this Agreement.
- 6.2** Facilitation of Conveyance of CCWD's CVP Contract Supply
- 6.2.1** To move CCWD's CVP Contract Supply through the Interconnection Facilities, the Northern Intakes must be added as points of diversion ("**PODs**") or points of re-diversion ("**PORDs**") on the United States water right permits that are used to supply water pursuant to CCWD's CVP contract ("**CVP Water Rights**"), and other approvals may be needed. DWR shall work with Reclamation and CCWD to facilitate these approvals.
- 6.2.2** If the Conveyance Facilities are in operation before PODs or PORDs are added to the CVP Water Rights, DWR will work with Reclamation and CCWD to facilitate a CVP/SWP exchange, allowing CCWD to divert SWP water at the Interconnection Facilities for use within CCWD's service area to be exchanged with an equal amount and timing of CVP water to be diverted at Banks Pumping Plant to be delivered to DCP Participants and used within the SWP service area. DWR will work with Reclamation and CCWD to obtain any necessary approvals and address costs for obtaining the approvals required to implement this exchange, including but not limited to, approval for a consolidated place of use, joint point of diversion, and compliance with CEQA and NEPA.
- 6.3** Los Vaqueros Water Right Petition - Freeport Intake Point of Diversion. The Parties recognize that for DWR to use the Alternate Method, the Freeport Intake must be added as a POD on CCWD's LV Water Right Permit, and other approvals may be needed. DWR shall not protest or oppose a water right petition filed by CCWD to add the Freeport Intake as a point of diversion on CCWD's Los

Vaqueros water right to the extent that it would facilitate future implementation of this Agreement, and DWR shall not protest or oppose any other related approvals needed to convey water to CCWD through the Alternate Method to the extent that it would facilitate future implementation of this Agreement.

- 6.4** Future Opportunities for Collaboration. The Parties share objectives to achieve additional water supply reliability and resilience, improve water quality in the Delta, implement projects and programs to enable adaption to climate change, enable effective responses to emergency conditions in the Delta, and improve Delta environmental conditions. The Parties will establish a regular schedule of meetings to identify opportunities to work together to further these shared objectives.

7. ARBITRATION OF DISPUTES ARISING UNDER THIS AGREEMENT

- 7.1** Any controversy or claim arising out of or relating to this Agreement shall be resolved as provided in this Section 7 of this Agreement, except to the extent expressly provided elsewhere in this Agreement or if equitable relief is sought by any Party pursuant to Section 11.11 of this Agreement. The Party identifying a dispute under this Agreement shall provide written notice to the other Party of the nature of the dispute, which shall include a description by the noticing party of the issues for resolution, the Party's position regarding such issues, the dollar amount involved (if any) and the remedy sought. The Party receiving notice will respond within ten (10) business days of receipt of such notice by giving the referring Party notice of any counterclaims, the Party's position regarding all issues, the dollar amount involved (if any) and the remedy sought. Prior to commencing arbitration pursuant to this Section 7, the Parties shall first negotiate in good faith to resolve the dispute. The negotiations shall include the direct participation of management staff from each Party with sufficient authority to resolve the dispute. In the event the Parties are unable to resolve the dispute within thirty (30) days following submission of the responding Party's initial statement, such dispute shall be submitted to and settled by final and binding arbitration pursuant to the commercial arbitration rules of the American Arbitration Association ("AAA"), except to the extent the remaining provisions of this Section 7 conflict with those rules, in which case the provisions of this Section 7 shall control. To the extent allowed by the arbitrator, any arbitration shall comply with the following:

- 7.1.1** The place of arbitration shall be within the City and County of San Francisco, California;

- 7.1.2** The Parties shall agree on a single arbitrator. If the Parties cannot agree on a single arbitrator within ten (10) business days following submission of the dispute to arbitration, then the Parties shall each appoint one person who together will select a third person. The three persons shall constitute the arbitration panel to hear and resolve the matter submitted to it;
- 7.1.3** The arbitration will commence within sixty (60) calendar days of the referral before the persons appointed above under Section 7.1.2 of this Agreement, or as soon thereafter as schedules will allow;
- 7.1.4** All documents, materials and information in the possession of each Party that are in any way relevant to the issues in dispute will be made available to the other Party forthwith hereunder. Each Party will be entitled, on an expedited basis, to propound written discovery and to obtain testimony of witnesses by deposition to the same extent as a civil litigant in a suit filed in the Superior Court under the then-prevailing California Code of Civil Procedure. To the extent possible, the arbitrators will not be bound by the rules of civil procedure or evidence and will consider such writing and oral presentations as reasonable business persons would use in the conduct of their day-to-day affairs, and may require the Parties to submit some or all of their case by written declaration or such other manner of presentation as the arbitrators may determine to be appropriate;
- 7.1.5** The decision of the arbitrators will be in writing and, upon the request of either Party, the arbitrators shall specify the factual and legal basis for the award;
- 7.1.6** In rendering the award, the arbitrators shall determine the rights and obligations of the Parties according to the laws of the State of California. The Parties acknowledge that by agreeing to arbitration, they are giving up the right to a jury trial;
- 7.1.7** During the arbitration process, the costs of arbitration, including any administration fees, arbitrators' fees and costs for the use of facilities during the hearings, shall be borne equally by the Parties to the arbitration;
- 7.1.8** A decision of the arbitrators will be final and binding and the arbitrators may require remedial measures and injunctive or other equitable relief as part of any award; provided, however, that the arbitrators shall not have the power to alter, amend, modify or change any of the terms of this Agreement or to grant any remedy that is

otherwise prohibited by the terms of this Agreement or not available in a court of law. The arbitrators may award legal fees and costs (including arbitration costs) to the prevailing party; and

7.1.9 Reference to arbitration must be made within two (2) years of the act, omission or occurrence giving rise to the referral.

8. INDEMNIFICATION

8.1.1 Except as provided in Section 8.1.2 of this Agreement, DWR shall indemnify CCWD and its Related Parties (each such Person being called an "Indemnitee") against, and hold each Indemnitee harmless from, any and all losses, claims, damages, obligations, liabilities and related expenses (including the fees, charges and disbursements of any counsel for any Indemnitee), incurred, claimed, alleged or asserted against any Indemnitee by any Person (including DWR), except for CCWD and its Related Parties, arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement, or any agreement or instrument contemplated hereby, the performance by the Parties hereto of their respective obligations hereunder or thereunder or the consummation of the transactions contemplated hereby or thereby, (ii) the construction, operation or maintenance of the Delta Conveyance Project or Conforming Project Alternative; (iii) the construction, operation or maintenance of the Interconnection Pump Station or Interconnection Pipeline; (iv) the construction of the Interconnection Valve, unless due to CCWD willful misconduct or gross negligence, (v) the use or release of Hazardous Material in, on, under or about the properties and facilities described in Section 3 of this Agreement directly or indirectly caused by DWR or DWR's Related Parties, (vii) the violation by DWR or DWR's Related Parties of any Environmental Laws, (viii) the assertion by any Governmental Authority that there has been a violation by DWR or DWR's Related Parties of any Environmental Laws, or (ix) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, brought by a third party, and regardless of whether any Indemnitee is a party thereto; provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee. DWR's obligations under this Section 8.1.1 shall survive the termination of this Agreement.

8.1.2 CCWD shall indemnify DWR and its Related Parties (each such Person being called an “Indemnatee”) against, and hold each Indemnatee harmless from, any and all losses, claims, damages, obligations, liabilities and related expenses (including the fees, charges and disbursements of any counsel for any Indemnatee), incurred, claimed, alleged or asserted against any Indemnatee by any Person (including CCWD), except for DWR and its Related Parties, as a result of (i) the construction of the Interconnection Valve on CCWD property due to CCWD’s willful misconduct or gross negligence, (ii) the operation or maintenance of the Interconnection Valve, or (iii) any actual or prospective claim, litigation, investigation or proceeding relating to the foregoing, whether based on contract, tort or any other theory, whether brought by a third party and regardless of whether any Indemnatee is a party thereto; provided that such indemnity shall not, as to any Indemnatee, be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnatee. CCWD’s obligations under this Section 8.1.2 shall survive the termination of this Agreement.

9. REPRESENTATIONS AND WARRANTIES

Each Party represents and warrants to the other Party as follows:

9.1 Due Authorization and Enforceability. Such Party has full power, right and authority to execute, perform and deliver this Agreement and all other documents and agreements executed or to be executed by such Party in connection with the transactions contemplated hereby and thereby and to consummate the transactions contemplated hereby and thereby. The execution and delivery by such Party of this Agreement and each other document and agreement contemplated hereby, the performance by such Party of its obligations hereunder and thereunder, and the consummation by it of the transactions contemplated hereby and thereby have been duly authorized by all necessary governmental, agency or other action by such Party. This Agreement constitutes, and each other document and agreement to be executed by such Party in connection with the transactions contemplated hereby when so executed and delivered will constitute, a valid and binding obligation of such Party, enforceable in accordance with its terms, except (i) as limited by applicable bankruptcy, insolvency, reorganization, moratorium, and other laws of general application affecting enforcement of creditors’ rights generally, and (ii) as limited by laws relating to the availability of specific performance, injunctive relief, or other equitable remedies.

9.2 No Conflicts. Such Party has made, obtained or been granted all approvals, consents, filings, registrations, notices, waivers and exemptions required to be obtained by it under any applicable law and regulation with respect to its execution and delivery of this Agreement and all other ancillary documents and agreements in connection with the transactions contemplated hereby and with respect to its performance of its obligations hereunder and thereunder and the consummation of the transactions contemplated hereby and thereby. The execution and delivery of this Agreement and all other documents and agreements executed or to be executed by such Party and the consummation by it of the transactions contemplated hereby or thereby will not conflict with or result in any breach or violation of any of the terms and conditions of, or constitute (or with notice or lapse of time or both constitute) a default under or a violation of, any statute, regulation, order, judgment or decree applicable to such Party, or any instrument, contract or other agreement to which such Party is a party or to which any of its assets may be bound or subject.

10. TRANSFER OF CONVEYANCE FACILITIES OR INTERCONNECTION FACILITIES BY DWR

10.1 No Transfer Without Consent. DWR shall not assign, license, transfer or otherwise dispose of any of its right, title or interest in the Interconnection Facilities to any other Person without the prior written consent of CCWD (such consent not to be unreasonably withheld or delayed), unless (i) such Person agrees in writing, in form and substance satisfactory to CCWD, to be jointly and severally liable with DWR for all of DWR's obligations under this Agreement and each other document and agreement contemplated hereby, and (ii) such Person is a creditworthy entity (as determined by CCWD in its reasonable discretion exercised in good faith).

11. MISCELLANEOUS TERMS

11.1 Alteration of Terms. This Agreement fully expresses all understandings of the Parties with respect to the matters specifically addressed by this Agreement, and constitutes the complete agreement among the Parties for these purposes. No addition to, or alteration of, the terms of this Agreement, shall be valid unless made in writing, duly authorized, and executed by the Parties.

11.2 Notices. Any notice under this Agreement shall be sent by overnight mail to the designated persons identified below, with a copy sent by electronic mail. Any Party may change its address for notices under this Agreement by giving formal written notice to the other Party, specifying that the purpose of the notice is to change the Party's address.

CONTRA COSTA WATER DISTRICT: General Manager
CONTRA COSTA WATER DISTRICT
P.O. Box H20
Concord, CA 94524

With a copy to: General Counsel
c/o CONTRA COSTA WATER DISTRICT
P.O. Box H20
Concord, CA 94524

CALIFORNIA DEPARTMENT OF WATER RESOURCES: Director
CALIFORNIA DEPARTMENT OF WATER RESOURCES
P.O. Box 942386, Room 1115-2
Sacramento, CA 94236

With a copy to: General Counsel
CALIFORNIA DEPARTMENT OF WATER RESOURCES
P.O. Box 942386, Room
Sacramento, CA 94236

11.3 Counterparts and Serial Signatures. This Agreement may be signed by the Parties in different counterparts and the signature pages combined to create a document binding on each and all Parties. Signatures delivered by electronic means shall be binding. Notwithstanding the preceding sentence, either Party may rescind its signature at any time prior to the date the Agreement has been fully executed by the Parties, and this Agreement shall not be binding upon such rescinding Party. A Party that elects to rescind its signature pursuant to this Section 11.3 shall do so by providing written notice to the other Party in compliance with Section 11.2 of this Agreement.

11.4 Governing Law. This Agreement shall be governed and construed under the laws of the State of California.

11.5 Severability. If a court of competent jurisdiction finds any provision of this Agreement to be illegal, invalid, or unenforceable as to any circumstance, such finding shall not make the offending provision illegal, invalid, or unenforceable as to any other circumstance. If feasible, the offending provision shall be considered modified so that it becomes legal, valid, and enforceable. If the offending provision cannot be so modified, it shall be considered deleted from this Agreement. Unless otherwise required by law, the illegality, invalidity, or

unenforceability of any provision of this Agreement shall not affect the legality, validity, or enforceability of any other provision of this Agreement.

- 11.6** Successors and Assigns. This Agreement shall be binding upon the Parties hereto, as well as their respective successors and assigns. Neither Party may assign this Agreement in whole or in part without the prior written consent of the other Party, and any such attempted assignment without such prior written consent shall be void ab initio. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the Parties and their respective successors and assigns permitted hereby) any legal or equitable right, remedy or claim under or by reason of this Agreement.
- 11.7** Survival. All covenants, agreements, representations and warranties made in this Agreement shall survive the execution and delivery of this Agreement.
- 11.8** Limits. This Agreement shall not be construed as creating any right or benefit, substantive or procedural, enforceable at law or in equity, by any Party other than those set forth herein.
- 11.9** Representation by Counsel. The Parties acknowledge that they have been represented by counsel in the negotiation and preparation of this Agreement; that they have read the Agreement; that they are fully aware of its contents and of its legal effect; that the preceding paragraphs recite the sole consideration for this Agreement; that all agreements and understandings between them are embodied and expressed herein; and that they entered into this Agreement freely, without coercion, and based on their own judgment and not in reliance on any representations or promises other than those contained herein.
- 11.10** Entire Agreement. The Parties acknowledge that this Agreement is signed and executed without reliance upon any actual or implied promises, warranties or representations made by any of the Parties or by any representative of any of the Parties, other than those which are expressly contained within this Agreement. This Agreement, including the true and correct Recitals above, inclusive of all definitions contained therein, that are incorporated by reference herein as operative covenants and specifically relied upon by the Parties in executing this Agreement, constitutes the entire agreement and understanding among and between the Parties.
- 11.11** Equitable Relief. Notwithstanding anything expressed or implied to the contrary in this Agreement, each Party acknowledges that a breach or threatened breach of its obligations under this Agreement would give rise to irreparable harm to the other Party, for which monetary damages would not be an adequate remedy, and hereby agrees that in the event of a breach or a threatened breach by either Party of any such obligations, the non-breaching

Party shall, in addition to any and all other rights and remedies that may be available to it in respect of such breach, be entitled to equitable relief, including a temporary restraining order, an injunction, specific performance and any other relief that may be available from a court of competent jurisdiction (without any requirement to post bond).

11.12 Computation of time. The time in which any act provided by this Agreement is to be performed is computed by excluding the first day and including the last, unless the last day is a Saturday, Sunday, or other legal holiday, and then it is also excluded. If the last day for the performance of any act that is under this Agreement to be performed within a specific period of time falls on a Saturday, Sunday, or other legal California or federal holiday, the period is extended to and includes the next day that is not a holiday.

12. DEFINITIONS

As used in this Agreement, the following capitalized terms have the following meanings:

“CCWD Facilities” means all water storage and conveyance facilities and infrastructure of any kind owned, leased or licensed by CCWD, whether now existing or hereafter arising and wherever located.

“Central Valley Project” is the federal water management facility in California operated by Reclamation, commonly known as the “Central Valley Project”.

“Coordinated Operation Agreement” is the agreement titled Agreement Between the United States of America and the State of California for Coordinated Operation of the Central Valley Project and the State Water Project executed in 1986, and as may be amended from time to time since that date.

“CVP” means the Central Valley Project.

“CVP Contract Supply” means water supplied to CCWD pursuant to its contract with Reclamation to receive water from the CVP.

“DCP Participants” means entities that execute a contract to assume costs and benefits of the Delta Conveyance Project or Conforming Project Alternative.

“Delta” means the Sacramento-San Joaquin Delta as defined in Water Code section 12220.

“Excess Water Conditions” as defined in the Coordinated Operation Agreement means “periods when it is agreed that releases from upstream reservoirs plus unregulated flow exceed Sacramento Valley inbasin uses, plus exports.”

“Existing Transfer Pump Station” means CCWD’s transfer pump station near Brentwood, California, and any modification or replacement thereof in whole or in part.

“Export Facilities in the South Delta” means the CVP Jones Pumping Plant and the SWP Banks Pumping Plant in the south Delta.

“Freeport Intake” means the Freeport Regional Water Authority’s water intake facility and pumping plant located on the Sacramento River, upstream from Freeport, California, and any modification or replacement thereof in whole or in part.

“Governmental Authority” means the government of the United States of America or any other nation, or of any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

“Los Vaqueros Pipeline” means the pipeline extending between the Contra Costa Canal and the Existing Transfer Pump Station, and any modification or replacement thereof in whole or in part.

“Los Vaqueros Reservoir” means CCWD’s water storage reservoir in Contra Costa County accessible from North Vasco Road with a storage capacity as of the date of this Agreement of approximately 160,000 acre-feet of water.

“LV Water Right Permit” means State Water Resources Control Board Water Right Permit 20749 (Application 20245), and any modification or replacement thereof.

“Middle River Intake” means the water intake facility owned and operated by CCWD on Victoria Canal.

“Middle River Pipeline” means the existing buried pipeline that transports water from CCWD’s Middle River Intake to the Old River Pipeline, and any modification or replacement thereof in whole or in part.

“Middle River Pump Station” means the pump station owned and operated by CCWD at its Middle River Intake.

“Northern Intake” means the water intake facility or facilities, inclusive of any pumping plant, at the northern end of any Conveyance Facilities.

“Old River Intake” means the water intake facility owned and operated by CCWD on Old River.

“Old River Pump Station” means the pump station owned and operated by CCWD at its Old River Intake.

“Old River Pipeline” means the existing buried pipeline that transports water from CCWD’s Old River Intake to CCWD’s Existing Transfer Pump Station.

“Person” means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

“Related Parties” means, with respect to any Person, the directors, officers, employees, agents, trustees, administrators, managers, advisors, representatives, contractors, invitees, permittees and licensees of such Person.

“SWP” means the State Water Resources Development System as described in California Water Code section 12931, and those facilities added to the SWP as of the date of execution of this Agreement.

“SWP Contractors” means the 29 entities holding State Water Project Water Supply Contracts with the Department of Water Resources as of the date of execution of this Agreement.

“Transfer Pipeline” means the existing buried pipeline that extends between the Existing Transfer Pump Station and the Los Vaqueros Reservoir, and any modification or replacement thereof in whole or in part.

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

Dated: 7/26/2023

CONTRA COSTA WATER DISTRICT

By: Rachel Murphy

Rachel Murphy
General Manager

Approved As To Form:

Dated: 7/26/2023

BARTKIEWICZ, KRONICK & SHANAHAN

By: Douglas E. Coty

Douglas E. Coty
General Counsel, Contra Costa Water District

Dated: 7/26/2023

CALIFORNIA DEPARTMENT OF WATER
RESOURCES

By: Karla Nemeth

Karla Nemeth
Director

Approved As To Form:

Dated: 7/26/2023

By: Thomas Gibson

Thomas Gibson
General Counsel, California Department of
Water Resources

Exhibit A

Conceptual Design and Cost Assessment for Interconnection Facilities

1. Interconnection Facilities Conceptual Design Assumptions

- a. Interconnection Facilities connect to CCWD's existing Middle River Pipeline, which subsequently connects to CCWD's existing Old River Pipeline adjacent to CCWD's Old River Intake to deliver water to CCWD's Existing Transfer Pump Station (See Figure A-1 for overview of CCWD and Delta Conveyance Project facilities).
- b. The "Interconnection Facilities" refer to the combined components of the Interconnection Pump Station, Interconnection Pipeline, and Interconnection Valve (See Figure A-2).
- c. Interconnection Pump Station design assumes lowest reasonable water surface elevation within the Conveyance Facilities during periods of potential CCWD system use and Full System Head as currently designed by CCWD and described below.
- d. **"Full System Head"** assumes contributing flows from CCWD's Middle River Pumping Plant and/or Old River Pumping Plant could simultaneously discharge into the existing pipelines to which the Interconnection Facilities would connect and as such would require the Interconnection Facilities be designed with sufficient pressure for the water to reach CCWD's Existing Transfer Pump Station while CCWD's Middle River Pipeline is operating at a total flow rate of up to 250 cubic feet per second and CCWD's Old River Pipeline is operating at a total flow rate of up to 320 cubic feet per second.
- e. "Full System Head" is based on the current CCWD system and does not account for future modifications or degradation of CCWD's existing system that could change the hydraulic conditions within the Middle River or Old River Pipelines.
- f. Interconnection Pump Station assumed to employ submersible pumps at 25 cubic feet per second capacity with variable frequency drives attached to the inner wall of the shaft with no backup/standby capacity.
- g. All critical appurtenant elements of the Interconnection Pump Station will be constructed on top of Union Island shaft pad where feasible.
- h. Interconnection Pipeline is assumed to be mostly shallow excavation and cut and cover pipeline construction.

- i. Interconnection Pipeline crossing of Victoria Canal is assumed to be a 600-foot trenchless crossing.
- j. Interconnection Valve between the Interconnection Pipeline and CCWD's existing conveyance system will be designed to provide backflow prevention and flow splitting and modulation.
- k. Flowmeters, check valves and isolation valves assumed to be located within buried vault on top of the Union Island shaft pad.
- l. Surge protection within the Interconnection Pipeline managed by an appropriately sized hydropneumatic surge tank.
- m. Extension of existing 69 kV power from CCWD's existing Middle River Intake on Victoria Island adjacent to Victoria Canal, including transformers and electrical building (switchgear, MCCs controls, external HVAC, etc.).
- n. Interconnection Facilities design will include evaluation of seismic loading and performance requirements including site-specific seismic use criteria at the time of design and construction for a critical facility. The Interconnection Facilities are considered to be Risk Category IV per ASCE 7-22 and Risk Category IV per ALA (American Lifeline Alliance).
- o. Electrical and mechanical equipment shall be designed to ensure immediate post-earthquake functionality following the maximum credible earthquake for the site.
- p. Design will evaluate and address potential liquefaction to protect the Interconnection Facilities. CCWD shall have the right to review such liquefaction analysis, and DWR shall respond to comments by CCWD, pursuant to the process described in Exhibit B to the Agreement, Section 5.
- q. Design will evaluate and address potential impacts of long-term settlement, seismic motion and/or sea level rise impacts to protect the Interconnection Facilities. CCWD shall have the right to review such differential settlement analysis, and DWR shall respond to comments by CCWD, pursuant to the process described in Exhibit B to the Agreement, Section 5.
- r. Design shall be completed using the professional standard of care for such projects within California. The design as completed by DWR or DCA shall be sealed by an Engineer of Responsible Charge and the appropriate discipline engineers registered in the State of California.

2. Basis of Capital Cost Assessment

- a. Costs reflective of a rough order of magnitude assessment associated with concept-level design for comparison of capacity options.
- b. Based on 2022 prices.
- c. Unit rates derived from similar estimates from the Delta Conveyance Project and CCWD's proposed Transfer-Bethany Pipeline.
- d. DCA in-house databases used for specialty items like trenchless crossings.
- e. Adjustment factors used for route and flow options related to pipeline diameter, pumping power requirements and support building areas.
- f. Contingency added based on maturity of design, level of estimate and nature of ground-related uncertainties.
- g. Soft costs include program management, design, construction management, permitting, etc.
- h. Right-of-way (ROW) costs assumed from historic land values in the area and are based on a permanent easement including the full length of the Interconnection Pipeline and a width of 70 feet with an additional 30 feet width of temporary easement (100 feet total) assumed for the period of construction.

- 3. Capital Cost Estimates.** Table A-1 documents the cost assessment prepared by DCA for Interconnection Facilities, which connect to the Conveyance Facilities at the Union Island shaft at a firm operating capacity of 50 cubic feet per second.

Table A-1. Cost Assessment for Concept-Level 50 cfs Interconnection Facilities

Item		Costs 2022 \$(M)
		50 cfs
Mobilization Office and indirects		4.79
Submersible Pump and assembly		3.40
Pump control equipment		0.69
Pump control vault		1.32
Electrical building		0.41
electrical equipment		0.68
Power supply distribution		1.27
Power supply transformers		0.37
Electrical building HVAC units		0.21
Pipeline in road		2.25
Pipeline in field/track		4.34
Tie-in Connection/Vaults		0.14
Tie-in Connection/valves		0.31
Surge tank and air equipment		0.21
Trenchless Canal crossing		3.56
Testing and Commissioning PP		0.21
Testing and Commissioning Pipeline		0.07
Contractor Markup (profit, G&A, Ins, Tax, etc)	15%	3.63
Total Direct Construction		27.83
Contingency	35%	9.74
Total Construction		37.58
Soft Cost (PM CM Engineering etc)	25.5%	9.58
ROW Acquisition and mitigations		1.77
Total Project Cost 2022 dollars		47.16

Figure A-1. Overview of CCWD and Proposed Delta Conveyance Project Facilities

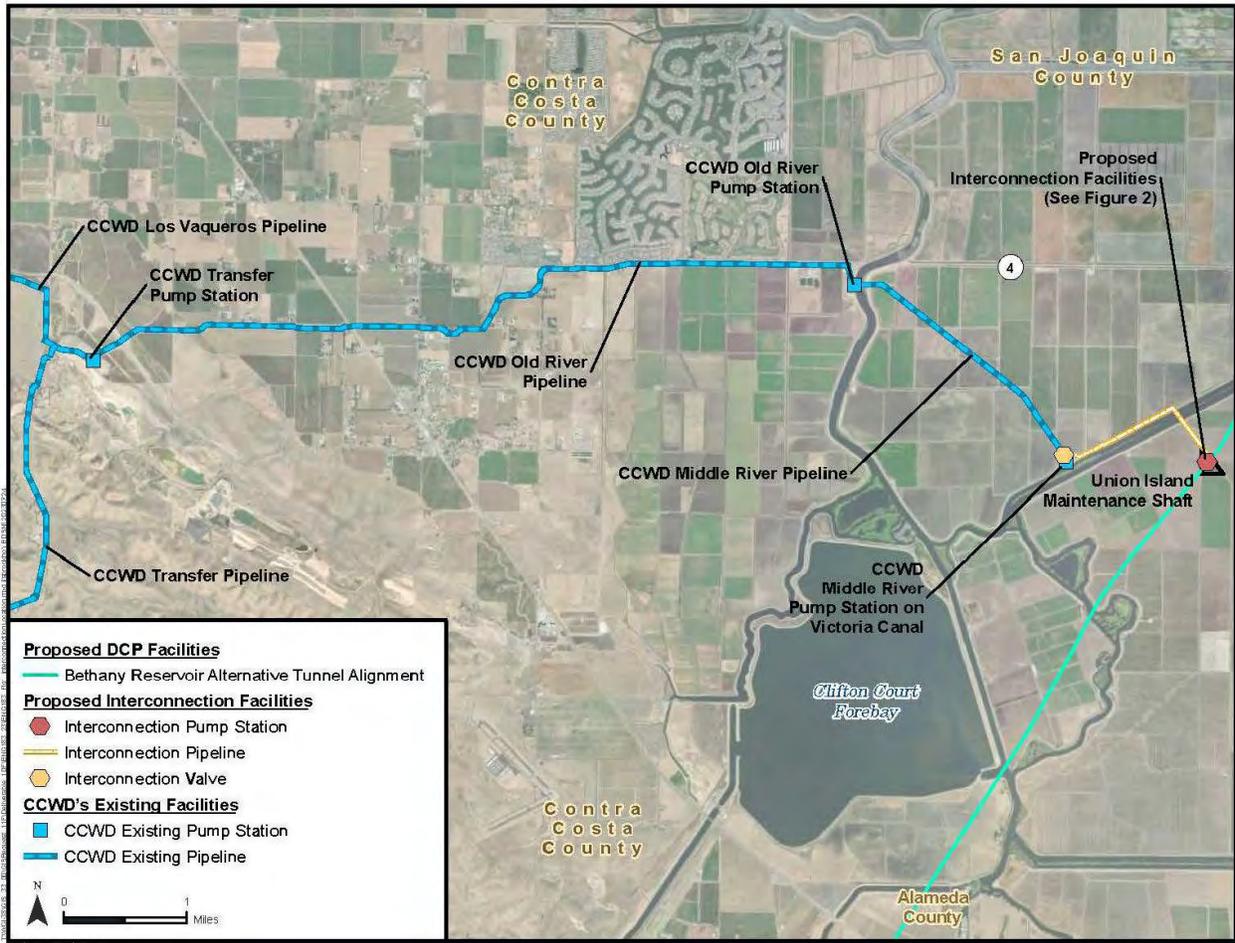


Figure A-2. Overview of Proposed Interconnection Facilities



Exhibit B

Permitting, Design, Construction, Maintenance, Repair and Replacement of Interconnection Facilities

1. Routine coordination meetings.

- a. **Permitting Workgroup:** DWR and CCWD will establish a **Permitting Workgroup** that will meet at least monthly during the development of the environmental impacts analysis of the Interconnection Facilities and water rights proceedings for the Delta Conveyance Project Change of Point of Diversion as well as other changes in points of diversion described in Section 6 of the Agreement. While DWR is responsible for evaluating the environmental impacts for constructing, operating, and maintaining the Interconnection Facilities, CCWD will coordinate with DWR and provide information regarding CCWD's operations, including likely use of the Interconnection Facilities, to inform the environmental analysis and to support any other permitting or consistency determinations needed to implement this Agreement. In addition, DWR will coordinate with CCWD and provide information to facilitate the potential changes in points of diversion and exchanges described in Section 6 of this Agreement.
- b. **Design Workgroup:** DWR and CCWD will establish a **Design Workgroup** that may include the DCA and others as appropriate. The Design Workgroup will meet at least quarterly during the design phase and review and update the schedule coordination in Section 4 of this Exhibit B and review coordination in Section 5 of this Exhibit B as needed. The Design Workgroup will also determine any additional agreements that will be necessary prior to construction.
- c. **Construction Workgroup:** DWR and CCWD will establish a **Construction Workgroup** that may include the DCA and others as appropriate. The Construction Workgroup will start meeting 120 days prior to the commencement of construction of the Interconnection Facilities and will establish regular meetings and procedures for coordination during construction.
- d. **Maintenance Workgroup:** DWR and CCWD will establish a **Maintenance Workgroup** that will start meeting after construction and start-up testing of the Interconnection Facilities is complete. The Maintenance Workgroup is anticipated to meet every six months, or more frequently if needed. DWR and CCWD will coordinate prior to any maintenance work on the Interconnection Facilities or any outage of the Conveyance Facilities or CCWD existing facilities

that would affect CCWD's ability to receive water from the Interconnection Facilities.

2. Communications with landowner(s) and reclamation district(s).

- a. DWR is responsible for communicating with landowner(s) and reclamation district(s) that own the real property upon which the Interconnection Facilities will be constructed; however, DWR will consult with CCWD and will provide CCWD an opportunity to conduct its own outreach activities in advance of such communications.
- b. DWR and CCWD will provide each other with summaries of their communications with the landowner(s) and reclamation district(s) that own the real property upon which the Interconnection Facilities will be constructed as soon as is practicable following such communications.

3. Considerations regarding Power Transmission and Supply

- a. Connection to Existing Power Transmission Lines. The conceptual design and cost estimate in Exhibit A anticipates connection to existing power transmission lines at CCWD's Middle River Intake on Victoria Island.
 - i. Prior to connecting to the existing power transmission lines, CCWD may need to update agreements with the Western Area Power Administration ("WAPA"), Reclamation, and Modesto Irrigation District. CCWD will coordinate directly with the entities above, provide updates to DWR, and include DWR and DCA in the discussions as appropriate.
 - ii. DWR will make the design documents for the Interconnection Facilities available to WAPA and Reclamation for review as necessary to facilitate connection to the existing transmission lines.
- b. Avoidance of Impacts to Existing Facilities. Construction and maintenance of the Interconnection Facilities has the potential to impact existing facilities that provide power to the existing CCWD Facilities on or near Victoria Island, including power lines and towers. DWR shall implement measures which in the reasonable opinion of CCWD are sufficient to protect the power facilities from potential damage when siting, constructing and maintaining the Interconnection Facilities, including with respect to access roads and WAPA right-of-ways.

4. Schedule. DWR and CCWD shall coordinate on the schedules for design, construction, maintenance, and replacement of the Interconnection Facilities.

- a. DWR shall provide a detailed schedule to CCWD for completion of design of the Interconnection Facilities. DWR shall include as part of the design schedule sufficient time to enable completion of the review and comment periods provided by this Agreement prior to advertising the Interconnection Facilities for bid and construction, as well as a mutually agreed upon timeframe for CCWD and DWR to determine whether to increase the capacity of the Interconnection Facilities to up to 150 cubic feet per second prior to DWR's completion of 35% designs for the Interconnection Facilities.
 - b. To the extent feasible, CCWD shall notify DWR of intent to increase the capacity of the Interconnection Facilities with a firm capacity greater than 50 cubic feet per second prior to the completion of 35% design. A request from CCWD to pursue Interconnection Facilities with a firm capacity greater than 50 cubic feet per second after completion of 35% design will require redesign of project components to an equivalent level of design at CCWD's cost.
 - c. No later than one hundred twenty (120) days prior to the commencement of construction of the Interconnection Facilities, and no later than ninety (90) days prior to the commencement of construction or other ground-disturbing activities associated with maintenance, repair or replacement of the Interconnection Facilities, DWR shall provide to CCWD a detailed proposed construction schedule, including the proposed scope of construction, maintenance, repair or replacement activities, proposed dates for such activities, a schedule of typical equipment and materials and the proposed construction contractor. CCWD shall provide written comments on the proposed construction, maintenance, repair or replacement schedules to DWR within thirty (30) days of CCWD's receipt of each proposed schedule. To the extent DWR objects to any of CCWD's written comments, within fifteen (15) days of DWR's receipt of said comments, DWR shall notify CCWD in writing of its objection and the Parties shall meet and confer in good faith to resolve the dispute. If the Parties cannot resolve the dispute within twenty-one (21) days of DWR's written notice of objection, the matter may be submitted by either Party to arbitration pursuant to Section 7 of the Agreement.
 - d. The schedule specified in Section 4.c of this Exhibit B, above, may be changed by the Parties by mutual written agreement.
- 5. Review of Documents.** Unless noted otherwise in this Agreement or unless revised by the Parties by mutual written agreement, the following review and comment process shall apply:
- a. CCWD shall be invited as a participant of any value engineering workshops held in conjunction with the design of the Interconnection Facilities. Design of

the Interconnection Facilities that may affect one or more existing CCWD Facilities may be subject to review by a third party of CCWD's choice as part of the value engineering or peer review process.

- b. DWR shall provide to CCWD engineering drawings and data, specifications, materials, maps, hydrologic data and seismic studies relating to the Interconnection Facilities and such other information as may be reasonably requested by CCWD in order to review and evaluate DWR's proposal. CCWD shall have the right to review all design documents, including a detailed surge analysis demonstrating that CCWD Facilities will be protected from any potentially damaging operations, during the design preparation and prior to issuance of the final design for the Interconnection Facilities.
- c. DWR shall provide CCWD itemized documentation of the actual (burdened) costs incurred by DWR associated with maintenance, repair, and replacement of the Interconnection Facilities for which DWR seeks reimbursement pursuant to Section 2.6 of the Agreement. Such documentation shall include sufficient detail to enable CCWD to confirm the amount of such cost that was attributable to the Interconnection Facilities.
- d. Any review or approval of documents by CCWD contemplated by this Agreement, including but not limited to review of project designs, technical studies, third party contracts, and contractor submittals, shall be completed within twenty (20) working days of receipt of those documents by CCWD from DWR. If CCWD has comments on a document, CCWD shall provide such comments to DWR in writing.
- e. Within fifteen (15) working days of receipt of said comments, DWR shall notify CCWD in writing to the extent DWR objects to any of CCWD's written comments, and the Parties shall meet and confer in good faith to resolve the dispute.
- f. If the Parties cannot resolve the dispute within twenty-one (21) working days of DWR's written notice, the matter may be submitted to arbitration pursuant to Section 7 of the Agreement.
- g. If CCWD does not return comments to DWR within twenty (20) working days of CCWD's receipt of contractor submittals, DWR will respond to the contractor submittals within the timeframe stipulated in the construction contract and will not delay response waiting for CCWD comments.
- h. CCWD shall have the right to review construction, maintenance, repair, replacement, and similar contracts between DWR and third parties relating to the Interconnection Facilities (each a "**Third Party Contract**"). In furtherance of the foregoing, DWR shall provide CCWD with drafts of each Third Party

Contract in a timely manner such that CCWD can review and provide comments on such drafts. DWR shall consider all such comments in good faith; provided that, to the extent any provisions of such Third Party Contracts conflict with the terms of this Agreement, DWR shall not include them in the final contracts without the written consent of CCWD. Unless otherwise agreed to by CCWD, each Third Party Contract will contain provisions acceptable to CCWD relating to the conduct of the construction, maintenance, repair, and replacement at or affecting any Interconnection Facilities within 1,000 feet of CCWD property, including, without limitation, compliance with CCWD's environmental, health and safety programs, and the right of CCWD to require DWR to halt construction activities that could cause material damage to CCWD's property, inspection and other rights.

Exhibit C

Coordination Regarding Scheduling of Conveyances to CCWD

1. Coordination Process and Protocols

- a. DWR, CCWD, and Reclamation will continue the regular operations coordination meetings during the sensitive fishery period (usually December through May or June).
- b. Before completion of construction of the Conveyance Facilities, DWR and CCWD³ will establish a **DCP Interconnection Real-Time Operations Workgroup** and develop protocols for real-time operational coordination of the Interconnection Facilities. Principles for real-time coordination will include, but are not limited to: (i) timely and transparent communication of any changes to forecasted hydrology, Regulatory Restrictions, or other conditions that would affect Delta water quality, availability of capacity in the Conveyance Facilities, or other constraints that would affect CCWD's ability to receive water from the Interconnection Facilities; and (ii) ability/capability to modify the timing of scheduled deliveries through the Interconnection Facilities to best meet CCWD's water quality goals at the lowest cost possible while minimizing interference or disruption to the use of the Conveyance Facilities by the DCP Participants or by the SWP Contractors who are not DCP Participants to wheel water through the Delta Conveyance Project or Conforming Project Alternative facilities as long as the Parties comply with the terms of the Agreement.
- c. During months when the Interconnection Facilities may be operated, the DCP Interconnection Real-Time Operations Workgroup will meet routinely to confirm and adjust real-time operations, following the protocols developed pursuant to the principles above.
- d. Before commencement of operation of the Conveyance Facilities, DWR and CCWD will develop protocols for communication and scheduling of planned maintenance activities and procedures for unplanned or emergency maintenance activities that will affect operation of the Interconnection Facilities. DWR and CCWD will also develop operational agreements, when necessary to implement this Agreement, such as a way to implement exchanges as a delivery mechanism.
- e. DWR shall provide CCWD itemized documentation of the actual (burdened) costs incurred by DWR associated with operation of the Interconnection

³ Reclamation could participate in this workgroup, if interested, to coordinate on Delta conditions.

Facilities for which DWR seeks reimbursement pursuant to Section 2.6 of the Agreement. Such documentation shall include sufficient detail to enable CCWD to confirm the amount of such cost that was attributable to operation of the Interconnection Facilities.

2. Scheduling Operations

- a. DWR and CCWD will coordinate regarding hydrological forecasts and operational schedules.
- b. DWR will continue to create operational schedules for the SWP facilities in the south Delta and the Delta Conveyance Project or Conforming Project Alternative facilities, which will include any operational constraints and be in accordance with applicable regulatory requirements and contractual obligations. DWR operational schedules will include DWR's estimate of available capacity in the Conveyance Facilities for the Minimum Conveyance Capacity described in Section 2.4.1 of the Agreement, and for capacity in the Conveyance Facilities above the Minimum Conveyance Capacity up to the Interconnection Facilities capacity, following the availability provisions described in Section 2.4.2 of the Agreement. Conveyance schedules from December through June will be dependent on hydrology, biology, and water quality conditions; therefore, a high degree of coordination and real-time operations will be required to ensure the requirements and objectives of the Agreement are met (see Sections 1 and 3 of this Exhibit C).
- c. DWR will share the schedule of available conveyance capacity in the Conveyance Facilities with CCWD in a timely manner, and provide timely updates if the schedule changes, to facilitate the development of CCWD's schedule for conveyance of CCWD's water supply through the Conveyance Facilities and Interconnection Facilities.
- d. CCWD will provide an initial schedule to DWR by October 1 for the accounting period of the next Operational Year, indicating the monthly volume of CCWD's water supplies that CCWD requests DWR to wheel through the Conveyance Facilities and Interconnection Facilities. CCWD's schedule will reflect the forecasted Delta water quality and forecasted availability of CCWD's water supplies, including CCWD's CVP Contract Supply allocation, terms of CCWD's LV Water Right Permit, and relevant transfers or exchanges. CCWD will provide an updated schedule to DWR no later than twenty (20) working days after the initial CVP allocations are announced in February and subsequent updates to the CVP allocations. Further, CCWD will provide an updated monthly schedule as conditions change (or monthly confirmation that there are no changes).

3. Real-time Operational Adjustments. Subject to the requirements of the Agreement, the DCP Interconnection Real-Time Operations Workgroup will coordinate any real-time operations in response to changed conditions such as:
 - a. **Water Supply Availability**
 - (i) CCWD and DWR will coordinate on the forecast for Delta excess conditions, under which CCWD's LV Water Right Permit may be available for CCWD's use.
 - (ii) CCWD, after coordination with Reclamation, will inform DWR of any changes to the availability of water under CCWD's CVP contract that would affect CCWD's ability to receive water through the Interconnection Facilities.
 - b. **Conveyance Availability**
 - (i) In addition to Regulatory Restrictions described in Section 2.7.2(i) of the Agreement, the Parties may by mutual agreement shift conveyance capacity between months of an Operational Year depending on real-time conditions.
 - (ii) During the December through June period, the Parties may shift Minimum Conveyance Capacity as well as any additional available capacity for CCWD between months based on hydrology, water quality, and biological requirements.
 - c. **Contaminant Spills or Wastewater Discharges**
 - (i) CCWD will continue to receive notifications from local wastewater agencies regarding discharges to the Delta channels.
 - (ii) CCWD will continue to monitor the California Office of Emergency Services (OES) and similar agencies and online tools to track the accidental release or discharge of any contaminants into the Delta waterways.
 - (iii) CCWD will notify DWR if operation of the Interconnection Facilities needs to be suspended as a result of the wastewater discharges or contamination that would affect water quality at the Northern Intakes for the Delta Conveyance Project or Conforming Project Alternative. DWR and CCWD will coordinate to cease and reschedule diversions as soon as possible under such conditions, following the protocols that will be developed as discussed above in Sections 1 and 3 of this Exhibit C.
 - d. **Algal blooms in Delta channels**

- (i) CCWD will notify DWR of any algal issues at CCWD's intakes that might change CCWD's desired schedule for capacity through the Interconnection Facilities.
 - e. Possible water quality degradation in the Conveyance Facilities.
 - (i) While, as described in Section 2.8 of the Agreement, DWR does not anticipate degradation of water quality within the Conveyance Facilities, DWR and CCWD will coordinate to develop procedures to review and adjust operation of the Interconnection Facilities in the event of an unanticipated degradation of water quality.
- 4. Annual Reporting. At the end of each Operational Year, DWR and CCWD will work together to develop an annual report. The annual report will include daily conveyance through the Interconnection Pump Station, the type of CCWD supplies conveyed, documentation that the terms of this Agreement were carried out, and suggestions to improve processes or coordination for future years. This report will be complete within three (3) months of the end of the Operational Year.

Exhibit D
1967 Agreement

AGREEMENT

THIS AGREEMENT made this 21 day of April 1967, between the STATE OF CALIFORNIA, acting by and through its Department of Water Resources, hereinafter referred to as the "State", and CONTRA COSTA COUNTY WATER DISTRICT, a public body organized and existing pursuant to Division 12 of the Water Code of the State of California, hereinafter referred to as the "District",

WITNESSETH:

WHEREAS, since 1930 the District and its predecessor, California Water Service Company, have been diverting water from Mallard Slough on Suisun Bay in Contra Costa County pursuant to Water Right Permit to Appropriate Water number 3167 issued on Application number 5941 filed on November 19, 1928. Said diversions have been for direct beneficial use and to storage for later beneficial use within the service area of the Treated Water Division of the District when the water in Mallard Slough had a chloride ion content (mean tidal cycle surface zone) of 100 parts per million or less and was not otherwise polluted to make it unsuitable for treatment for municipal and domestic use (hereinafter referred to as usable river water), and

WHEREAS, the average number of days per water year (October 1 to September 30, hereinafter referred to as "year") that usable river water has been available to the District at said point of diversion is 142 and the median period of said availability is from January 15 to June 5, both days inclusive, and

WHEREAS, during each day usable river water has been and will in the

future be available to the District the quantity thereof has been and will be adequate to meet the water requirements of the District from that point of diversion during such day, and

WHEREAS, in the future the average number of days per year that usable river water will be available to the District will decrease and such decrease will be due in part to the operation of the State Water Resources Development System as defined in Section 12931 of the Water Code, and

WHEREAS, it is contemplated that the Contra Costa Canal, supplemented by the Kellogg Unit or other facilities to be constructed by the Bureau of Reclamation, will meet the District's future water requirements which are not met by usable river water. If such facilities are not constructed by the Bureau of Reclamation, water supply facilities will have to be constructed by another agency or agencies to meet the District's future requirements including a substitute water supply equal to the District's water deficiency entitlement as defined in this agreement;

NOW, THEREFORE, the parties agree as follows:

1. The term of this agreement shall begin on the first day of October, 1967, and shall continue in effect until terminated by either party by written notice to the other party given at least 12 months prior to the effective date of such termination. The effective date of termination shall be the last day of a year (September 30) and no termination shall be effective prior to September 30, 2007.

2. The State shall reimburse the District in the manner hereinafter provided for any decrease in availability to the District of usable river water

in Mallard Slough during the term of this agreement caused by operation of the State Water Resources Development System. Such decrease in availability of usable river water is hereinafter referred to as the District's "water deficiency entitlement".

3. The quantity of the District's water deficiency entitlement shall be determined for each year during the term of this agreement by the formula $E = \frac{(142 - D)}{3} \left(\frac{R + P}{142} \right)$ where E is the District's water deficiency entitlement for such year in acre-feet, D is the number of days during such year that usable river water is available to the District at Mallard Slough, R is the total quantity of water in acre-feet diverted by the District from Mallard Slough from 8:00 A. M. on January 15 to 8:00 A. M. on June 6 and P is the total quantity of water in acre-feet purchased by the District and introduced into its facilities in the vicinity of Chenery Reservoir from 8:00 A. M. on January 15 to 8:00 A. M. on June 6. If in any year D exceeds 142, the District shall have no water deficiency entitlement for such year and the amount of such excess shall offset any water deficiency entitlement of the District for an equal number of days in the next succeeding year or years when D is less than 142.

4. For the purpose of computing the District's water deficiency entitlement, the District will at its expense measure the chloride ion content of water in Mallard Slough at such intervals as shall be reasonably necessary and shall make the results of such measurements available to the State. The State may at its expense verify the accuracy of the District's measurements and any error thus disclosed shall be corrected by the District.

5. Each year during the term of this agreement that the District has a water deficiency entitlement it shall purchase a quantity of substitute water equal thereto from the Contra Costa Canal as supplemented by the Kellogg Unit or other facilities constructed by the Bureau of Reclamation to meet the District's requirement, but if sufficient water is not available to the District from such source it shall purchase said quantity of substitute water from a project or projects constructed by another agency or agencies to meet the District's future water requirements. For the purposes of this agreement, substitute water shall be deemed to have been purchased during the period beginning at 8:00 A. M. on January 15 and ending at 8:00 A. M. on June 6 of such year and the price paid by the District for substitute water shall be deemed to be the average price per acre-foot paid by the District for all untreated water purchased by it for introduction into its facilities in the vicinity of Chenery Reservoir during said period without deduction for any discount, allowance or rebate that may hereafter be made or allowed by the U. S. Bureau of Reclamation in the event the District hereafter undertakes, to any extent to operate and maintain any facilities of the U. S. Bureau of Reclamation not operated and maintained by the District as of the date of this agreement.

6. Each year during the term of this agreement that the District purchases substitute water for its water deficiency entitlement, the State will pay the District an amount of money computed in accordance with the formula $M = E(C_w + C_e - \$4.90)$ where M is the amount in dollars to be paid by the State, E is the District's water deficiency entitlement for such year determined in

the manner provided in Section 3 hereof, C_w is the amount per acre-foot paid by the District for substitute water delivered to the District as provided in Section 5 hereof, and C_e is the average amount (if any) per acre-foot paid by the District for electric energy to transport substitute water from the point of delivery thereof to the District to the District's facilities in the vicinity of Chenery Reservoir. The State shall pay said amount to the District not later than October 31 of the following year. Such payments are hereby determined to be reasonable costs of the annual maintenance and operation of the State Water Resources Development System and shall be disbursed from the California Water Resources Development Bond Fund pursuant to subsection (b) (1) of Section 12937 of the Water Code.

7. The District, in consideration of the payments by the State herein provided, releases the State from liability for any decrease in the availability to the District of usable river water at Mallard Slough caused by operation of the State Water Resources Development System during the term of this agreement.

8. The obligations of the State herein shall not be affected by any modification or discontinuance of the District's Mallard Slough pumping plant or Chenery Reservoir.

9. Nothing herein shall be deemed to be a release or waiver of any right of the District to purchase supplemental water supplies from the State with the priorities established by Water Code Section 11460, 12201 to 12204 inclusive, and 12931.

IN WITNESS WHEREOF the parties hereto have executed this agreement
by their respective officers thereunto duly authorized on the date first above
written.

Approved as to legal form
and sufficiency:

STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES

By P. A. Towner /s/
Chief Counsel

By William R. Gianelli /s/
Director

ATTEST:

CONTRA COSTA COUNTY WATER
DISTRICT

B. M. McCloskey /s/
Secretary

By Ralph D. Bollman /s/
President

Exhibit E
Construction Permit



CONSTRUCTION PERMIT
(Contra Costa Water District & USBR Property)

Permittee Name: _____

Address: _____

Office Phone: _____ Cell Phone: _____ Email: _____

Others who may also use this permit under the Permittee's direction and control:

Permit Period: _____ to _____

Portion of the District or Reclamation Property Permitted: _____

Purpose for Use: _____

Project/Event Account Number: _____

Administrative Deposit Balance: \$ _____ as of _____

Security Deposit Balance: \$ _____ as of _____

PERMIT TERMS AND CONDITIONS:

This permit is subject to all of the following:

- 1.) All of the Permit Terms and Conditions set forth on pages two (2) and three (3) of this permit.
- 2.) All terms and conditions set forth in the Application for Entry and Use of Property.
- 3.) Compliance with all rules and regulations of Contra Costa Water District and local, state, and federal regulatory agencies.
- 4.) Permittee must call USA North "811" at 1-800-227-2600 before any excavation. Permittee is required to remove all locate markings from the property to the District's satisfaction.

PERMITTEE

CONTRA COSTA WATER DISTRICT

The undersigned Permittee hereby agrees to abide by all of the Permit Terms and Conditions.

Permission to enter granted by:

Permittee (signature): _____

Printed Name: _____

Dino Angelosante

Title: _____

Real Property Agent

Date: _____

Date: _____

Contra Costa Water District
Real Property Division
2411 Bisso Lane - P.O. Box H20
Concord, CA 94524-2099
925-688-8076 or 925-688-8162

www.conracwa.com

PERMIT TERMS AND CONDITIONS

THIS CONSTRUCTION PERMIT FOR USE OF A PORTION OF DISTRICT OR RECLAMATION PROPERTY IS LIMITED TO THE TIME PERIOD SET FORTH HEREIN AND IS SUBJECT TO EACH OF THE FOLLOWING TERMS AND CONDITIONS:

1. At least 48 hours before starting work, permittee shall telephone the Contra Costa Water District ("District") Real Property Department: at **925-688-8076** or **925-688-8162** and inform the District when and where work will commence. Work performed without District pre-construction inspection may, at the sole discretion of the District or the United States of America ("Reclamation") be ordered removed or re-performed with District inspection at the sole cost of the Permittee. Note: Permittee may use the property of District and/or Reclamation (the Property) only on Monday – Friday between 8am and 5pm unless otherwise authorized by the District.
2. This permit shall be revoked if Permittee neglects to fully comply with each of these terms and conditions. Additionally, the District reserves the right, at its sole discretion, to suspend, terminate, or revoke this permit at any time.
3. Permittee acknowledges that Permittee's use of the Property is subordinate to its prior and paramount use as a conservation property, watershed, water supply, water storage and distribution facility. Permittee will not cause or allow any interference with the use of said Property for the supply and distribution of water or with any activity of the District on the Property/right-of-way.
4. Permittee shall not cause or allow any damage to the Property or any facilities, or biological, cultural, historical, or natural resources located on the Property.
5. Permittee will not park vehicles, erect any structures, deposit or stockpile any materials, soil, spoil, waste or other materials on the Property unless specific approval is granted by the District.
6. Permittee shall not use any wood bridges on the Property. Permittee shall not enter into any restricted areas or other areas that are not open to the public, unless specific approval is granted by the District.
7. Any damage to the Property or the facilities, or biological, cultural, historical, or natural resources on the Property resulting from the activities for which this permit is obtained shall be repaired at the expense of the Permittee within 30 calendar days. The District will determine whether these repairs will be made by the District, in which case, the Permittee shall reimburse the District for its costs, including overhead, thereby incurred, or by the Permittee, in which case, the repairs shall be performed in accordance with the plans and specifications of the District and to the satisfaction of the District within 30 calendar days.
8. The Permittee shall be liable for, and shall indemnify and hold the District, directors, officers, employees, agents, associates, students, event attendees, or other persons acting under or in connection with this permit, harmless from any and all liability or claims therefor, for injury or death of any person or damage to or loss of property, or any other loss, damage or expense, arising from the activities for which this permit is obtained, including, to the extent permitted by law, such liability or claims that arise from the sole negligence of Reclamation or the District.
9. Throughout the period of the permit activities for which this permit is obtained, Permittee or its contractor shall maintain in force policies of liability and automobile insurance, providing coverage for the indemnity obligations described in the preceding paragraph, with a minimum of a combined single limit of \$1,000,000 per occurrence and \$2,000,000 aggregate for bodily injury and/or property damage. These policies shall name the District, directors, officers, employees, and agents of either as additional insured and shall provide that the coverage afforded under the policies shall not be canceled or reduced without 30 days prior written notice to District. Before commencing activities for which this permit is obtained, Permittee shall provide the District with a legible certificate of insurance and a policy endorsement, evidencing all required coverage. Permittee shall also provide a legible workers' compensation certificate with a \$1,000,000 Employers Liability limit.
10. If, during the exercise of the privileges conferred by this permit, a situation develops which, in the opinion of the Permittee, threatens the safety of persons or property of the District or others, or the Property, or other facilities within the Property, the Permittee will take immediate action to eliminate said threat. In the event that the Permittee does not do so immediately, the District reserves the right, after notifying the Permittee, to take such action as it may in its sole discretion deem necessary to eliminate said threat and the Permittee will, upon receipt of an itemized statement, reimburse the District for all costs, including overhead, incurred by it in connection with said action within 30 calendar days.
11. This permit is for the sole use of the Permittee and the Permittee's employees, agents, associates, students, event attendees, and contractors, and may not be transferred or assigned. Any attempt to transfer or assign this permit shall automatically revoke this permit.
12. A clean and legible copy of this permit shall be available for review at the project or event site on the Property at all times during such use.
13. U.S. Coast Guard-approved life jackets or buoyant work vests will be required if working near, next to, or within canals or other waterways. The Permittee shall be solely responsible for providing its employees, agents, associates, students, event attendees, and contractors with life jackets or buoyant work vests. Extreme caution shall be exercised at all times to prevent people and equipment from falling into ponds, reservoirs, or other bodies of water. **See OSHA §1926.106, "Working Over or Near Water."**

14. The Permittee shall comply with all applicable Federal, State and local laws and regulations and all District policies, regulations and instructions, existing or hereafter enacted or promulgated, concerning any hazardous material that will be used, produced, transported, stored or disposed of on or in Property, water or facilities owned by the Contra Costa Water District or the United States Bureau of Reclamation.
15. "Hazardous material" means any substance, pollutant or contaminant listed as hazardous under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. § 9601, et seq., and the regulations promulgated pursuant to that Act.
16. The Permittee may not allow contamination of Property, water or facilities owned, managed, or administered by the Contra Costa Water District by hazardous materials, thermal pollution, refuse, garbage, sewage effluent, industrial waste, petroleum products, mine tailings, mineral salts, pesticides (including, but not limited to, the misuse of pesticides), pesticide containers or any other pollutants.
17. The Permittee shall report to Contra Costa Water District, within 24 hours of its occurrence, any event that may or does result in pollution or contamination adversely affecting lands, water or facilities owned by the District.
18. In addition to and without limiting in any way the consequences set forth in paragraph 2 of these terms and conditions, violation of any of the provisions contained in paragraphs 14 through 17 of these terms and conditions shall constitute grounds for immediate termination of this permit and shall make the Permittee liable for the cost of full and complete remediation and/or restoration of any property, right of way, resources, or facilities, whether owned by the United States of America or the District, that are adversely affected as a result of the violation.
19. The Permittee agrees to include the provisions contained in paragraphs 14 through 18 of these terms and conditions in any subcontract or third party contract it may enter into pursuant to this permit.
20. Permittee agrees to provide District with project and/or event reports as requested, and as set forth in the Application for Entry and Use of Property.
21. Permittee agrees to comply with District Code of Regulations, District guidelines, and all local, state and federal rules, regulations and laws. Permittee agrees to not harm, disturb, or jeopardize any of the biological, cultural, historical, or natural resources located on District property. The Permittee is responsible for the actions of its employees, contractors, family members and anyone under their direction for their respective compliance with the permit conditions and provisions of District ordinances.
22. Where the District or the United States Bureau of Reclamation do not own access rights in fee title, Permittee shall be solely responsible for obtaining any and all rights required for Permittee to obtain access to the Property.