

DEPARTMENT OF WATER RESOURCES
CENTRAL RECORDS
SATELLITE #1
ROOM #215-5

STATE OF CALIFORNIA
THE RESOURCES AGENCY OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY CONTRACT
BETWEEN
THE STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES
AND
EMPIRE WEST SIDE IRRIGATION DISTRICT

DECEMBER 30, 1963

FILE # 63251481
ITEM # 1
Empire West Side
DATE 12/30/63

CONTENTS

A. INTRODUCTORY PROVISIONS

1. Definitions	Page 1
<ul style="list-style-type: none"> (a) "Bond Act" (b) "System" (c) "Delta" (d) "Contractor" (e) "Project Facilities" (f) "Project Conservation Facilities" (g) "Initial Project Conservation Facilities" (h) "Additional Project Conservation Facilities" (i) "Project Transportation Facilities" (j) "Project Water" (k) "Minimum Project Yield" (l) "Annual Entitlement" (m) "Maximum Annual Entitlement" (n) "Supplemental Conservation Facilities" (o) "Supplemental Water" (p) "Year" (q) "Year of Initial Water Delivery" (r) "Project Interest Rate" (s) "Capital Costs" (t) "Project Repayment Period" (u) "Municipal Use" (v) "Manufacturing Use" (w) "Agricultural Use" (x) "Subject to Approval by the State" (y) "Area of Origin Statutes" 	
2. Term of Contract	3
3. Validation	3
4. Option for Continued Service	3
5. Pledge of Revenues	4
B. WATER SERVICE PROVISIONS	
6. Annual Entitlements	4
<ul style="list-style-type: none"> (a) Year of Initial Water Delivery (b) Agency's Annual Entitlements to Water (c) Obligation of State to Complete Facilities 	
7. Changes in Annual Entitlements; Maximum Annual Entitlement	4
<ul style="list-style-type: none"> (a) Changes in Annual Entitlements (b) Maximum Annual Entitlement of Agency 	
8. Option to Increase Maximum Annual Entitlement	4
9. Delivery Points	5

10. Delivery Structures	Page 5
<ul style="list-style-type: none"> (a) Determination of Size and Location of Delivery Structures (b) Agency Requests as to Initial Delivery Structures (c) Requests by Agency for Additional Delivery Structures (d) Agency to Advance Funds for Delivery Structures 	
11. Measurement of Water Delivered	5
<ul style="list-style-type: none"> (a) Measurement by State (b) Agency to Advance Funds for Measuring Devices 	
12. Delivery Schedules	5
<ul style="list-style-type: none"> (a) Procedure for Determining Water Delivery Schedule (b) Limit on Peak Deliveries of Water (c) Limit on Rate of Delivery to Agency (d) Delivery of Water Not Delivered in Accordance With Schedule 	
13. Responsibilities for Delivery and Distribution of Water	6
<ul style="list-style-type: none"> (a) State Not Liable for Operation Beyond Delivery Structures (b) Agency Not Liable for Operation Upstream From Delivery Structures 	
14. Curtailment of Delivery for Maintenance Purposes	6
<ul style="list-style-type: none"> (a) State May Curtail Deliveries (b) Agency May Receive Later Delivery of Water Not Delivered 	
15. Area Served by Agency	7
<ul style="list-style-type: none"> (a) State Approval of Sale of Water by Agency Outside Boundaries (b) State Approval of Change in Boundaries or Organization of Agency (c) Map of Agency 	
16. Continuity and Dependability of Water Supply	7
<ul style="list-style-type: none"> (a) Limit on Total of All Maximum Annual Entitlements (b) State to Perfect Water Rights (c) State to Report on Ability to Meet Future Water Demands (d) Construction of Additional and Supplemental Conservation Facilities (e) Furnishing of Supplemental Water 	

CONTENTS—Continued

	Page		Page
17. Construction of Project Facilities	7	25. Transportation Charge—Minimum Operation, Maintenance, Power, and Replacement Component	15
(a) Determination of Aqueduct Capacities		(a) Method of Computation	
(b) Criteria for Determining Capacity of Transportation Facilities		(b) Allocation of Costs	
(c) Inspection of Project Plans and Specifications		(c) Payment Table	
(d) Restriction of Bond Sales		26. Transportation Charge—Variable Operation, Maintenance, Power, and Replacement Component	16
(e) Failure to Complete Facilities		(a) Method of Computation	
18. Shortage in Water Supply	8	(b) Revenue From Aqueduct Power Recovery Plants	
(a) Temporary Shortages; Delivery Priorities		(c) Payment Table	
(b) Permanent Shortage; Reduction of Entitlements		27. Transportation Charge—Payment Schedule	17
(c) Permanent Shortage; Contracts for Areas-of-origin		28. Transportation Charge—Redetermination	17
(d) Reinstatement of Entitlements		29. Time and Method of Payment	17
(e) Advance Notice of Delivery Reductions		(a) Initial Payment—Delta Water Charge	
(f) No Liability for Shortages		(b) Initial Payment—Transportation Charge: Capital Component	
19. Water Quality	10	(c) Initial Payment—Transportation Charge: Minimum Component	
(a) Table of Water Quality Objectives		(d) Initial Payment—Transportation Charge: Variable Component	
(b) Records of Water Quality		(e) Statement of Charges	
(c) No Liability for Failure to Meet Quality Objectives		(f) Times of Payment—Capital Components	
20. Suspension of Service Upon Default	10	(g) Times of Payment—Minimum Components	
21. Sale of Surplus Water	10	(h) Times of Payment—Variable Components	
		(i) Contest of Accuracy of Charges	
C. PAYMENT PROVISIONS		30. Surcharge for Project Water Used on Excess Land	18
22. Delta Water Charge	11	(a) Definitions: "Surcharge"; "Excess Land"	
(a) Payment of Reimbursable Costs of Project Conservation Facilities		(b) Definition: "Power Credit"	
(b) Delta Water Rate Until 1970; Components of Rate Thereafter		(c) Definition: "Retail Agency"	
(c) Computation of the Components of the Delta Water Rate		(d) Payment of Surcharge	
(d) Application of Component Rates		(e) Commingling of Project and Non-Project Water	
(e) Allocations to Project Purposes		(f) Failure of Retail Agency to Perform Obligations	
(f) Yearly Recomputation of Rates After 1970		(g) State May Enforce Surcharge	
(g) Supplemental Conservation Facilities		(h) State to Defend and Indemnify Against Claims	
23. Transportation Charge	13	(i) Separability	
24. Transportation Charge—Capital Cost Component	14	31. Adjustment for Overpayment or Underpayment	20
(a) Method of Computation		32. Delinquency in Payment	21
(b) Allocation of Capital Costs Among Contractors		(a) Agency to Provide for Punctual Payment	
(c) Annual Payments of Allocated Capital Costs		(b) Interest on Overdue Payments	
(d) Payment in Advance for Excess Peaking Capacity			
(e) Costs Incurred Prior to Date of Contract			

CONTENTS—Continued

	Page		Page
33. Obligation of Agency to Make Payments	21	42. Waiver of Rights	22
(a) Refusal of Water Does Not Affect Obligation		43. Notices	22
(b) Character of Obligation		44. Maintenance and Inspection of Books, Records, and Reports	22
34. Obligation of Agency to Levy Taxes and Assessments	21	E. SPECIAL PROVISIONS AND TABLES	
(a) When Obligated		45. Special Provisions	23
(b) Enforcement by Officers of Agency		Tables	
(c) Deposit in Separate Fund		A. Annual Entitlements	
(d) Enforcement of Levy		B. Allocated Proportion of Costs of Project Transportation Facilities	
D. GENERAL PROVISIONS		C. Projected Allocation of Capital Cost of Project Transportation Facilities	
35. Remedies Not Exclusive	21	D. Transportation Charge—Capital Cost Component	
36. Amendments	21	E. Transportation Charge—Minimum Operation Maintenance, Power and Replacement Component	
37. Agency Not Estopped to Challenge State Laws	21	F. Transportation Charge—Estimated Variable Operation Maintenance, Power, and Replacement Component	
38. Opinions and Determinations	22	G. Payment Schedule	
39. Contracting Officer of the State	22	H. Project Transportation Facilities	
40. Successors and Assigns Obligated	22	I. Aqueduct Reaches	
41. Assignment	22		

STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES

CONTRACT
BETWEEN THE STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES AND
EMPIRE WEST SIDE IRRIGATION DISTRICT
FOR A WATER SUPPLY

THIS CONTRACT, made this 30th day of December, 1963 pursuant to the provisions of the California Water Resources Development Bond Act, the State Central Valley Project Act, and other applicable laws of the State of California, between the State of California, acting by and through its Department of Water Resources, herein referred to as the "State", and Empire West Side Irrigation District

a public agency in the State of California, duly organized, existing, and acting pursuant to the laws thereof with its principal place of business in Lemoore, California, herein referred to as the "Agency".

WITNESSETH, That:

WHEREAS, the State is authorized to construct and operate facilities for the storage and conveyance of water, certain of which facilities will make water available to the Agency; and

WHEREAS, funds will be provided under the California Water Resources Development Bond Act for the construction of said facilities; and

WHEREAS, the Agency is desirous of obtaining a supply of water from the State;

NOW THEREFORE, it is mutually agreed as follows:

A. INTRODUCTORY PROVISIONS

1. DEFINITIONS

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

(a) Bond Act

"Bond Act" shall mean the California Water Resources Development Bond Act, comprising Chapter 8 (commencing at Section 12930) of Part 6 of Division 6 of the Water Code.

(b) System

"System" shall mean the State Water Resources Development System as defined in Section 12931 of the Water Code.

(c) Delta

"Delta" shall mean the Sacramento-San Joaquin Delta as defined in Section 12220 of the Water Code on November 8, 1960.

(d) Contractor

"Contractor" shall mean any entity contracting with the State for a dependable supply of water made available by the System, except such water as is made available by the facilities specified in Section 12934(d)(6) of the Water Code.

(e) Project Facilities

"Project facilities" shall mean those facilities of the System which will, in whole or in part, serve the purposes of this contract by conserving water and making it available for use in and above the Delta and for export from the Delta, and by conveying water to the Agency. Said project facilities shall consist specifically of "project conservation facilities" and "project transportation facilities", as hereinafter defined.

(f) Project Conservation Facilities

"Project conservation facilities" shall mean such project facilities as are presently included, or as may be added in the future, under (g) and (h) below.

Art. 1

(g) Initial Project Conservation Facilities

"Initial project conservation facilities" shall mean the following project facilities specified in Section 12934(d) of the Water Code:

- (1) All those facilities specified in subparagraph (1) thereof.
- (2) Those facilities specified in subparagraph (3) thereof to the extent that they serve the purposes of water conservation in the Delta, water supply in the Delta, and transfer of water across the Delta.
- (3) A reservoir near Los Banos in Merced County as specified in subparagraph (2) thereof.
- (4) The reach of the San Joaquin Valley-Southern California Aqueduct extending from the Delta to a reservoir near Los Banos in Merced County, to the extent required for water conservation through conveyance of water diverted from the Delta to offstream storage in said reservoir as determined by the State.
- (5) Those facilities specified in subparagraph (5) thereof which are incidental to the facilities included under (1), (2), (3), and (4) above.
- (6) Those facilities specified in subparagraph (7) thereof which are necessary and appurtenant to the facilities included under (1), (2), (3), (4), and (5) above.

(h) Additional Project Conservation Facilities

"Additional project conservation facilities" shall mean those project facilities provided for in Section 12938 of the Water Code which will serve the purpose of preventing any reduction in the minimum project yield, as hereinafter defined.

(i) Project Transportation Facilities

"Project transportation facilities" shall mean those project facilities:

- (1) Specified in Water Code Section 12934(d)(2) which are described in Table H of this contract;
- (2) Specified in Water Code Section 12934(d)(5) which are incidental to the facilities included under (1) above;
- (3) Specified in Water Code Section 12934(d)(7) which are necessary and appurtenant to the facilities included under (1) and (2) above.

(j) Project Water

"Project water" shall mean water made available for delivery to the contractors by project conservation facilities and the transportation facilities included in the System.

(k) Minimum Project Yield

"Minimum project yield" shall mean the dependable annual supply of project water to be made available,

estimated to be 4,000,000 acre-feet per year, said amount to be determined by the State on the basis of coordinated operation studies of initial project conservation facilities and additional project conservation facilities, which studies shall be based upon:

- (1) The estimated relative proportion of deliveries for agricultural use to deliveries for municipal use for the year 1990, and the characteristic distributions of demands for these two uses throughout the year.
- (2) An allowable reduction in the agricultural use portion of the minimum project yield, due to drought, of not to exceed fifty percent (50%) in any one year, nor a total of one hundred percent (100%) of one year's supply in any series of seven consecutive years.
- (3) Agreements now in effect or as hereafter amended or supplemented between the State and the United States and others regarding the diversion or utilization of waters of the Delta or streams tributary thereto.

(l) Annual Entitlement

"Annual entitlement" shall mean the amount of project water to be made available to a contractor during the respective year, at the delivery structures provided for such contractor, under the terms of its contract with the State.

(m) Maximum Annual Entitlement

"Maximum annual entitlement" shall mean the maximum amount of project water to be made available to a contractor in any one year, at the delivery structures provided for such contractor, under the terms of its contract with the State.

(n) Supplemental Conservation Facilities

"Supplemental conservation facilities" shall mean those facilities provided for in Section 12938 of the Water Code which will serve the purpose of supplying water in addition to the minimum project yield, and for meeting local needs.

(o) Supplemental Water

"Supplemental water" shall mean water made available by supplemental conservation facilities, in excess of the minimum project yield.

(p) Year

"Year" shall mean the 12-month period from January 1 through December 31, both dates inclusive.

(q) Year of Initial Water Delivery

"Year of initial water delivery" shall mean the year when project water will first be available for delivery to a contractor pursuant to its contract with the State.

(r) Project Interest Rate

"Project interest rate" shall mean the weighted average of the interest rates paid by the State on bonds issued under the Bond Act without regard to any premiums received on the sale thereof. Until bonds are issued and sold under the Bond Act, the project interest rate shall be four percent (4%) per annum, and after said bonds have been issued said rate shall be computed as a decimal fraction to five places.

(s) Capital Costs

"Capital costs" shall mean all costs incurred subsequent to authorization of a facility for construction by the Legislature or by administrative action pursuant to Section 11290 of the Water Code and to the Bond Act, including those so incurred prior to the beginning of the project repayment period as herein defined and any accrued unpaid interest charges thereon at the rates specified herein, which are properly chargeable to the construction of and the furnishing of equipment for the facilities of the System, including the costs of surveys, engineering studies, exploratory work, designs, preparation of construction plans and specifications, acquisition of lands, easements and rights-of-way, relocation work, and essential administrative work in connection therewith, all as shown upon the official records of the Department of Water Resources.

(t) Project Repayment Period

"Project repayment period" shall mean that period of years commencing on January 1, 1961, and extending until all bonds secured by the pledge of revenues provided for by the Bond Act have been repaid.

(u) Municipal Use

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

(v) Manufacturing Use

"Manufacturing use" shall mean any use of water primarily in the production of finished goods for market.

(w) Agricultural Use

"Agricultural use" shall mean any use of water primarily in the production of plant crops or livestock for market, including any use incidental thereto for domestic or stock-watering purposes.

(x) Subject to Approval by the State

"Subject to approval by the State" shall mean subject to the determination and judgment of the State as to acceptability.

(y) Area of Origin Statutes

"Area of origin statutes" shall mean Sections 10505 and 11460 through 11463 of the Water Code as now existing or hereafter amended.

2. TERM OF CONTRACT

This contract shall become effective on the date first above written and shall remain in effect throughout the project repayment period, or for seventy-five (75) years, whichever period is longer.

3. VALIDATION

Within one (1) year after the effective date of this contract, the Agency shall submit this contract to a court of competent jurisdiction for determination of its validity by a proceeding in mandamus or other appropriate proceeding or action, which proceeding or action shall be diligently prosecuted to final decree or judgment. In the event that this contract is determined to be invalid by such final decree or judgment, the State shall make all reasonable efforts to obtain validating legislation at the next session of the Legislature empowered to consider such legislation, and within six (6) months after the close of such session, if such legislation shall have been enacted, the Agency shall submit this contract to a court of competent jurisdiction for redetermination of its validity by appropriate proceeding or action, which proceeding or action shall be diligently prosecuted to final decree or judgment.

4. OPTION FOR CONTINUED SERVICE

By written notice to the State at least six (6) months prior to the expiration of the term of this contract, the Agency may elect to receive continued service after expiration of said term under the following conditions unless otherwise agreed to:

- (1) Service of water in annual amounts up to and including the Agency's maximum annual entitlement hereunder.
- (2) Service of water at no greater cost to the Agency than would have been the case had this contract continued in effect.
- (3) Service of water under the same physical conditions of service, including time, place, amount and rate of delivery, as are provided for hereunder.
- (4) Retention of the same chemical quality objective provision as is set forth herein.
- (5) Retention of the same options to utilize the project transportation facilities as are provided for in Articles 18(b) and 18(c), to the extent such options are then applicable.

Other terms and conditions of the continued service shall be reasonable and equitable and shall be mutually agreed upon. In the event that said terms and condi-

Art. 5

tions provide for continued service for a limited number of years only, the Agency shall have the same option to receive continued service here provided for upon the expiration of that and each succeeding period of continued service.

5. PLEDGE OF REVENUES

This contract is entered into for the direct benefit of the holders and owners of all general obligation bonds issued under the Bond Act, and the income and revenues derived from this contract are pledged to the purposes and in the priority set forth in that act.

B. WATER SERVICE PROVISIONS

6. ANNUAL ENTITLEMENTS

(a) Year of Initial Water Delivery

The year of initial water delivery to the Agency is presently estimated to be 1968. To the extent practicable, the State shall notify the Agency of any change in this estimate.

(b) Agency's Annual Entitlements to Water

Commencing with the year of initial water delivery to the Agency, the State each year shall make available for delivery to the Agency the amounts of project water designated in Table A of this contract, which amounts are referred to in this contract as the Agency's annual entitlements.

(c) Obligation of State to Complete Facilities

Subject to the availability of funds, the State shall make all reasonable efforts consistent with sound fiscal policies, reasonable construction schedules, and proper operating procedures to complete the project facilities necessary for delivery of project water to the Agency in such manner and at such times that said delivery can commence in or before the year specified in subdivision (a) of this article, and continue in the amounts designated in Table A of this contract.

7. CHANGES IN ANNUAL ENTITLEMENTS; MAXIMUM ANNUAL ENTITLEMENT

(a) Changes in Annual Entitlements

The Agency may, at any time or times during the term of this contract, by timely written notice furnished to the State, request that project water be made available to it thereafter in annual amounts greater or less than the annual entitlements designated in Table A of this contract. Subject to approval by the State of any such request, the State's construction schedule shall be adjusted to the extent necessary to satisfy the request, and the requested increases or decreases in said annual entitlements shall be incorporated in said Table A by amendment thereof: *Provided*, That no such

change shall be approved if in the judgment of the State it would impair the financial feasibility of the project facilities.

(b) Maximum Annual Entitlement of Agency

The maximum amount of project water to be made available to the Agency in any one year under this contract shall be that specified in Table A of this contract and in said table designated as the Agency's "Maximum Annual Entitlement." In no event shall such maximum amount of project water to be made available to the Agency be increased over this amount, except as is otherwise provided in this contract.

8. OPTION TO INCREASE MAXIMUM ANNUAL ENTITLEMENT

In the event that the maximum annual entitlements under all contracts executed by the State on or before December 31, 1963, do not aggregate the amount of the minimum project yield as herein defined, the State shall immediately notify the Agency and all other contractors, and the Agency may elect to become entitled to the uncontracted for portion of the minimum project yield in or up to an amount which bears the same ratio to such uncontracted for portion as the Agency's maximum annual entitlement bears to the total of the maximum annual entitlements of all contractors as of that date: *Provided*, That such option may be exercised only to the extent that the water involved can be put to beneficial use within a reasonable period of time. Such option shall become effective on the date that the Agency receives said notice from the State and shall remain in effect through September 30, 1964. If the full amount of such uncontracted for portion of the minimum project yield is not preempted by the Agency under this option and by other contractors through the exercise of similar options on or before September 30, 1964, the Agency may request that it become entitled to any amount of such water not so preempted. Such request shall be subject to approval by the State and shall be considered in the light of all similar requests from other contractors. The State shall approve such request only to the extent that the water involved can be put to beneficial use within a reasonable period of time. Upon the exercise of such option or upon the approval of such request the Agency's maximum annual entitlement in Table A of this contract shall be increased by the amount of the additional entitlement thereby obtained by amendment of that table, and the Agency shall become obligated and hereby agrees to pay to the State a proportionate share of the costs attributable to such increase in accordance with cost allocation principles and procedures set forth in this contract. The service of and payment for said increased entitlement shall in all respects be subject to the terms and conditions of this contract.

9. DELIVERY POINTS

Project water made available to the Agency pursuant to Article 6 shall be delivered to the Agency by the State at the delivery structures established in accordance with Article 10.

10. DELIVERY STRUCTURES

(a) Determination of Size and Location of Delivery Structures

Project water made available to the Agency pursuant to this contract shall be delivered to the Agency at such locations and times and through delivery structures of such capacities as are requested by the Agency and approved by the State.

(b) Agency Requests as to Initial Delivery Structures

Pursuant to subdivision (a) of this article, the Agency shall furnish to the State on or before February 1, 1964, its written requests as to:

- (1) The location of delivery structures for delivery of project water to it.
- (2) The time at which project water is first to be delivered through each such delivery structure.
- (3) The maximum instantaneous flow capacity in cubic feet per second to be provided in each such delivery structure.
- (4) The maximum amount of water in acre-feet to be delivered in any one month through each such delivery structure.
- (5) The total combined maximum instantaneous flow capacity in cubic feet per second to be provided by all such delivery structures.
- (6) The total maximum amount of water in acre-feet to be delivered in any one month through all such delivery structures.

(c) Requests by Agency for Additional Delivery Structures

From time to time the Agency may request delivery structures in addition to those requested pursuant to subdivision (b) of this article.

(d) Agency to Advance Funds for Delivery Structures

The Agency shall pay all of the costs of delivery structures for the delivery of project water to it, and shall deposit with the State, prior to the commencement of construction of any such delivery structure, an amount of money estimated by the State to be sufficient to cover the costs thereof.

11. MEASUREMENT OF WATER DELIVERED

(a) Measurement by State

The State shall measure all project water delivered to the Agency and shall keep and maintain accurate and complete records thereof. For this purpose, the State shall install, operate, and maintain at all delivery

structures for delivery of project water to the Agency such measuring devices and equipment as are satisfactory and acceptable to both parties. Said devices and equipment shall be examined, tested, and serviced regularly to insure their accuracy. At any time or times, the Agency or any other contractor may inspect such measuring devices and equipment, and the measurements and records taken therefrom.

(b) Agency to Advance Funds for Measuring Devices

The Agency shall pay all of the costs of acquiring and installing the measuring devices and equipment provided for in subdivision (a) of this article, and shall deposit with the State, prior to such acquisition and installation, an amount of money estimated by the State to be sufficient to cover such costs.

12. DELIVERY SCHEDULES

(a) Procedure for Determining Water Delivery Schedule

The amounts, times, and rates of delivery of project water to the Agency during any year shall be in accordance with a water delivery schedule for that year, such schedule to be determined in the following manner:

- (1) On or before October 1 of each year, the Agency shall submit in writing to the State a preliminary water delivery schedule, subject to the provisions of this article and Articles 6(b), 7(b), 10 and 17, indicating the amounts of water desired by the Agency during each month of the succeeding five (5) years.
- (2) Upon receipt of a preliminary schedule the State shall review it and, after consultation with the Agency, shall make such modifications in it as are necessary to insure that the amounts, times, and rates of delivery to the Agency will be consistent with the State's overall delivery ability, considering the then current delivery schedules of all contractors. On or before December 1 of each year, the State shall determine and furnish to the Agency the water delivery schedule for the next succeeding year which shall show the amounts of water to be delivered to the Agency during each month of that year.
- (3) A water delivery schedule may be amended by the State upon the Agency's written request. Proposed amendments shall be submitted by the Agency within a reasonable time before the desired change is to become effective, and shall be subject to review and modification by the State in like manner as the schedule itself.

(b) Limit on Peak Deliveries of Water

In no event shall the State contract to deliver to any contractor from the project transportation facili-

Art. 13

ties downstream from Pumping Plant VI (Tehachapi Pumping Plant) in any one month of any year a total amount of project water greater than eleven percent (11%) of such contractor's annual entitlement for that year; or to deliver to any contractor from the project transportation facilities upstream from said Pumping Plant VI in any one month of any year a total amount of project water greater than the sum of eighteen percent (18%) of that portion of such contractor's annual entitlement for that year to be put to agricultural use, as determined by the State, and eleven percent (11%) of that portion of such contractor's annual entitlement for that year to be put to municipal use, as determined by the State: *Provided*, That if the State delivers project water to any contractor through delivery structures both downstream and upstream from said Pumping Plant VI, the foregoing limitations shall be based on an appropriate apportionment of such contractor's annual entitlement for the respective year to the respective portions of such contractor's service area to which delivery is made from the project transportation facilities downstream from said Pumping Plant VI and from the project transportation facilities upstream therefrom: *Provided further*, That the percentages set forth hereinabove may be revised for a particular contractor by amendment of this subdivision after submission to the State of that contractor's requests with respect to maximum monthly deliveries, such revision being subject to approval by the State and subject to advancement to the State by the contractor of funds sufficient to cover any additional costs of the project transportation facilities occasioned thereby, the amount of such funds to be determined pursuant to Article 24(d).

(c) Limit on Rate of Delivery to Agency

In no event shall the State be obligated to deliver water to the Agency through all delivery structures at a total combined instantaneous rate of flow exceeding _____⁹ cubic feet per second, except as this rate of flow may be revised by amendment of this article after submission to the State of the Agency's requests with respect to maximum flow capacities to be provided in said delivery structures, pursuant to Article 10.

(d) Delivery of Water Not Delivered in Accordance With Schedule

If in any year the State, as a result of causes beyond its control, is unable to deliver any portion of the Agency's annual entitlement for such year under Table A of this contract as provided for in the delivery schedule established for that year, the Agency may elect to receive the amount of water which otherwise would have been delivered to it during such period at other times during the year or succeeding years, to the extent that such water is then available and such election is consistent with the State's overall delivery ability, considering the then current delivery schedules of all contractors.

13. RESPONSIBILITIES FOR DELIVERY AND DISTRIBUTION OF WATER

(a) State Not Liable for Operation Beyond Delivery Structures

Neither the State nor any of its officers, agents, or employees shall be liable for the control, carriage, handling, use, disposal, or distribution of project water supplied to the Agency after such water has passed the delivery structures established in accordance with Article 10; nor for claim of damage of any nature whatsoever, including but not limited to property damage, personal injury or death, arising out of or connected with the control, carriage, handling, use, disposal or distribution of such water beyond said delivery structures; and the Agency shall indemnify and hold harmless the State and its officers, agents, and employees from any such damages or claims of damages.

(b) Agency Not Liable for Operation Upstream From Delivery Structures

Neither the Agency nor any of its officers, agents, or employees shall be liable for the control, carriage, handling, use, disposal, or distribution of project water before such water has passed the delivery structures established in accordance with Article 10; nor for claim of damage of any nature whatsoever, including but not limited to property damage, personal injury or death, arising out of or connected with the control, carriage, handling, use, disposal, or distribution of such water before it has passed said delivery structures.

14. CURTAILMENT OF DELIVERY FOR MAINTENANCE PURPOSES

(a) State May Curtail Deliveries

The State may temporarily discontinue or reduce the delivery of project water to the Agency hereunder for the purposes of necessary investigation, inspection, maintenance, repair, or replacement of any of the project facilities necessary for the delivery of project water to the Agency. The State shall notify the Agency as far in advance as possible of any such discontinuance or reduction, except in cases of emergency, in which case notice need not be given.

(b) Agency May Receive Later Delivery of Water Not Delivered

In the event of any discontinuance or reduction of delivery of project water pursuant to subdivision (a) of this article, the Agency may elect to receive the amount of water which otherwise would have been delivered to it during such period under the water delivery schedule for that year at other times during the year or succeeding years to the extent that such water is then available and such election is consistent with the State's overall delivery ability, considering the then current delivery schedules of all contractors.

15. AREA SERVED BY AGENCY

(a) State Approval of Sale of Water by Agency Outside Boundaries

Project water delivered to the Agency pursuant to this contract shall not be sold or otherwise disposed of by the Agency for use outside the Agency without the prior written consent of the State.

(b) State Approval of Change in Boundaries or Organization of Agency

While this contract is in effect no change shall be made in the Agency either by inclusion or exclusion of lands, by partial or total consolidation or merger with another district, by proceedings to dissolve, or otherwise, except with the prior written consent of the State or except by act of the Legislature.

(c) Map of Agency

The Agency shall provide the State with a map satisfactory to the State indicating the major existing distribution facilities and the boundaries of the Agency at the time the contract is signed and supplementary maps whenever a boundary change is made.

16. CONTINUITY AND DEPENDABILITY OF WATER SUPPLY

(a) Limit on Total of all Maximum Annual Entitlements

The Agency's maximum annual entitlement hereunder, together with the maximum annual entitlements of all other contractors, shall aggregate no more than the minimum project yield as defined herein and in no event more than 4,000,000 acre-feet of project water.

(b) State to Perfect Water Rights

The State shall make all reasonable efforts to perfect and protect water rights necessary for the System and for the satisfaction of water supply commitments under this contract.

(c) State to Report on Ability to Meet Future Water Demands

Commencing within two (2) years from the year of initial project water delivery to the Agency, the State shall submit to the agency at not more than five-year intervals a report on the State's ability to meet future demands for project water and for supplemental water, and on the State's plans for constructing additional project conservation facilities and supplemental conservation facilities. Such reports shall include all estimates, projections, and other data which the State deems relevant thereto.

(d) Construction of Additional and Supplemental Conservation Facilities

Bond funds required to be expended for the construction of additional facilities of the System under

the provisions of Section 12938 of the Water Code shall be expended only for construction of additional project conservation facilities as defined herein, and related, appurtenant facilities necessary and desirable to meet local needs: *Provided*, That if at any time after 1985 the State finds that a part or all of such bond funds are not then required for the above purpose, and will not be so required within the next succeeding ten (10) years, such bond funds may be used, to the extent permitted in the Bond Act, to construct supplemental conservation facilities as defined herein.

(e) Furnishing of Supplemental Water

In planning and designing supplemental conservation facilities the State shall give consideration to the requirements and demands for supplemental water of the Agency and others who have contracted for project water. Entitlements to supplemental water shall be obtained, and repayment therefor shall be arranged, in contracts separate from contracts for project water.

17. CONSTRUCTION OF PROJECT FACILITIES

(a) Determination of Aqueduct Capacities

Subject to the rights of the Agency under subdivision (b) of this article and the other provisions of this contract, the State shall provide in each aqueduct reach of the project transportation facilities such maximum monthly delivery capability for the transport and delivery of project water to the Agency as, in the judgment of the State, will best serve the interests of the Agency and all other contractors entitled to delivery of project water from or through said facilities: *Provided*, That within three (3) months after the effective date of this contract the Agency shall furnish to the State a written request specifying such maximum monthly delivery capabilities, and the State shall give full consideration to such request in planning and designing said facilities.

(b) Criteria for Determining Capacity of Transportation Facilities

Subject to Article 45, the State shall design and construct the project transportation facilities so as to provide in each reach thereof, including reservoirs, the capacity necessary to enable delivery of project water in each year to the Agency and to other contractors in the maximum monthly amounts and at the locations, times, and maximum rates specified or provided for in their respective contracts for such year, and shall include in each such reach such capacity as is economically justified in the judgment of the State to compensate for scheduled outages for purposes of necessary investigation, inspection, maintenance, repair or replacement of project facilities, and for losses of water due to evaporation, leakage, seepage, or other causes: *Provided*, That regulatory storage reservoirs included

Art. 18

in the project transportation facilities may be utilized in conjunction with conveyance capacity provided in said facilities for delivery to the Agency of the foregoing monthly amounts.

(c) **Inspection of Project Plans and Specifications**

The Agency shall have a reasonable opportunity to inspect and study the State's plans and specifications for all project facilities and may make comments and recommendations thereon to the State. Such privilege shall also extend to any plans and specifications in connection with the use by the State, in conjunction with the project facilities, of facilities owned by an entity other than the State. The State shall not enter into any such agreement which would impair the State's ability to perform fully its obligations under this contract.

(d) **Restriction on Bond Sales**

No bonds shall be sold nor funds expended under the authority of the Bond Act for the construction of any aqueduct or appurtenance thereto included in the System unless and until contracts are executed which will insure the recovery by the State of at least seventy-five percent (75%) of those capital costs of the particular aqueduct and any appurtenances thereto which shall be reimbursable by the contractors as determined by the State; nor shall any bonds be sold or funds expended under the authority of the Bond Act for the construction of any project conservation facility or supplemental conservation facility, unless and until contracts are executed which, together with estimated revenues from the sale or other disposal of electrical energy generated in connection with operation of project conservation facilities and supplemental conservation facilities, will insure the recovery by the State of at least seventy-five percent (75%) of those capital costs of the particular facility which shall be reimbursable by the contractors as determined by the State: *Provided*, That the foregoing limitations shall not apply with respect to: (1) surveys, engineering studies, exploratory work, designs, preparation of construction plans and specifications, acquisition of lands, easements and rights of way, relocation work, and essential administrative work in connection therewith; (2) construction for which appropriations had been made prior to approval of the Bond Act by the voters of the State of California; and (3) construction of facilities pursuant to an agreement between the State and the United States.

(e) **Failure to Complete Facilities**

In the event that the State fails or is unable to complete construction of any portion or portions of the project transportation facilities necessary to deliver water to the Agency as provided in this contract, and gives the Agency written notice thereof, or by reason of such failure or inability construction of said facilities has ceased for a period of two and one-half (2½) years, the Agency, if it be not then in default and

without exclusion of such other rights as it may have under this contract, may exercise the following options:

- (1) The Agency may provide funds to the State in such amounts and at such times as may be necessary to enable the State to complete construction of such incompleting portion or portions of the project transportation facilities to the extent necessary for the transport and delivery of water to the Agency as provided for in this contract: *Provided*, That the State shall be and remain the owner of such project transportation facilities or portions thereof constructed in whole or in part with funds provided by the Agency, and shall be and remain obligated to operate, maintain, repair and replace such facilities to the full extent contemplated in this contract: *Provided further*, That the amount of any funds so provided by the Agency shall be credited by the State against the Agency's payment obligation under the capital cost component of the Transportation Charge, but the Agency shall be and remain obligated to pay its share of any capital costs of the above-described facilities not paid for with such funds, together with its proportionate share of the operation, maintenance, power and replacement costs of such facilities.
- (2) The Agency may at its own expense, and on a joint venture basis if such an arrangement is made with other contractors having similar options, connect to the project transportation facilities constructed by the State for the purpose of receiving project water to which it is entitled under this contract. In such event and notwithstanding any other provisions of this contract, the structures for delivery of project water to the Agency pursuant hereto shall thereafter be deemed to be located at such point of connection. Specific arrangements for acquiring, constructing, operating, maintaining and replacing the Agency's facilities at the point of connection thereof with the State's facilities shall be in accordance with terms and conditions mutually agreed upon by the parties: *Provided*, That the State shall be and remain the owner of all facilities constructed by it to said point of connection, and the Agency shall be and remain obligated to pay its proportionate share of the costs thereof.

18. SHORTAGE IN WATER SUPPLY

(a) **Temporary Shortages; Delivery Priorities**

In any year in which there may occur a shortage due to drought or other temporary cause in the supply of project water available for delivery to the contractors, with the result that such supply is less than the total of the annual entitlements of all contractors for that year, the State shall, before reducing deliveries

of project water to all contractors, reduce the delivery of project water to each contractor using such water for agricultural purposes by a percentage, not to exceed fifty percent (50%) in any one year or a total of one hundred percent (100%) in any series of seven consecutive years, of that portion of the contractor's annual entitlement for the respective year which is to be put to agricultural use as determined by the State: *Provided*, That such percentage shall be the same for all such contractors. The maximum total reduction in deliveries allowable under the above provision shall be made before any reduction is made in project water deliveries for other uses. Any necessary reduction in deliveries of project water beyond said maximum total reduction allowable under the foregoing provision shall be apportioned among all contractors irrespective of the uses to which such water is to be put. In such event, the State shall reduce deliveries to each contractor in an amount which bears the same proportion to the total amount of such necessary further reduction that the contractor's annual entitlement bears to the total of the annual entitlements of all contractors for that year, all as determined by the State: *Provided*, That the State may apportion on some other basis if such is required to meet minimum demands for domestic supply, fire protection, or sanitation during the year. The foregoing provisions of this subdivision shall be inoperative to the extent that a contractor's annual entitlement for the respective year reflects established rights under the area of origin statutes precluding a reduction in deliveries to such contractor.

(b) Permanent Shortage; Reduction of Entitlements

In the event that the State is unable to construct sufficient additional conservation facilities to prevent a reduction in the minimum project yield, or if for any other reason there is a reduction in the minimum project yield, which, notwithstanding preventive or remedial measures taken or to be taken by the State, threatens a permanent shortage in the supply of project water to be made available to the contractors:

- (1) The annual entitlements and the maximum annual entitlements of all contractors, except to the extent such entitlements may reflect established rights under the area of origin statutes, shall, by amendment of Table A of this contract, be reduced proportionately by the State to the extent necessary so that the sum of the revised maximum annual entitlements of all contractors will then equal such reduced minimum project yield: *Provided*, That appropriate adjustment in the contractors' respective financial obligations to the State under the Transportation Charge shall be made in accordance with such reduced entitlements if such reductions have not been strictly proportionate throughout.
- (2) The Agency, at its option, shall have the right to use any of the project transportation facilities

which by reason of such reduction in the minimum project yield are not required for delivery of project water to the Agency, to transport water procured by it from any other source: *Provided*, That such use shall be within the limits of the capacities provided in the project transportation facilities for service to the Agency under this contract: *Provided further*, That except to the extent such limitation in Section 12931 of the Water Code be changed, the Agency shall not use the project transportation facilities under this option to transport water the right to which was secured by the Agency through eminent domain unless such use be approved by the Legislature by concurrent resolution with a majority of the members elected to each house voting in favor thereof.

(c) Permanent Shortage; Contracts for Areas-of-Origin

In the event that the State, because of the establishment by a party of a prior right to water under the provisions of Sections 11460 through 11463 of the Water Code, enters into a contract with such party for a dependable supply of project water, which contract will cause a permanent shortage in the supply of project water to be made available to the Agency hereunder:

- (1) The State shall: (i) equitably redistribute the costs of all transportation facilities included in the System among all contractors for project water, taking into account the diminution of the supply to the Agency and other prior contractors and the payments theretofore made by the Agency and other prior contractors in accordance with the terms of their contracts, and (ii) revise the Agency's annual entitlements and maximum annual entitlement, by amendment of Table A of this contract, to correspond to the reduced supply of project water to be made available to the Agency: *Provided*, That such redistribution of costs of transportation facilities shall not be made until there has been reasonable opportunity for the Agency to exercise the option provided for in (2) below, and for other prior contractors to exercise similar options.
- (2) The Agency, at its option, shall have the right to use any of the project transportation facilities which by reason of such permanent shortage in the supply of project water to be made available to the Agency are not required for delivery of project water to the Agency, to transport water procured by it from any other source: *Provided*, That such use shall be within the limits of the capacities provided in the project transportation facilities for service to the Agency under this contract: *Provided further*, That, except to the extent such limitation

Art. 19

in Section 12931 of the Water Code be changed, the Agency shall not use the project transportation facilities under this option to transport water the right to which was secured by the Agency through eminent domain unless such use be approved by the Legislature by concurrent resolution with a majority of the members elected to each house voting in favor thereof. This option shall terminate upon a redistribution of costs of transportation facilities by the State pursuant to (1) above. In the event that this option is exercised, the State shall take such fact into account in making such redistribution of costs, and shall offset such use as is made of the project transportation facilities pursuant thereto against any reduction in the Agency's payment obligation hereunder resulting from such redistribution of costs.

(d) Reinstatement of Entitlements

If after any revision of annual entitlements and maximum annual entitlements pursuant to subdivisions (b) or (c) of this article, circumstances arise which, in the judgment of the State, justify a revision upward of the same, the State shall, with the consent of the affected contractor, reinstate proportionately the previously reduced entitlements of such contractor to the extent deemed justified, and shall equitably redistribute the costs of the project transportation facilities if inequities would otherwise occur as a result of such reinstatement of entitlements.

(e) Advance Notice of Delivery Reductions

The State shall give the Agency written notice as far in advance as possible of any reduction in deliveries to it under subdivision (a) of this article and, to the extent possible, shall give the Agency written notice five (5) years in advance of any reduction in its annual entitlements and maximum annual entitlement under subdivisions (b) or (c) of this article. Reports submitted to the Agency pursuant to Article 16 (c) may constitute such notices.

(f) No Liability for Shortages

Neither the State nor any of its officers, agents, or employees shall be liable for any damage, direct or indirect, arising from shortages in the amount of water to be made available for delivery to the Agency under this contract caused by drought, operation of area of origin statutes, or any other cause beyond its control.

19. WATER QUALITY

(a) Table of Water Quality Objectives

It shall be the objective of the State and the State shall take all reasonable measures to make available, at all delivery structures for delivery of project water

to the Agency, project water of such quality that the following constituents do not exceed the concentrations stated as follows:

Constituent	Unit	Average		Maximum
		Monthly Average	for any 10-year Period	
Total Dissolved Solids	ppm.	440	220	---
Total Hardness	ppm.	180	110	---
Chlorides	ppm.	110	55	---
Sulfates	ppm.	110	20	---
Boron	ppm.	0.6	---	---
Sodium Percentage	%	50	40	---
Fluoride	ppm.	---	---	1.5
Lead	ppm.	---	---	0.1
Selenium	ppm.	---	---	0.05
Hexavalent Chromium	ppm.	---	---	0.05
Arsenic	ppm.	---	---	0.05
Iron and Manganese together	ppm.	---	---	0.3
Magnesium	ppm.	---	---	125
Copper	ppm.	---	---	3.0
Zinc	ppm.	---	---	15
Phenol	ppm.	---	---	0.001

(b) Records of Water Quality

The State shall regularly take samples of water at each delivery structure for delivery of project water to the Agency, and shall make chemical and physical analyses and tests of such samples. The State shall keep accurate and complete records of all such analyses and tests, which records shall be available for inspection by the Agency at any time or times.

(c) No Liability for Failure to Meet Quality Objectives

If through no negligence of the State or its officers, agents, or employees, the State is unable to attain the quality objectives set forth in subdivision (a) of this article, neither the State nor any of its officers, agents, or employees shall be liable in any manner whatsoever for such deviation from said quality objectives.

20. SUSPENSION OF SERVICE UPON DEFAULT

In the event of any default by the Agency in the payment of any money required to be paid to the State hereunder, the State may, upon not less than six months' notice to the Agency, suspend deliveries of water under this contract for so long as such default continues: *Provided*, That during such period the Agency shall remain obligated to make all payments required under this contract. Action taken pursuant to this article shall not deprive the State of or limit any remedy provided by this contract or by law for the recovery of money due or which may become due under this contract.

21. SALE OF SURPLUS WATER

If during any year the supply of project water, after appropriate allowance for holdover storage, exceeds the total of annual entitlements of all contractors for that year, the State shall offer to sell and deliver such

surplus water for periods expiring not later than the end of such year, without right of renewal, and in a manner and at prices which will return to the State the largest net revenues practicable, and at the minimum, revenues equal to the variable operation, maintenance and power costs incurred in such service of surplus water: *Provided*, That such service of surplus water shall not interfere with the delivery of their respective annual entitlement to those contractors which do not receive surplus water in such year: *Provided further*, That not until a contractor either pays or incurs a payment obligation for its annual entitlement in accordance with the payment provisions of its contract, shall surplus water be sold to such contractor at prices less than those which would result under the application of the payment provisions of its contract: *Provided further*, That if, in the judgment of the State, the annual entitlement of a contractor desiring to purchase surplus water is unrealistically low for the year in which such purchase is to be made, the State shall, for the purpose of pricing such water in accordance with the second proviso above, consider such annual entitlement to be an increased amount determined by the State to accurately correspond to such contractor's actual requirements for project water in that year. All net revenues from the service of surplus water shall be applied in such manner that all contractors which contribute to the payment of the costs of any System facilities by which surplus water was conserved and transported in connection with such service will receive credit for a share of such net revenues in the proportion that each such contractor contributes to payment of such costs. The service of surplus water shall, in every case, be subject to the paramount right and obligation of the State to discontinue the same, in whole or in part, when required for service of project water to contractors.

C. PAYMENT PROVISIONS

22. DELTA WATER CHARGE

(a) Payment of Reimbursable Costs of Project Conservation Facilities

The payments to be made by each contractor for project water shall include an annual charge designated as the Delta Water Charge. This charge, together with the total revenues derived during the project repayment period from the sale or other disposal of electrical energy generated in connection with operation of project conservation facilities, shall return to the State during the project repayment period all costs of the project conservation facilities including capital, operation, maintenance, power, and replacement costs, which are allocated to the purpose of water conservation in, above, and below the Delta pursuant to subdivision (e) of this article during the project repayment period. Wherever reference is

made, in connection with the computation or determination of the Delta Water Charge, to the costs of any facility or facilities included in the System, such reference shall be only to those costs of such facility or facilities which are reimbursable by the contractors as determined by the State.

(b) Delta Water Rate Until 1970; Components of Rate Thereafter

For each contractor receiving project water in any year through December 31, 1969, the Delta Water Charge shall be the product of \$3.50 and the contractor's annual entitlement to project water for the respective year. After that date, the Delta Water Charge shall consist and be the sum of the following components as these are computed in accordance with subdivisions (c) and (d) of this article: a capital cost component; a minimum operation, maintenance, power, and replacement component; and a variable operation, maintenance, power and replacement component.

(c) Computation of the Components of the Delta Water Rate

The capital cost, the minimum operation, maintenance, power, and replacement, and the variable operation, maintenance, power, and replacement components of the Delta Water Charge, together with that portion of the revenues derived during the project repayment period from the sale or other disposal of electrical energy generated in connection with operation of project conservation facilities which is allocated by the State to repayment of the respective category of costs, shall return to the State during the project repayment period, respectively, the following categories of the costs allocated to the purpose of water conservation in, above, and below the Delta pursuant to subdivision (e) of this article: (1) capital costs; (2) operation, maintenance, power, and replacement costs incurred irrespective of the amount of project water delivered to the contractors; and (3) operation, maintenance, power, and replacement costs incurred in an amount which is dependent upon and varies with the amount of project water delivered to the contractors: *Provided*, That each of the above categories of costs shall be inclusive of the appropriate costs properly chargeable to the generation and transmission of electrical energy in connection with operation of project conservation facilities. Each component of the Delta Water Charge shall be computed on the basis of a rate which, when charged during the project repayment period for each acre-foot of the sum of the yearly totals of annual entitlements of all contractors, will be sufficient, together with that portion of the revenues derived during the project repayment period from the sale or other disposal of electrical energy generated in connection with operation of project conservation facilities which is allo-

Art. 22

cated by the State to repayment of the respective category of costs, to return to the State during the project repayment period all costs included in the

respective category of costs covered by that component. Each such rate shall be computed in accordance with the following formula:

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

Where:

i = The project interest rate.

c = The total costs included in the respective category of costs for the respective year of the project repayment period.

r = That portion of the revenues derived from the sale or other disposal of electrical energy allocated by the State to repayment of the costs included in the respective category for the respective year of the project repayment period.

1, 2, and n
appearing
below

c and r = The respective year of the project repayment period for which costs are included in the respective category, n being the last year of the project repayment period.

e = With respect to the capital cost and minimum operation, maintenance, power, and replacement components, the total of annual entitlements to project water of all contractors for the respective year of the project repayment period.

e = With respect to the variable operation, maintenance, power, and replacement component, the total of the amounts of project water delivered to all contractors for the respective year of the expired portion of the project repayment period, together with the total of annual entitlements to project water of all contractors for the respective year of the unexpired portion of the project repayment period.

1, 2, and n
appearing
below e

= The respective year of the project repayment period in which the annual entitlements or project water deliveries occur, n being the last year of the project repayment period.

n used
as an

exponent = The number of years in the project repayment period.

(d) Application of Component Rates

The capital cost and minimum operation, maintenance, power, and replacement components of the Delta Water Charge shall be the product of the appropriate rate computed under subdivision (c) of this article, and the contractor's annual entitlement to project water for the respective year. The variable operation, maintenance, power, and replacement component of the charge shall be the product of the appropriate rate computed under subdivision (c) of this article and the number of acre-feet of project water delivered to the contractor during the respective year: *Provided*, That when project water has been requested by a contractor and delivery thereof has been commenced by the State, and, through no fault of the State, such water is wasted as a result of failure or refusal by the contractor to accept delivery thereof, said variable component during such period shall be the product of said rate per acre-foot and the sum of the number of acre-feet of project water delivered to the contractor and the number of acre-feet wasted.

(e) Allocations to Project Purposes

Prior to the time that additional project conservation facilities or supplemental conservation facilities are constructed, the Delta Water Charge shall be determined on the basis of an allocation to project

purposes, by the separable cost-remaining benefits method, of all projected costs of all those initial project conservation facilities located in and above the Delta, and upon an allocation to the purposes of water conservation and water transportation, by the proportionate use of facilities method, of all projected costs of the following project facilities located below the Delta: The aqueduct intake facilities at the Delta, Pumping Plant I (Delta Pumping Plant), the aqueduct from the Delta to San Luis Forebay, San Luis Forebay, and San Luis Reservoir: *Provided*, That all of the projected costs properly chargeable to the generation and transmission of electrical energy in connection with operation of project conservation facilities shall be allocated to the purpose of water conservation in, above, and below the Delta: *Provided further*, That allocations to purposes the costs of which are to be paid by the United States shall be as determined by the United States. Commencing in the year in which the State first incurs capital costs for construction of additional project conservation facilities, the Delta Water Charge shall be determined on the basis of the foregoing allocations and upon an allocation to project purposes, by the separable costs-remaining benefits method and subject to the foregoing provisos, of all projected costs of such additional project conservation facilities.

(f) Yearly Recomputation of Rates After 1970

The rates to be used in determining the components of the Delta Water Charge pursuant to subdivision (d) of this article and to become effective on January 1, 1970, shall be computed by the State in accordance with subdivision (c) of this article prior to that date. Such computation shall include an adjustment which shall account for the difference, if any, between revenues received by the State under the Delta Water Charge prior to January 1, 1970, and revenues which would have been received under the charge prior to that date had it been computed and charged in accordance with subdivisions (c) and (d) of this article. Upon such computation, a document establishing such rates shall be prepared by the State and attached to this contract as an amendment of this article. The State shall recompute such rates each year thereafter, and each such recomputation shall take account of and reflect increases or decreases from year to year in projected costs, outstanding reimbursable indebtedness of the State incurred to construct the project conservation facilities described in subdivision (e) of this article, annual entitlements, deliveries of project water, project interest rate, revenues from the sale or other disposal of electrical energy, and all other factors which are determinative of such rates. In addition, each such recomputation shall include an adjustment of the rates for succeeding years which shall account for the differences, if any, between projections of costs used by the State in determining said rates for all preceding years, and actual costs incurred by the State during such years. Upon each such recomputation, an appropriately revised copy of the document establishing such rates shall be prepared by the State and attached to this contract as an amendment of this article.

(g) Supplemental Conservation Facilities

Upon the construction of supplemental conservation facilities, the Delta Water Charge shall be paid by all contractors for supplemental water, as well as by contractors for project water, and, together with revenues derived from the sale or other disposal of electrical energy generated in connection with operation of project conservation facilities and supplemental conservation facilities, shall return to the State, in addition to those costs of the project conservation facilities allocated to the purpose of water conservation in, above, and below the Delta pursuant to subdivision (e) of this article, all costs of such supplemental conservation facilities, including capital, operation, maintenance, power, and replacement costs, which are allocated to the purpose of water conservation in, above, and below the Delta pursuant hereto. Commencing in the year in which the State first incurs capital costs for construction of supplemental conservation facilities, the Delta Water Charge shall be determined on the basis of the allocations made pursuant to subdivision (e) of

this article, and upon an allocation to project purposes, by the separable costs-remaining benefits method and subject to provisos corresponding to those contained in said subdivision (e), of all projected costs of such supplemental conservation facilities. Commencing in the same year, the computation of the rates to be used in determining the components of the Delta Water Charge shall include the annual entitlements to water under all contracts for supplemental water. If the repayment period of any bonds sold to construct supplemental conservation facilities extends beyond the project repayment period, the Delta Water Charge shall be determined and redetermined on the basis of such extended repayment period as the State determines to be appropriate.

23. TRANSPORTATION CHARGE

The payments to be made by each contractor entitled to delivery of project water from the project transportation facilities shall include an annual charge under the designation Transportation Charge. This charge shall return to the State during the project repayment period those costs of all project transportation facilities necessary to deliver project water to the contractor including capital, operation, maintenance, power, and replacement costs, which are allocated to the contractor during the project repayment period in accordance with the cost allocation principles and procedures herein after set forth. Wherever reference is made, in connection with the computation, determination, or payment of the Transportation Charge, to the costs of any facility or facilities included in the System, such reference shall be only to those costs of such facility or facilities which are reimbursable by the contractors as determined by the State. The Transportation Charge shall consist of a capital cost component; a minimum operation, maintenance, power, and replacement component; and a variable operation, maintenance, power, and replacement component, as these components are defined in and determined under Articles 24, 25, and 26, respectively. For the purpose of allocations of costs pursuant to said articles, the project transportation facilities shall be segregated into such aqueduct reaches as are determined by the State to be necessary for such allocations of costs. Subject to such modifications as are determined by the State to be required by reason of any request furnished by the Agency to the State pursuant to Article 17(a) of this contract, or by reason of contracts entered into by the State with other contractors, the aqueduct reaches of the project transportation facilities are established as set forth in Table I of this contract: *Provided*, That those costs of the aqueduct reaches from the Delta through the outlet of San Luis Reservoir which are allocated to the purpose of water conservation in, above, and below the Delta for the purpose of determining the Delta Water Charge, as hereinbefore set forth, shall not be included in the Transportation Charge.

Art. 24

24. TRANSPORTATION CHARGE—CAPITAL COST COMPONENT

(a) Method of Computation

The capital cost component of the Transportation Charge shall be sufficient to return to the State those capital costs of the project transportation facilities necessary to deliver water to the contractor which are allocated to the contractor pursuant to subdivision (b) of this article. The amount of this component shall be determined in two steps as follows: (1) an allocation of capital costs to the contractor, and (2) a computation of annual payment of such allocated capital costs and interest thereon, computed at the project interest rate and compounded annually, to be made by the contractor.

(b) Allocation of Capital Costs Among Contractors

In the first step, the total amount of capital costs of each aqueduct reach to be returned to the State shall be allocated among all contractors entitled to delivery of project water from or through the reach by the proportionate use of facilities method of cost allocation and in accordance with (1) and (2) below. The measure of the proportionate use of each contractor of each reach shall be the average of the following two ratios: (i) the ratio of the contractor's maximum annual entitlement to be delivered from or through the reach to the total of the maximum annual entitlements of all contractors to be delivered from or through the reach; and (ii) the ratio of the capacity provided in the reach for the transport and delivery of project water to the contractor to the total capacity provided in the reach for the transport and delivery of project water to all contractors served from or through the reach. Allocations of capital costs to the Agency pursuant hereto shall be on the basis of relevant values which will be set forth in Table B of this contract by the State as soon as designs and cost estimates are prepared by it subsequent to receipt of requests from the Agency as to the maximum monthly delivery capability to be provided in each aqueduct reach of the project transportation facilities for the transport and delivery of project water to the Agency, pursuant to Article 17(a): *Provided*, That these values shall be subject to redetermination by the State in accordance with Article 28: *Provided further*, That the principles and procedures set forth in this subdivision shall be controlling as to allocations of capital costs to the Agency.

(1) The total amount of capital costs allocated to a contractor shall be the sum of the products obtained when there is multiplied, for each aqueduct reach necessary to deliver water to the contractor, the total amount of the capital costs of the reach to be returned to the State under the Transportation Charge by the average of the two foregoing ratios for such reach as

said average is set forth in the appropriate table included in its contract.

- (2) In the event that excess capacity is provided in any aqueduct reach for the purpose of making project water available in the future to an agency or agencies with which the State has not executed contracts at the time of any allocation of costs pursuant to this subdivision, the prospective maximum annual entitlement or entitlements to be supplied by such excess capacity, as determined by the State, shall be deemed to be contracted for by said agency or agencies for the purpose of such allocation of costs, to the end that the capital costs of providing such excess capacity are not charged to any contractor entitled by virtue of an executed contract to the delivery of project water from or through that aqueduct reach at the time of such allocation. Where additional capacity is provided in any aqueduct reach to compensate for loss of water due to evaporation, leakage, seepage, or other causes, or to compensate for scheduled outages for purposes of necessary investigation, inspection, maintenance, repair or replacement of the facilities of the project facilities, then, for the purpose of any allocation of costs pursuant to this subdivision: (i) the maximum annual entitlement to be delivered from or through the reach of each contractor entitled to delivery of project water from or through the reach shall be increased by an amount which bears the same proportion to the maximum annual delivery capability provided by such additional capacity that the contractor's maximum annual entitlement to be delivered from or through the reach bears to the total of the maximum annual entitlements to be delivered from or through the reach under all contracts; and (ii) the capacity provided in the reach for each contractor entitled to delivery of project water from or through the reach shall be increased in the same proportion that the contractor's maximum annual entitlement to be delivered from or through the reach is increased pursuant to (i) above.
- (3) The projected amounts of capital costs to be allocated annually to the Agency under the capital cost component of the Transportation Charge shall be determined by the State in accordance with the cost allocation principles and procedures set forth in this subdivision, which principles and procedures shall be controlling as to allocations of capital costs to the Agency. Such amounts will be set forth in Table C of this contract by the State as soon as designs and cost estimates are prepared by it subsequent to receipt of requests from the Agency as to the maximum monthly delivery capability to be

provided in each aqueduct reach for transport and delivery of project water to the Agency, pursuant to Article 17(a): *Provided*, That these amounts shall be subject to redetermination by the State in accordance with Article 28.

(c) Annual Payments of Allocated Capital Costs

In the second step, the Agency's annual payment of its allocated capital costs and interest thereon, computed at the project interest rate and compounded annually, shall be determined in accordance with a payment schedule established by the State and determined in accordance with the principles set forth in (1), (2), and (3) below, which principles shall be controlling as to the Agency's payment of its allocated capital costs. The Agency's payment schedule will be set forth in Table D of this contract by the State as soon as designs and cost estimates are prepared by it subsequent to receipt of requests from the Agency as to the maximum monthly delivery capability to be provided in each aqueduct reach for transport and delivery of project water to the Agency, pursuant to Article 17(a): *Provided*, That the amounts set forth in Table D shall be subject to redetermination by the State, pursuant to Article 28.

- (1) The Agency's annual payment shall be the sum of the amounts due from the Agency on the Agency's allocated capital costs for the then current year and for each previous year where each such amount will pay, in not more than fifty (50) equal annual installments of principal and interest, the Agency's allocated capital costs for the respective year and interest thereon, computed at the project interest rate and compounded annually.
- (2) The Agency may make payments at a more rapid rate if approved by the State.
- (3) Such annual payments shall cease when all allocated capital costs and interest thereon, computed at the project interest rate and compounded annually, are repaid.

(d) Payment in Advance for Excess Peaking Capacity

In the event that any contractor, pursuant to Article 12(b), requests delivery capacity in any aqueduct reach which will permit maximum monthly deliveries to such contractor in excess of the percentage amounts specified in said Article 12(b) for the uses designated therein, such contractor shall furnish to the State, in advance of the construction of such aqueduct reach, funds sufficient to cover the costs of providing such excess capacity, which funds shall be in an amount which bears the same proportion to the total capital costs of such reach, including the costs of providing such excess capacity, as such excess capacity bears to the total capacity of such reach, including such excess capacity. For the purpose of any allocation of costs pursuant to subdivision (b) of this article, the total

capital costs of such aqueduct reach shall be allocated among all contractors entitled to delivery of project water from or through the reach in the following manner:

- (1) The costs which would have been incurred for such reach had no such excess capacity been provided shall be estimated by the State and allocated among all such contractors in the manner provided in said subdivision (b); and
- (2) The amount of the difference between said estimated costs and the projected actual costs of such reach shall be allocated to the contractor or contractors for which such excess capacity is provided.

Where such excess capacity is provided for more than one contractor, the costs allocated to them under (2) above shall be further allocated between or among them in amounts which bear the same proportion to the total of said allocated costs as the amount of such excess capacity provided for the respective contractor bears to the total of such excess capacity provided in such reach. In the event that the funds advanced by a contractor pursuant to this subdivision are more or less than the costs so allocated to such contractor under (2) above, the account of such contractor shall be credited or debited accordingly.

(e) Costs Incurred Prior to Date of Contract

The Agency's allocated capital costs for the year preceding the year of initial payment of the capital component of the Transportation Charge, pursuant to subdivision (c) of this article, shall consist of the sum of the Agency's allocated capital costs for each year through such year preceding the year of initial payment, and interest thereon, computed at the project interest rate and compounded annually.

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

(a) Method of Computation

The minimum operation, maintenance, power, and replacement component of the Transportation Charge shall return to the State those costs of the project transportation facilities necessary to deliver water to the contractor which constitute operation, maintenance, power, and replacement costs incurred irrespective of the amount of project water delivered to the contractor and which are allocated to the contractor pursuant to (b) below: *Provided*, That to the extent permitted by law, the State may establish reserve funds to meet anticipated minimum replacement costs; and deposits in such reserve funds by the State: (1) shall be made in such amounts that such reserve funds will be adequate to meet such anticipated costs as they are incurred, and (2) shall be deemed to be a part of the minimum replacement costs for the year in which such deposits are made.

Art. 26

(b) Allocation of Costs

The total projected minimum operation, maintenance, power, and replacement costs of each aqueduct reach of the project transportation facilities for the respective year shall be allocated among all contractors entitled to delivery of project water from said facilities by the proportionate use of facilities method of cost allocation, in the same manner and upon the same bases as are set forth for the allocation of capital costs in Article 24: *Provided*, That such minimum operation, maintenance, power, and replacement costs as are incurred generally for the project transportation facilities first shall be allocated to each aqueduct reach in an amount which bears the same proportion to the total amount of such general costs that the amount of the costs incurred directly for the reach bears to the total of all direct costs for all aqueduct reaches.

(c) Payment Table

The amount to be paid each year by the Agency under the minimum operation, maintenance, power, and replacement component of the Transportation Charge shall be determined in accordance with subdivision (b) of this article on the basis of the relevant values to be set forth for the respective aqueduct reaches in Table B of this contract: *Provided*, That these values shall be subject to redetermination by the State in accordance with Article 28. Such amounts and any interest thereon shall be set forth by the State in Table E of this contract as soon as designs and cost estimates have been prepared by it subsequent to receipt of requests from the Agency as to the maximum monthly delivery capability to be provided in each aqueduct reach for transport and delivery of project water to the Agency, pursuant to Article 17(a): *Provided*, That the amounts set forth in Table E shall be subject to redetermination by the State in accordance with Article 28.

26. TRANSPORTATION CHARGE—VARIABLE OPERATION, MAINTENANCE, POWER, AND REPLACEMENT COMPONENT

(a) Method of Computation

The variable operation, maintenance, power, and replacement component of the Transportation Charge shall return to the State those costs of the project transportation facilities necessary to deliver water to the contractor which constitute operation, maintenance, power, and replacement costs incurred in an amount which is dependent upon and varies with the amount of project water delivered to the contractor and which are allocated to the contractor pursuant to (1) and (2) below: *Provided*, That to the extent permitted by law, the State may establish reserve funds to meet anticipated variable replacement costs; and deposits in such reserve funds by the State: (1) shall

be made in such amounts that such reserve funds will be adequate to meet such anticipated costs as they are incurred, and (2) shall be deemed to be a part of the variable replacement costs for the year in which such deposits are made. The amount of this component shall be determined as follows:

(1) There shall be computed for each aqueduct reach of the project transportation facilities a charge per acre-foot of water which will return to the State the total projected variable operation, maintenance, power, and replacement costs of the reach for the respective year. This computation shall be made by dividing said total by the number of acre-feet of project water estimated to be delivered from or through the reach to all contractors during the year.

(2) The amount of the variable component shall be the sum of the products obtained when the charges per acre-foot of water, determined under (1) above, for each aqueduct reach necessary to deliver water to the contractor are multiplied by the number of acre-feet of project water delivered to the contractor from or through that reach during the year: *Provided*, That when project water has been requested by a contractor and delivery thereof has been commenced by the State, and, through no fault of the State, such water is wasted as a result of failure or refusal by the contractor to accept delivery thereof, the amount of said variable component to be paid by such contractor during such period shall be the product of the above sum and the sum of the number of acre-feet of project water delivered to the contractor and the number of acre-feet wasted.

(b) Revenue From Aqueduct Power Recovery Plants

There shall be credited against the amount of the variable component to be paid by each contractor, as determined pursuant to subdivision (a) of this article, a portion of the projected net value of any power recovered during the respective year at project aqueduct power recovery plants located upstream on the particular aqueduct from the delivery structures for delivery of project water to the contractor. Such portion shall be in an amount which bears the same proportion to said projected net value that the number of acre-feet of project water delivered to the contractor through said plants during the year bears to the number of acre-feet of project water delivered to all contractors through said plants during the year.

(c) Payment Table

The amount to be paid each year by the Agency under the variable operation, maintenance, power, and

replacement component of the Transportation Charge shall be determined in accordance with subdivision (a) of this article for the respective aqueduct reaches in Table B of this contract. Such amounts and any interest thereon shall be set forth by the State in Table F of this contract as soon as designs and cost estimates are prepared by it subsequent to receipt of requests from the Agency as to the maximum monthly delivery capability to be provided in each aqueduct reach for transport and delivery of project water to the Agency, pursuant to Article 17(a): *Provided*, That the amounts set forth in Table F shall be subject to redetermination by the State in accordance with Article 28.

27. TRANSPORTATION CHARGE—PAYMENT SCHEDULE

The amounts to be paid by the Agency for each year of the project repayment period under the capital cost and minimum operation, maintenance, power, and replacement components of the Transportation Charge, and under the variable operation, maintenance, power, and replacement component of said charge on the basis of then estimated deliveries, shall be set forth by the State in Table G of this contract as soon as designs and cost estimates have been prepared by it subsequent to receipt of requests from the Agency as to the maximum monthly delivery capability to be provided in each aqueduct reach for transport and delivery of project water to the Agency, pursuant to Article 17(a). Table G of this contract shall constitute a summation of Tables D, E, and F of this contract: *Provided*, That each of the amounts set forth in Table G shall be subject to redetermination by the State in accordance with Article 28: *Provided further*, That the principles and procedures set forth in Articles 24, 25, and 26 shall be controlling as to such amounts. Such amounts shall be paid by the Agency in accordance with the provisions of Article 29.

28. TRANSPORTATION CHARGE—REDETERMINATION

The State shall redetermine the values and amounts set forth in Tables B, C, D, E, F and G of this contract in the year following the year in which the State commences construction of the project transportation facilities and each year thereafter in order that the Transportation Charge to the Agency and the components thereof may accurately reflect increases or decreases from year to year in projected costs, outstanding reimbursable indebtedness of the State incurred to construct the project transportation facilities described in Table I of this contract annual entitlements, estimated deliveries, project interest rate, and all other factors which are determinative of such charges. In addition, each such redetermination shall include an adjustment of the components of the Transportation Charge to be paid by the Agency for suc-

ceeding years which shall account for the differences, if any, between projections of costs used by the State in determining the amounts of said components for all preceding years and actual costs incurred by the State during such years. Upon each such redetermination, appropriately revised copies of Tables B, C, D, E, F and G shall be prepared by the State and attached to this contract as amendments of those tables.

29. TIME AND METHOD OF PAYMENT

(a) Initial Payment—Delta Water Charge

Payments by the Agency under the Delta Water Charge shall commence in the year of initial water delivery to the Agency.

(b) Initial Payment—Transportation Charge: Capital Component

Payments by the Agency under the capital cost component of the Transportation Charge shall commence in the year following the year in which the State commences construction of the project transportation facilities. If such construction has already commenced when this contract is executed, such payments shall begin in the year following the year of execution.

(c) Initial Payment—Transportation Charge: Minimum Component

Payments by the Agency under the minimum operation, maintenance, power, and replacement component of the Transportation Charge shall commence for each aqueduct reach in the year following the year in which construction of that reach is completed.

(d) Initial Payment—Transportation Charge: Variable Component

Payments by the Agency under the variable operation, maintenance, power, and replacement component of the Transportation Charge shall commence in the year of initial water delivery to the Agency.

(e) Statement of Charges

The State shall, on or before July 1 of each year, commencing with the year preceding the year in which payment of the respective charge is to commence pursuant to this article, furnish the Agency with a written statement of: (1) the charges to the Agency for the next succeeding year under the capital cost and minimum operation, maintenance, power, and replacement components of the Delta Water Charge and Transportation Charge; (2) the unit charges to the Agency for the next succeeding year under the variable operation, maintenance, power, and replacement components of said Delta Water Charge and Transportation Charge; and (3) the total charges to the Agency for the preceding year under the variable operation, maintenance, power, and replacement components of said Delta Water Charge and Transportation Charge: *Provided*, That through December 31,

Art. 30

1969, the Delta Water Charge shall be based upon a unit rate of \$3.50 per acre-foot and shall be paid by the contractors on the basis of their respective annual entitlements to project water, as provided in Article 22(b): *Provided further*, That the first such statement shall be provided by the State as soon after the execution of this contract as is feasible. All such statements shall be accompanied by the latest revised copies of the document amendatory to Article 22 and of Tables B, C, D, E, F and G of this contract, together with such other data and computations used by the State in determining the amounts of the above charges as the State deems appropriate. The State shall, on or before the fifteenth day of each month of each year, commencing with the year of initial water delivery to the Agency, furnish the Agency with a statement of the charges to the Agency for the preceding month under the variable operation, maintenance, power, and replacement components of the Delta Water Charge and Transportation Charge. Such charges shall be determined by the State in accordance with the relevant provisions of Articles 22 and 26 of this contract, upon the basis of metered deliveries of project water to the Agency, except as otherwise provided in those articles.

(f) *Times of Payment—Capital Components*

The Agency shall pay to the State, on or before January 1 of each year, commencing with the year in which payment of the respective charge is to commence pursuant to this article, one-half ($\frac{1}{2}$) of the charge to the Agency for the year under the capital cost component of the Delta Water Charge and one-half ($\frac{1}{2}$) of the charge to the Agency for the year under the capital cost component of the Transportation Charge, as such charges are stated pursuant to subdivision (e) of this article; and shall pay the remaining one-half ($\frac{1}{2}$) of each of said charges on or before July 1 of that year.

(g) *Times of Payment—Minimum Components*

The Agency shall pay to the State, on or before the first day of each month of each year, commencing with the year of initial water delivery to the Agency, one-twelfth ($\frac{1}{12}$) of the sum of the charges to the Agency for the year under the minimum operation, maintenance, power, and replacement components of the Delta Water Charge and Transportation Charge, respectively, as such charges are stated pursuant to subdivision (e) of this article.

(h) *Times of Payment—Variable Components*

The Agency shall pay to the State on or before the fifteenth day of each month of each year, commencing with the year of initial water delivery to the Agency, the charges to the Agency under the variable

operation, maintenance, power, and replacement components of the Delta Water Charge and Transportation Charge, respectively, for which a statement was received by the Agency during the preceding month pursuant to subdivision (e) of this article, as such charges are stated in such statement.

(i) *Contest of Accuracy of Charges*

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

30. SURCHARGE FOR PROJECT WATER USED ON EXCESS LAND

(a) *Definitions: "Surcharge"; "Excess Land"*

As used herein the term "surcharge" shall mean an amount equivalent to the power credit per acre-foot of water, as such credit is determined under and established by subdivision (b) of this article, to be charged to water users other than the United States or the State of California, as hereinafter provided and to the extent permitted by law, for each acre-foot of project water put to agricultural or manufacturing use on excess land. As used herein the term "excess land" shall mean that part of any land held in single beneficial ownership within a contractor's boundaries, or, where project water is delivered to water users by a retail agency as hereinafter defined, that part of any such land within the service area of such retail agency, which is in excess of 160 acres; or in the case of joint ownership by husband and wife that part of any such land which is in excess of 320 acres.

(b) *Definition: "Power Credit"*

As used herein, the term "power credit" shall mean the net value accruing to the State from revenues derived from the sale or other disposal of electrical energy generated in connection with operation of initial project conservation facilities after deducting from said revenues the amount necessary to repay the investment properly chargeable to energy generation and for operation, maintenance, and replacement of the electrical generation facilities. The power credit

per acre-foot of water shall be computed in accordance with the following formula:

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

Where:

- i = The project interest rate.
- c = The projected annual power credit accrued during the respective year of the project repayment period.
- 1, 2, and n appearing below c = The respective year of the project repayment period during which the power credit is accrued, n being the last year of the project repayment period.
- e = The total of annual entitlements to project water of all contractors for the respective year of the project repayment period.
- 1, 2, and n appearing below e = The respective year of the project repayment period in which the annual entitlements occur, n being the last year of the project repayment period.
- n used as exponent = The number of years in the project repayment period.

The power credit per acre-foot of water is hereby established as \$2 until all of the facilities for generation of electrical energy in connection with operation of initial project conservation facilities are installed and in operation. The State shall redetermine the power credit per acre-foot of water each year thereafter in order that it may accurately reflect increases or decreases from year to year in the power credit as defined herein. Each such redetermination shall be in accordance with the method of computation set forth in this subdivision, and upon each such redetermination, a document showing the revised amount of the power credit per acre-foot of water shall be attached to this contract as an amendment of this subdivision.

(c) Definition: "Retail Agency"

As used herein the term "retail agency" shall mean any agency which delivers directly to the users thereof, project water made available by, through, or under a contractor.

(d) Payment of Surcharge

Each contractor, to the extent that it delivers project water directly to the users thereof, shall require on behalf of the State that each such user on or before June 1 of each year, commencing with the year following the year of initial water delivery: (1) certify in writing to the contractor on forms prescribed and furnished by the State the description of the excess land owned by such user upon which project water is put to agricultural or manufacturing use, and the amount of project water put to agricultural or manu-

facturing use on such land during the preceding year; and (2) pay to the contractor for the account of the State a surcharge for the amount of water so certified. Each contractor, to the extent that it delivers project water to a retail agency or to another agency by, through, or under which such water is delivered to a retail agency, shall require on behalf of the State that each water user served by such retail agency be required to, on or before May 1 of each year, commencing with the year following the year of initial water delivery: (1) certify in writing to the retail agency on forms prescribed and furnished by the State the description of the excess land owned by such user upon which project water is put to agricultural or manufacturing use and the amount of project water put to agricultural or manufacturing use on such land during the preceding year; and (2) pay to the retail agency for the account of the State a surcharge for the amount of project water so certified. Each contractor and retail agency shall be entitled to rely upon the certifications furnished them by water users pursuant to this subdivision, unless notified by the State as to the inaccuracy of any such certification. Payments made to the contractor pursuant to this subdivision, together with the certifications supporting such payments, shall be forwarded to the State on or before July 1 of the year in which they are received. Payments made to a retail agency pursuant to this subdivision, together with the certifications supporting such payments, shall on behalf of the State be required to be forwarded to the contractor, which shall in turn forward them to the State on or before July 1 of the year in which they are received; except that where project water has been delivered to the retail agency by, through, or under an agency or agencies other than the contractor, such payments and certifications shall on behalf of the State be required to be forwarded by the retail agency to the agency from which it received project water and by that agency, et seq., to the contractor, which shall forward them to the State on or before July 1 of the year in which they are received.

(e) Commingling of Project and Nonproject Water

In the event that a contractor, retail agency, or water user commingles project water with water from another source in a common distribution system, the contractor shall, in complying with the provisions of this article, adhere to the following rules, and, where project water is delivered by it to a retail agency or to another agency by, through or under which project water is delivered to a retail agency, as contemplated in subdivision (d) of this article, shall require on behalf of the State that such retail agency adhere or be required to adhere to the same rules.

- (1) If the amount of nonproject water applied in any year within the area served with project

Art. 31

water by the contractor or retail agency is equal to or greater than the amount of water put to agricultural or manufacturing use on all excess land within that area during such year, it shall be presumed that the water put to agricultural or manufacturing use on such excess land is nonproject water, and there shall be no surcharge to water users in that area.

- (2) If the amount of nonproject water applied in any year within the area served with project water by the contractor or retail agency is less than the amount of water put to agricultural or manufacturing use on all excess land within that area during such year, it shall be presumed, for the purpose of determining the payments to be made under the surcharge by water users in that area, that the amount of project water put to agricultural or manufacturing use on excess land of a particular ownership within that area during such year bears the same proportion to the total amount of water so used on that excess land during such year as the total amount of project water applied within that area during such year bears to the total amount of water applied within that area during such year.
- (3) Project water which reaches the underground prior to delivery to or pumping by a water user shall not be subject to a surcharge under this article.

(f) Failure of Retail Agency to Perform Obligations

Subject to subdivision (g) of this article, a contractor shall not be liable for the failure of any retail agency or other agency to perform the obligations imposed upon it in accordance with subdivision (d) of this article.

(g) State May Enforce Surcharge

In the event that any retail agency or other agency by, through or under which project water is delivered to a retail agency, fails to perform the obligations imposed upon it in accordance with subdivision (d) of this article, the State may take such action in a court of competent jurisdiction, in the name of the contractor and/or agency or agencies by, through or under which project water is delivered to such retail agency, as it deems necessary to compel the performance of such obligations, and in such action the State shall be subrogated to the rights of such contractor and/or such other agency or agencies against such retail agency or other agency. In the event that any certification furnished by a water user in accordance with subdivision (d) of this article is found by the State to inaccurately represent facts of water use or land ownership, with the result that such user is avoiding payment under the surcharge provided for herein,

the State may take such action in a court of competent jurisdiction, in the name of the contractor and/or the retail agency and/or any other agency or agencies by, through, or under which project water is delivered to such water user, as it deems necessary to collect full payment under the surcharge from such water user and to compel the performance of all obligations imposed upon such water user in accordance with said subdivision (d), and in such action the State shall be subrogated to the rights of such contractor and/or such retail agency and/or such other agency or agencies against such water user. Where project water is delivered by a contractor to a retail agency or to another agency by, through, or under which project water is delivered to a retail agency, as contemplated in subdivision (d) of this article, the contractor shall require on behalf of the State that such retail agency or other agency and all agencies by, through, or under which project water is delivered to a retail agency permit or be required to permit the State to bring the foregoing actions in their respective names and be subrogated to their respective rights as set forth above.

(h) State to Defend and Indemnify Against Claims

Should the application of any of the provisions of this article in the manner provided for herein result in claims of any nature against a contractor, retail agency, or other agency by, through, or under which project water is delivered to a retail agency, the State shall defend the contractor, retail agency, or other agency against such claims, and shall indemnify them for any liability with respect thereto arising from activities required by the State under this article.

(i) Separability

This article shall be separable from all other provisions in this contract, and in the event that any or all of the provisions of this article are in any manner or to any extent held to be invalid by final judgment or decree of a court of competent jurisdiction, such holding and such invalidity shall in no way affect the validity of, or make invalid, any other provision of this contract.

31. ADJUSTMENT FOR OVERPAYMENT OR UNDERPAYMENT

If in any year, by reason of errors in computation or other causes, there is an overpayment or underpayment to the State by the Agency of the charges provided for herein, which overpayment or underpayment is not accounted for and corrected in the annual redetermination of said charges, the amount of such overpayment or underpayment shall be credited or debited, as the case may be, to the Agency's account for the next succeeding year and the State shall notify the Agency thereof in writing.

32. DELINQUENCY IN PAYMENT

(a) Agency to Provide for Punctual Payment

The governing body of the Agency shall provide for the punctual payment to the State of payments which become due under this contract.

(b) Interest on Overdue Payments

Upon every amount of money required to be paid by the Agency to the State pursuant to this contract which remains unpaid after it becomes due and payable, interest shall accrue at the rate of one-half ($\frac{1}{2}$) of one (1) percent per month of the amount of such delinquent payment from and after the due date until it is paid, and the Agency hereby agrees to pay such interest: *Provided*, that no interest shall be charged to or be paid by the Agency unless such delinquency continues for more than thirty (30) days.

33. OBLIGATION OF AGENCY TO MAKE PAYMENTS

(a) Refusal of Water Does Not Affect Obligation

The Agency's failure or refusal to accept delivery of project water to which it is entitled under Article 6(b) shall in no way relieve the Agency of its obligation to make payments to the State as provided for in this contract. The State, however, shall make reasonable efforts to dispose of any water made available to but not required by the Agency and any net revenues from such disposal shall be credited pursuant to Article 21.

(b) Character of Obligation

The Agency as a whole is obligated to pay to the State the payments becoming due under this contract, notwithstanding any individual default by its constituents or others in the payment to the Agency of assessments, tolls, or other charges levied by the Agency.

34. OBLIGATION OF AGENCY TO LEVY TAXES AND ASSESSMENTS

(a) When Obligated

If in any year the Agency fails or is unable to raise sufficient funds by other means, the governing body of the Agency shall levy upon all property in the Agency not exempt from taxation, a tax or assessment sufficient to provide for all payments under this contract then due or to become due within that year.

(b) Enforcement by Officers of Agency

Taxes or assessments levied by the governing body of the Agency pursuant to subdivision (a) of this article shall be enforced and collected by all officers of the Agency charged with the duty of enforcing and collecting taxes or assessments levied by the Agency.

(c) Deposit in Separate Fund

All money collected for taxes or assessments under this article shall be kept in a separate fund by the treasurer or other officer of the Agency charged with the safekeeping and disbursement of funds of the Agency, and, upon the written demand of the State, the treasurer or other officer shall pay over to the State all such money in his possession or control then due the State under this contract, which money shall be applied by the State to the satisfaction of the amount due under this contract.

(d) Enforcement of Levy

In the event of failure, neglect, or refusal of any officer of the Agency to levy any tax or assessment necessary to provide payment by the Agency under this contract, to enforce or to collect the tax or assessment, or to pay over to the State any money then due the State collected on the tax or assessment, the State may take such action in a court of competent jurisdiction as it deems necessary to compel the performance in their proper sequence of all such duties. Action taken pursuant hereto shall not deprive the State of or limit any remedy provided by this contract or by law for the recovery of money due or which may become due under this contract.

D. GENERAL PROVISIONS

35. REMEDIES NOT EXCLUSIVE

The use by either party of any remedy specified herein for the enforcement of this contract is not exclusive and shall not deprive the party using such remedy of, or limit the application of, any other remedy provided by law.

36. AMENDMENTS

This contract may be amended at any time by mutual agreement of the parties, except insofar as any proposed amendments are in any way contrary to applicable law. The State shall promptly furnish the Agency with copies of all contracts now or hereafter executed by the State for a dependable supply of project water, and of any amendments thereof.

37. AGENCY NOT ESTOPPED TO CHALLENGE STATE LAWS

Nothing herein contained shall be construed as estopping or otherwise preventing the Agency or any person, firm, association, corporation, or public body or agency claiming by, through, or under the Agency from contesting by litigation or other lawful means the validity, constitutionality, construction or application of any law of this State, including laws referred to in the Bond Act, or as preventing or prejudicing the amendment or repeal of any such law, and each contract executed by the State for a dependable supply of

Art. 38

project water shall contain a similar reservation with respect to State laws.

38. OPINIONS AND DETERMINATIONS

Where the terms of this contract provide for action to be based upon the opinion, judgment, approval, review, or determination of either party hereto, such terms are not intended to be and shall never be construed as permitting such opinion, judgment, approval, review, or determination to be arbitrary, capricious, or unreasonable.

39. CONTRACTING OFFICER OF THE STATE

The contracting officer of the State shall be the Director of Water Resources of the State of California and his successors, or their duly authorized representatives. The contracting officer shall be responsible for all discretionary acts, opinions, judgments, approvals, reviews, and determinations required of the State under the terms of this contract.

40. SUCCESSORS AND ASSIGNS OBLIGATED

This contract and all of its provisions shall apply to and bind the successors and assigns of the parties hereto.

41. ASSIGNMENT

No assignment or transfer of this contract or any part hereof, rights hereunder, or interest herein by the Agency shall be valid unless and until it is approved by the State and made subject to such reasonable terms and conditions as the State may impose.

42. WAIVER OF RIGHTS

Any waiver at any time by either party hereto of its rights with respect to a default or any other matter arising in connection with this contract, shall not be deemed to be a waiver with respect to any other default or matter.

43. NOTICES

All notices that are required either expressly or by implication to be given by one party to the other under this contract shall be signed for the State by its contracting officer, and for the Agency by such officer as it may, from time to time, authorize in writing to so act. All such notices shall be deemed to have been given if delivered personally or if enclosed in a properly addressed envelope and deposited in a United States Post Office for delivery by registered or certified mail. Unless and until formally notified otherwise, all notices shall be addressed to the parties at their addresses as shown on the signature page of this contract.

44. MAINTENANCE AND INSPECTION OF BOOKS, RECORDS, AND REPORTS

During regular office hours, each of the parties hereto and their duly authorized representatives shall have the right to inspect and make copies of any books, records, or reports of the other party pertaining to this contract or matters related hereto. Each of the parties hereto shall maintain and make available for such inspection accurate records of all of its costs, disbursements and receipts with respect to its activities under this contract and the Bond Act.

E. SPECIAL PROVISIONS AND TABLES

45. SPECIAL PROVISIONS

(a) Surplus Water *See Amendment 11.*

Notwithstanding other provisions of this contract, surplus water for agricultural and ground water replenishment use shall be offered to contractors on the following basis. Before surplus water is sold for other than agricultural and ground water replenishment use, each contractor shall have the right, subject to the ability of the State to deliver such water, to contract for agricultural and ground water replenishment use for a portion of the total amount of surplus water available in any year, in an amount which bears the same ratio to the total amount of surplus water available in that year as the sum of the annual entitlements, set forth in Table A of this contract, delivered to the contractor for agricultural and ground water replenishment use during the preceding three years bears to the total amount of such annual entitlements delivered for agricultural and ground water replenishment use during the preceding three years of all contractors requesting surplus water: *Provided*, That if its proportion of such surplus water is not required by or cannot be delivered to any contractor, such amount of additional surplus water shall be offered to other contractors for agricultural and ground water replenishment use. During the first three years in which project water is delivered to a contractor, the State shall determine the amount of surplus water which the contractor may obtain based on the contractor's maximum annual entitlement and the estimated percentage of its annual entitlement to be delivered for agricultural and ground water replenishment use; but quantities so determined shall not exceed the contractor's annual entitlement for that year. For the purpose of computing the portion of the surplus water for agricultural and ground water replenishment use to which each contractor is entitled, the State shall determine the amounts of water used for agricultural and ground water replenishment use by each contractor in each year: *Provided*, That each contractor shall furnish certified copies of such records and data concerning the use of water within its boundaries as the State may request.

Surplus water for agricultural and ground water replenishment use shall be furnished at prices which will return to the State the variable operation, maintenance, power, and replacement components of the Delta Water Charge and Transportation Charge incurred in such service of surplus water as determined by the State. A surcharge shall be added to the rate for surplus water furnished to excess land in an amount and under the conditions specified in Article 30 of this contract. Contracts made pursuant to this subdivision may exceed one year in duration. *See Amendment 11.*

Except as herein modified, the provisions of Article 21 of this contract are hereby confirmed, and all surplus water not specifically allocated pursuant to this subdivision shall be sold under the provisions of Article 21.

As used in this subdivision "ground water replenishment use" shall mean the use of project water exclusively by direct application to spreading basins, streambeds, or through other means of direct artificial recharge for the purpose of replenishing overdrawn ground water basins.

(b) Surcharge Credit *See Amendment 9.*

Notwithstanding other provisions of this contract, the State may include provisions in water supply contracts allowing a credit to a contractor not to exceed the surcharge to be paid by such contractor: *Provided*, That such credit shall be utilized to reduce the cost of water for agricultural use on other than excess land at a uniform rate per acre-foot not to exceed two dollars (\$2) per acre-foot. Any contract including provisions pursuant to this subdivision shall assure that the reductions in the contractors obligations authorized by this subdivision are made available exclusively for the benefit of agricultural use on land other than excess land and are not directly or indirectly made available for the benefit of agricultural use on excess land.

For the purpose of this contract, the surcharge credit shall be determined and applied in the following manner:

(1) The Agency or any retail agency shall reduce the toll for each acre-foot of project water put to agricultural use on other than excess land by a surcharge credit which shall be determined by dividing the total amount of the surcharge collected by the agency in any year by the total number of acre-feet of project water put to agricultural use on other than excess land within the agency: *Provided*, That the surcharge credit shall not exceed two dollars (\$2).

(2) For the purpose of preventing any reduction in the cost of project water put to use on excess land the tolls charged by the Agency or any retail agency for project water put to agricultural use on other than excess land shall be less than the tolls charged for project water put to use on excess land by an amount equal to the sum of the surcharge and the surcharge credit, and the Agency agrees not to take any action with respect to the taxing or assessment of property which will nullify or tend to nullify the differential in tolls required by this subdivision.

(3) In the event that a water user commingles project water with water from other sources or receives a commingled water supply from the Agency or a retail agency that has commingled project water with water from another source, the quantity of water upon which the surcharge credit is to be determined shall be the product of the amount of water used by the water user from the commingled supply and the ratio of the amount of project water in the commingled supply to the total amount of commingled water, from which product shall be subtracted the amount of project water, if any, for which the water user is required to make payment of a surcharge under the provisions of Article 30(e) (2) of this contract.

(4) Article 30(d) of this contract is modified to read as follows:

The Agency, to the extent that it delivers project water directly to the users thereof, shall require on behalf of the State that each such user on or before February 1 of each year, commencing with the year following the year of initial water delivery: (i) certify in writing to the Agency on forms prescribed and furnished by the State the description of the excess land owned by such user upon which project water is put to agricultural or manufacturing use, and the amount of project water put to agricultural or manufacturing use on such land during the preceding year; (ii) pay to the Agency for the account of the State a surcharge for the amount of water so certified; and (iii) certify in writing to the Agency on forms prescribed and furnished by the State the description of the land other than excess land owned by such user upon which project water is put to agricultural use, and the amount of project water put to agricultural use on such land during the preceding year. The Agency to the extent that it delivers project water to a retail agency or to another agency by, through, or under which such water is delivered to a retail agency, shall require on behalf of the State that each water user served by such retail agency be required to, on or before January 15 of each year, commencing with the year following the year of initial water delivery: (i) certify in writing to the retail agency on forms prescribed and furnished by the State the description of the excess land owned by such user upon which project water is put to agricultural or manufacturing use and the amount of project water put to agricultural or manufacturing use on such land during the preceding year; (ii) pay to the retail agency for the account of the State a surcharge for the amount of project water so certified; and (iii) certify in writing to the Agency on forms prescribed and furnished by the State the description of the land other than excess land owned by such user upon which project water is put to agricultural use, and the amount of project water put to agricultural use on such land during the preceding year. The Agency and retail agency shall be entitled to rely upon the certifications furnished them by water users pursuant to this subdivision, unless notified by the State as to the inaccuracy of any such certification. Payments made to the Agency pursuant to this subdivision, together with the certifications supporting such payments, shall be forwarded to the State on or before March 1 of the year in which they are received. Payments made to a retail agency pursuant to this subdivision, together with the certifications supporting such payments, shall on behalf of the State be required to be forwarded to the Agency, which shall in turn forward them to the State on or before March 1 of the year in which they are received; except that where project water has been delivered to the retail agency by, through, or under any agency or agencies other than the Agency, such payments and certifications shall on behalf of the State be required to be forwarded by the retail agency to the agency from which it received project water and by that agency, et seq., to the Agency, which shall forward them to the State on or before March 1 of the year in which they are received.

(5) Commencing with the year following the year of initial water delivery, the State shall include in the written statement of charges furnished to the Agency for the succeeding year a reduction of charges equal to the total amount of the surcharge credit to which water users within the Agency were entitled during the year preceding the year in which such statement is made. After receiving such statement, the Agency shall credit the accounts of or make refunds to the water users of one-half of the surcharge credit due them effective not later than February 1 of the succeeding year and the balance not later than August 1 of that year.

(6) The remedies provided in Article 30(g) of this contract shall also be available to the State for the enforcement of this subdivision as against any retail agency or other agency by, through, or under which project water is delivered to a retail agency, or any water user.

(7) Where project water is delivered by the Agency to a retail agency or to another agency by, through, or under which project water is delivered to a retail agency, the Agency shall include the provisions of this subdivision 45(b) in any such contract and shall require its inclusion by any such agency in contracts under which it furnishes water to other agencies to the end that such provisions shall be included in any contract through which project water is furnished to a retail agency.

(8) This subdivision 45(b) shall be separable from all other provisions in this contract, and in the event that any or all of the provisions of this subdivision are in any manner or to any extent held to be invalid by final judgement or decree of a court of competent jurisdiction, such holding and such invalidity shall in no way affect the validity of, or make invalid, any other provision of this contract.

(c) Payment of Capital Cost Component of the Transportation Charge

The Agency shall completely pay its total allocated capital cost component of the Transportation Charge, together with interest thereon, within the project repayment period.

Notwithstanding any conflicting provisions in Articles 24(c), 24(e), and 29(b), the Agency's payments under the capital cost component of the Transportation Charge shall be determined as follows: the State shall determine a unit rate per acre-foot which will return to the State, during the project repayment period, the capital cost component of the Transportation Charge allocated to the Agency and interest thereon, computed at the project interest rate and compounded annually: *Provided*, That all unpaid interest shall be accumulated at the project interest rate, compounded annually, and added to the Agency's allocated capital costs. The Agency's annual payment for the capital cost component shall be the product of the unit rate and the Agency's annual entitlement. The Agency's repayment schedule for the capital cost component and the unit rate shall be set forth in Table D of this contract: *Provided*, That the amounts set forth in Table D shall be subject to redetermination by the State pursuant to Article 28. Payments by the Agency under the capital cost component of the Transportation Charge shall commence in the year of initial water delivery.

(d) Capacity in Transportation Facilities

The State shall provide sufficient capacity in the transportation facilities, subject to the provisions of Article 17(b), to deliver 18 percent of the Agency's annual entitlement in any month.

(e) Approval by District Securities Commission

Notwithstanding the provisions of Article 2, this contract shall not become effective until approved by the Districts Securities Commission.

(f) Adjustment of Annual Entitlements

(1) Subject to approval by the State and similar rights of other contractors, the Agency may increase its annual entitlement for any year in which local water supplies available to the Agency are deficient due to climatic conditions up to the amount of its maximum annual entitlement: *Provided*, That such increase in delivery of water shall not interfere with the delivery of their respective annual entitlements to other contractors.

(2) In a year in which the Agency is unable to accept an amount of project water equal to its annual entitlement for that year because of above-average local water supply available to the Agency due to climatic conditions which occur subsequent to a year in which the Agency has increased its annual entitlement pursuant to paragraph (1) of this subdivision, the Agency may make a reduction in its annual entitlement which shall not exceed the sum of all prior increases in annual entitlement made under paragraph (1) of this subdivision less the sum of all prior decreases in annual entitlement made under this subdivision.

(3) In the event that, due to conditions of above-average local water supply available to the Agency because of favorable climatic conditions, the Agency in any year is unable to accept an amount of project water equal to its annual entitlement for said year as set forth in Table A of this contract the Agency shall remain obligated to make all payments required under this contract, including the capital cost component and the minimum operation, maintenance, power and replacement component of the Delta Water Charge: *Provided*, That the Agency's annual entitlement for said year is not reduced under the provision of paragraph (2) of this subdivision.

(4) In a year in which local water supplies available to the Agency are deficient because of climatic conditions which occur subsequent to a year in which deliveries to the Agency have been decreased under paragraph (3) of this subdivision the Agency may request and the State shall, consistent with similar rights of other contractors, deliver project water in an amount greater than the annual entitlement set forth for that year in Table A of this contract but not to exceed the sum of all prior amounts of project water not delivered to the Agency, but for which the Agency has paid the capital cost component and the minimum operation, maintenance, power and replacement component of the Delta Water Charge under paragraph (3) of this subdivision, less the sum of all prior deliveries of project water to the Agency under the provisions of this subdivision: *Provided*, That the sum of the annual entitlement of the Agency for that year and the amount of water delivered to the Agency in excess of its annual entitlement under this subdivision shall not exceed the maximum annual entitlement of the Agency: *Provided further*, That such increase in delivery of water shall not interfere with the delivery to other contractors of their respective annual entitlements.

(5) Notwithstanding provisions of Article 22, payments by the Agency pursuant to paragraphs (2) and (4) of this subdivision shall be such that the total payments to the State for the capital cost and minimum operation, maintenance, power and replacement components of the Delta Water Charge during the project repayment period shall be the same as if no change in annual entitlement had been made under paragraph (1) of this subdivision and no decrease in water delivery had been made under paragraph (3) of this subdivision.

(i) In the event of a decreased annual entitlement to the Agency under paragraph (2) of this subdivision, the Agency shall, in addition to the Delta Water Charge computed pursuant to Article 22(d), pay an amount which shall be the product of the amount of the decrease in the annual entitlement and the difference in the capital cost and minimum operation, maintenance, power and replacement components of the Delta Water Charge for that year and the same components of the Delta Water Charge for the appropriate year in which the annual entitlement was increased under paragraph (1) of this subdivision. The appropriate year for which the annual entitlement was so increased shall be the earliest year not offset by a decrease of annual entitlement pursuant to paragraph (2) of this subdivision.

(ii) In a year in which an increased quantity of water is furnished under paragraph (4) of this subdivision, the Delta Water Charge shall be computed pursuant to Article 22(d), and in addition the Agency shall pay an amount which shall be the product of such increase in quantity and the difference in the capital costs and minimum operation, maintenance, power and replacement components of the Delta Water Charge for that year and the same components of the Delta Water Charge for the appropriate previous year in which the delivery was less than the annual entitlement as provided under paragraph (3) of this subdivision. The appropriate previous year shall be the earliest year in which such water was not delivered under paragraph (3) of this subdivision which has not been offset by increased delivery under paragraph (4) of this subdivision.

(iii) For the purposes of this subdivision, the capital cost and minimum operation, maintenance, power and replacement components of the Delta Water Charge prior to December 31, 1969, shall be deemed to be three dollars and fifty cents (\$3.50) per acre-foot of water less the variable operation, maintenance, power and replacement component rate computed under Article 22(c).

(f) Provision for Years of Above-Normal Local Water Supply.

Within the framework of the contract, particularly by the provisions of Article 15(a) and possible deferment of the delivery of annual entitlements, the State will work with the Agency to avoid loss to the Agency on account of its inability to accept project water in years when runoff is above normal in the watersheds tributary to Tulare Lake Basin, and the State will cooperate with the Agency in the preparation of any necessary contract amendments and their presentation to other contractors.

(g) Approval by District Securities Commission

Notwithstanding the provisions of Article 2, this contract shall not become effective until approved by the Districts Securities Commission.

TABLE A
ANNUAL ENTITLEMENTS
EMPIRE WEST SIDE IRRIGATION DISTRICT

Year	Total Annual Amount in Thousands of Acre-feet
1	3.0
and each succeeding year thereafter, for the term of this contract as a Maximum Annual Entitlement:	3.0

TABLE B

ALLOCATED PROPORTION OF COSTS OF PROJECT TRANSPORTATION FACILITIES
EMPIRE WEST SIDE IRRIGATION DISTRICT

Aqueduct Reach	Total for project transportation facilities					Agency participation			
	Total of maximum annual entitlements of all contractors thousands of acre-feet per year ¹	Total of maximum capacities in cubic-feet ¹ per second ⁴	Total capital cost, thousands of dollars	Minimum annual operating cost, thousands of dollars ²	Maximum annual entitlement, thousands of acre-feet ¹ per year	Ratio of maximum annual entitlement, to total of maximum annual entitlements	Maximum capacity in cubic-feet per second ¹	Ratio of maximum capacity to total capacity	Average of ratios

CALIFORNIA AQUEDUCT

Delta to Discharge Delta Pumping Plant:³

Discharge, Delta Pumping Plant to San Luis Forebay:³

San Luis Forebay:³

San Luis Forebay to Kettleman City:

¹ As increased by an allowance to compensate for losses as provided in Article 24(b) (2).

² Based on values as of the end of the construction period.

³ Costs allocated to water transportation.

⁴ State's capacity only.

TABLE C
PROJECTED ALLOCATIONS OF CAPITAL
COST OF PROJECT TRANSPORTATION FACILITIES
(In thousands of dollars)

Year

- 1*
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29
- 30
- 31

* Year in which State commenced construction of project transportation facilities, 1959.

TABLE D
TRANSPORTATION CHARGE - CAPITAL COST COMPONENT*
(In thousands of dollars)

Year	Annual Payment of Principal	Annual Interest Payment	Total Annual Payment by Agency
1**			
2			
3			
4			
5			
6			
7			
8			
9			
10***			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			
26			
27			
28			
29			
30			
31			
32			
33			
34			
35			
36			
37			
38			
39			
40			
41			
42			
43			
44			
45			

TABLE D (Continued)
TRANSPORTATION CHARGE – CAPITAL COST COMPONENT
(In thousands of dollars)

Year	Annual Payment of Principal	Annual Interest Payment	Total Annual Payment by Agency
46			
47			
48			
49			
50			
51			
52			
53			
54			
55			
56			
57			
58			
59			
60			
61			
62			
63			
64			
65			
66			
67			
68			
69			
70			
71			
72			
73			
74			
75			
76			
77			
78			
79			
80			
Total			

* Unit rate: \$ _____

** Year in which the State commenced construction of the project transportation facilities, 1959.

*** Year of first payment.

TABLE E
TRANSPORTATION CHARGE – MINIMUM OPERATION
MAINTENANCE, POWER, AND REPLACEMENT COMPONENT

Year	Total Annual Payment by Agency* (In thousands of dollars)
1**	
2	
3	
4	
5	
6	
7	
8	
9	
10	
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	
26	
27	
28	
29	
30	
31	
and each succeeding year thereafter, for the term of this contract.	

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

** Year in which the State commenced construction of the project transportation facilities, 1959.

TABLE F

TRANSPORTATION CHARGE - ESTIMATED VARIABLE OPERATION,
MAINTENANCE, POWER, AND REPLACEMENT COMPONENT

Year	Total Annual Payment by Agency* (In thousands of dollars)
1**	
2	
3	
4	
5	
6	
7	
8	
9	
10	
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	
26	
27	
28	
29	
30	
31	

and each succeeding year thereafter, for the term of this contract.

* Payments start with year of initial water delivery.

** Year in which State commenced construction of project transportation facilities, 1959.

TABLE G
PAYMENT SCHEDULE
(In thousands of dollars)

Year	Transportation Charge			Total
	Capital Cost Component	Minimum Component	Variable Component	
1*				
2				
3				
4				
5				
6				
7				
8				
9				
10**				
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				
21				
22				
23				
24				
25				
26				
27				
28				
29				
30				
31				
32				
33				
34				
35				
36				
37				
38				
39				
40				
41				
42				
43				
44				
45				

TABLE G (Continued)
PAYMENT SCHEDULE
(In thousands of dollars)

Year	Transportation Charge			Total
	Capital Cost Component	Minimum Component	Variable Component	
46				
47				
48				
49				
50				
51				
52				
53				
54				
55				
56				
57				
58				
59				
60				
61				
62				
63				
64				
65				
66				
67				
68				
69				
70				
71				
72				
73				
74				
75				
76				
77				
78				
79				
80				

* Year in which State commenced construction of project transportation facilities, 1959.
** Year of first payment, capital cost component.

TABLE H
PROJECT TRANSPORTATION FACILITIES
EMPIRE WEST SIDE IRRIGATION DISTRICT

A San Joaquin Valley-Southern California Aqueduct extending to Kettleman City, to the extent such aqueduct is determined by the State to be required for water transportation.

TABLE I
AQUEDUCT REACHES
EMPIRE WEST SIDE IRRIGATION DISTRICT

Aqueduct Reach	Major Features of Reach
Delta to Discharge Delta Pumping Plant:	Intake Canal Fish Protective Facilities Delta Pumping Plant (Pumping Plant I)
Discharge Delta Pumping Plant to San Luis Forebay:	Aqueduct
San Luis Forebay:	San Luis Forebay and Forebay Dam
San Luis Forebay to Kettleman City:	Aqueduct Mile 18 Pumping Plant

IN WITNESS WHEREOF, the parties hereto have executed this contract on the date first above written.

Approved as to legal form and sufficiency:

J.A. Towne

Chief Counsel
Department of Water Resources
P. O. Box 388
Sacramento, California

STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES

By W.L. Swann
Director

Attest:

G.G. Fallick

Secretary
Empire West Side Irrigation District
331 D Street
Lemoore, California

EMPIRE WEST SIDE IRRIGATION DISTRICT

By Stanley Newton
President

STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES

AMENDMENT NO. 1 TO WATER SUPPLY
CONTRACT BETWEEN THE STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES AND
EMPIRE WEST SIDE IRRIGATION DISTRICT

THIS CONTRACT, made this 28th day of September 1964, pursuant to the provisions of the California Water Resources Development Bond Act, the State Central Valley Project Act, and other applicable laws of the State of California, between the State of California, acting by and through its Department of Water Resources, herein referred to as the "State," and Empire West Side Irrigation District, a public agency in the State of California, duly organized, existing, and acting pursuant to the laws thereof with its principal place of business in Lemoore, California, herein referred to as the "Agency,"

WITNESSETH, That:

WHEREAS, the State is authorized to construct and operate facilities for the storage and conveyance of water, certain of which facilities will make water available to the Agency; and

WHEREAS, the State and the Agency have entered into a water supply contract, dated December 30, 1963, providing that the State shall supply certain quantities of water to the Agency, and providing that the Agency shall make certain payments to the State, and setting forth the terms and conditions of such supply and such payment; and

WHEREAS, the State and the Agency are desirous of making certain changes and additions to such contract, while otherwise continuing the contract in full force and effect;

NOW THEREFORE, it is mutually agreed that the following changes and additions are hereby made to the Agency's water supply contract with the State:

1. Subdivision (k) of Article 1 is amended to read as follows:

(k) Minimum Project Yield

"Minimum project yield" shall mean the dependable annual supply of project water to be made available, estimated to be 4,230,000 acre-feet per year, said amount to be determined by the State on the basis of coordinated operation studies of initial project conservation facilities and additional project conservation facilities, which studies shall be based upon:

(1) The estimated relative proportion of deliveries for agricultural use to deliveries for municipal use for the year 1990, and the characteristic distributions of demands for these two uses throughout the year.

(2) An allowable reduction in the agricultural use portion of the minimum project yield, due to drought, of not to exceed fifty percent (50%) in any one year, nor a total of one hundred percent (100%) of one year's supply in any series of seven consecutive years.

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

2. Subdivision (a) of Article 16 is amended to read as follows:

(a) Limit on Total of all Maximum Annual Entitlements

The Agency's maximum annual entitlement hereunder, together with the maximum annual entitlements of all other contractors, shall aggregate no more than the minimum project yield as defined herein and in no event more than 4,230,000 acre-feet of project water.

3. Subdivision (a) of Article 45 is amended to read as follows:

(a) Surplus Water

Notwithstanding other provisions of this contract, surplus water for agricultural and ground water replenishment use shall be offered to contractors on the following basis. Before surplus water is sold for other than agricultural and ground water replenishment use, each contractor shall have the right, subject to the ability of the State to deliver such water and to the provisions of the next succeeding paragraph, to contract for agricultural and ground water replenishment use for a portion of the total amount of surplus water available in any year, in an amount which bears the same ratio to the total amount of surplus water available in that year as the sum of the annual entitlements, set forth in Table A of this contract, delivered to the contractor for agricultural and ground water replenishment use during the preceding three years bears to the total amount of such annual entitlements delivered for agricultural and ground water replenishment use during the preceding three years of all contractors requesting surplus water: Provided, That if its proportion of

such surplus water is not required by or cannot be delivered to any contractor, such amount of additional surplus water shall be offered to other contractors for agricultural and ground water replenishment use. During the first three years in which project water is delivered to a contractor, the State shall determine the amount of surplus water which the contractor may obtain based on the contractor's maximum annual entitlement and the estimated percentage of its annual entitlement to be delivered for agricultural and ground water replenishment use; but quantities so determined shall not exceed the contractor's annual entitlement for that year. For the purpose of computing the portion of the surplus water for agricultural and ground water replenishment use to which each contractor is entitled, the State shall determine the amounts of water used for agricultural and ground water replenishment use by each contractor in each year: Provided, That each contractor shall furnish certified copies of such records and data concerning the use of water within its boundaries as the State may request.

The provisions of this paragraph shall be applicable only to contractors in the San Joaquin Valley Service Area, contractors in the Southern California Service Area, and contractors in the Central Coastal Service Area. Before surplus water is sold for other than agricultural and ground water replenishment use, each such contractor shall have the right, subject to the ability of the State to deliver such water, to contract for agricultural and ground water replenishment use in accordance with the following formula: contractors in the San Joaquin Valley Service Area shall have a right to contract for sixty-nine percent (69%) of the

surplus water available at the Mile 18 Pumping Plant; contractors in the Southern California Service Area shall have a right to contract for twenty-nine percent (29%) of such water; and contractors in the Central Coastal Service Area shall have a right to contract for two percent (2%) of such water: Provided, That within each of these service areas, each contractor shall have the right to contract for agricultural and ground water replenishment use for a portion of the total amount of surplus water available to that service area in any year, in an amount which bears the same ratio to the total amount of surplus water available to the service area in that year as the sum of the annual entitlements, set forth in Table A of this contract, delivered to the contractor for agricultural and ground water replenishment use during the preceding three years bears to the total amount of such annual entitlements delivered for agricultural and ground water replenishment use during the preceding three years of all contractors in that service area requesting surplus water: Provided, further, That if its proportion of such surplus water is not required by or cannot be delivered to any contractor, such amount of additional surplus water shall be offered to other contractors for agricultural and ground water replenishment use. During the first three years in which project water is delivered to a contractor, the State shall determine the amount of surplus water which the contractor may obtain based on the contractor's maximum annual entitlement and the estimated percentage of its annual entitlement to be delivered for agricultural and ground water replenishment use; but quantities so determined shall not exceed the contractor's annual entitlement for that year. As used in this paragraph,

"contractors in the San Joaquin Service Area" shall mean: Devil's Den Water District, Dudley Ridge Water District, Empire West Side Irrigation District, Hacienda Water District, Kern County Water Agency, and Tulare Lake Basin Water Storage District; "contractors in the Southern California Service Area" shall mean: Antelope Valley-East Kern Water Agency, City of West Covina, Coachella Valley County Water District, Crestline-Lake Arrowhead Water Agency, Desert Water Agency, Littlerock Creek Irrigation District, Mojave Water Agency, Palmdale Irrigation District, San Bernardino Valley Municipal Water District, San Gabriel Valley Municipal Water District, San Geronio Pass Water Agency, The Metropolitan Water District of Southern California, Upper Santa Clara Valley Water Agency, and Ventura County Flood Control District; "contractors in the Central Coastal Service Area" shall mean: San Luis Obispo County Flood Control and Water Conservation District and Santa Barbara County Flood Control and Water Conservation District.

The provision of this paragraph shall be applicable only to a contractor to which the delivery of project water for municipal use as of 1990 is estimated by the State to be in excess of fifty percent (50%) of such contractor's maximum annual entitlement. For the purpose of fixing such contractor's right to delivery of surplus water, water from a watershed not tributary to the contractor's area which is delivered within the contractor's boundaries for agricultural or ground water replenishment use shall be deemed to be part of the contractor's annual entitlement delivered for

such use in computing the quantity of surplus water to which the contractor is entitled under this subdivision: Provided, That the contractor shall not be deemed to have used more than its annual entitlement, as set forth in Table A, for such use. Surplus water shall be deemed to be used by the contractor for agricultural or ground water replenishment use if an equal quantity of water imported from a watershed not tributary to the contractor's area is delivered within the contractor's boundaries for such use.

In providing for the delivery of surplus water to contractors pursuant to this subdivision, the State shall refuse to deliver such surplus water to any contractor to the extent that the State determines that such delivery would tend to encourage the development of an economy within the area served by such contractor which would be dependent upon the sustained delivery of water in excess of the contractor's maximum annual entitlement. In no event shall the quantity of surplus water made available in any year prior to 1986 to any contractor under this subdivision exceed the difference between its annual entitlement for that year and its maximum annual entitlement, except that, subject to provisions of the immediately preceding sentence, with respect to any contractor which under Table A of its contract is scheduled to receive its maximum annual entitlement prior to 1978, the quantity of surplus water made available in any year prior to 1986 under this subdivision may exceed such difference by not more than 3,000 acre-feet.

Surplus water for agricultural and ground water replenishment use shall be furnished at prices which will return to the

State the variable operation, maintenance, power, and replacement components of the Delta Water Charge and Transportation Charge incurred in such service of surplus water as determined by the State. Surplus water delivered under this subdivision shall be limited to the quantity of water which can be delivered without adversely affecting the reliability, or increasing the cost, of service to meet annual entitlements. A surcharge shall be added to the rate for surplus water furnished to excess land in an amount and under the conditions specified in Article 30 of this contract. Contracts made pursuant to this subdivision may exceed one year in duration.

Except as herein modified, the provisions of Article 21 of this contract are hereby confirmed, and all surplus water not specifically allocated pursuant to this subdivision shall be sold under the provisions of Article 21. Nothing in this subdivision shall limit the right of the Agency to increase its annual entitlements as otherwise provided in this contract.

As used in this subdivision "ground water replenishment use" shall mean the use of project water exclusively by direct application to spreading basins, streambeds, or through other means of direct artificial recharge for the purpose of replenishing overdrawn ground water basins.

IN WITNESS WHEREOF, the parties hereto have executed
this contract on the date first above written.

Approved as to legal form
and sufficiency:

J. C. Towne
Chief Counsel
Department of Water Resources

STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES

By Gil S. Swan
Director

Approved as to form and
execution:

Charles W. Jenney

EMPIRE WEST SIDE IRRIGATION
DISTRICT

By Staley Newton

CHANGE IN ANNUAL ENTITLEMENTS

Table A, entitled, "Annual Entitlements, Empire West Side Irrigation

District

", is requested to be amended as follows:

TABLE A
ANNUAL ENTITLEMENTS

<u>Year</u>	<u>Total Annual Amount in acre-feet</u>
1	1,000
2	3,000
and each succeeding year thereafter, for the term of this contract as a Maximum Annual Entitlement:	3,000

10/20/68
W. R. Gianella
Director

And each succeeding year thereafter, for the term of this contract:

Empire West Side Irrigation District

S
U
B
M
I
T
T
E
D

By *Joseph P. Galus* President 10-20-68
Signature of Official duly authorized pursuant to Article 43 Title Date

Approved as to legal form and sufficiency:

This application is approved and Table A is hereby amended as indicated above:

A
P
P
R
O
V
E
D

P. C. Tawer
Chief Counsel
Department of Water Resources

STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES

By *W. R. Gianella*
Director

Date NOV 14 1968

STATE OF CALIFORNIA
THE RESOURCES AGENCY
DEPARTMENT OF WATER RESOURCES

③
AMENDMENT TO WATER SUPPLY
CONTRACT BETWEEN THE STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES AND
EMPIRE WEST SIDE IRRIGATION DISTRICT

THIS CONTRACT, made this 7th day of April, 1969, pursuant to the provisions of the California Water Resources Development Bond Act, the State Central Valley Project Act, and other applicable laws of the State of California, between the State of California, acting by and through its Department of Water Resources, herein referred to as the "State", and Empire West Side Irrigation District, a public agency in the State of California, duly organized, existing, and acting pursuant to the laws thereof with its principal place of business in Stratford, California, herein referred to as the "Agency",

WITNESSETH, That:

WHEREAS, the State and the Agency have entered into and subsequently amended a water supply contract, dated December 30, 1963, (herein referred to as the "Amended Contract") providing that the State shall supply certain quantities of water to the Agency, and that the Agency shall make certain payments to the State, and setting forth the terms and conditions of such supply and such payment; and

WHEREAS, the Amended Contract provides for a surcharge equivalent to the power credit per acre-foot of water to be charged to water users, other than the United States or the State of California, for each acre-foot of project water determined to have been put to agricultural or manufacturing uses on excess land, for collection by the Agency either itself or through a retail agency or another agency, for payment to the State of such surcharge, and for the application, on specified terms and conditions, of the amount of such surcharge as a credit against certain payments by certain water users and by the Agency to the State; and

WHEREAS, the Amended Contract establishes the power credit per acre-foot of water as two dollars until all of the facilities for generation of electrical energy in connection with operation of initial project conservation facilities are installed and in operation, and provides for a redetermination of such credit thereafter to reflect accurately increases or decreases from year to year in the power credit; and

WHEREAS, all of such facilities are not installed and in operation; and

WHEREAS, the power credit of two dollars appears to be grossly excessive, in light of presently estimated power costs and revenues incurred and received and to be incurred and received attributable to initial project conservation facilities, but no accurate redetermination of the power credit can be made at this time;

NOW, THEREFORE, it is mutually agreed as follows:

The provisions of the Amended Contract providing for or related to the power credit, surcharge and surcharge credit shall not be effective as to water deliveries during the years ending December 31, 1967, 1968 and 1969. Prior to March 1, 1970, the State shall determine the power credit to be used for water deliveries during the year ending December 31, 1970, which credit shall be determined in accordance with the formula set forth in Article 30(b) of the Amended Contract.

IN WITNESS WHEREOF, the parties hereto have executed this contract on the date first above written.

Approved as to legal form
and sufficiency:

STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES

By J.C. Turner
Chief Counsel
Department of Water Resources

By W. Scavelli
Director

Attest:

EMPIRE WEST SIDE IRRIGATION
DISTRICT

By _____
(Title)

By Joseph R. Fabry Pres
(Title)

Approved as to form
and execution:

By _____
(Title)

STATE OF CALIFORNIA
THE RESOURCES AGENCY
DEPARTMENT OF WATER RESOURCES

AMENDMENT NO. 4 TO WATER SUPPLY CONTRACT
BETWEEN THE STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES AND
EMPIRE WEST SIDE IRRIGATION DISTRICT

THIS CONTRACT, made this 26 day of Jan ¹⁹⁷⁰~~1969~~,
pursuant to the provisions of the California Water Resources
Development Bond Act, the State Central Valley Project Act, and
other applicable laws of the State of California, between the State
of California, acting by and through its Department of Water
Resources, herein referred to as the "State", and **Empire West
Side Irrigation District**,
herein referred to as the "Agency";

WITNESSETH, That

WHEREAS, the State and the Agency have entered into and
subsequently amended a water supply contract providing that the
State will supply certain quantities of water to the Agency, and
providing that the Agency shall make certain payments to the State,
and setting forth the terms and conditions of such supply and such
payment; and

WHEREAS, Article 22(b) of such water supply contract pro-
vides that for each year through the year 1969 the Delta Water
Charge shall be the product of \$3.50 and the Agency's annual entitle-
ment for the respective year and that beginning in the year 1970, the
Delta Water Charge shall be the sum of the capital cost component,
minimum operation, maintenance, power and replacement component, and

Empire West Side Irrigation District

variable operation, maintenance, power and replacement component computed in accordance with Articles 22(c) and (d) of the water supply contract; and

WHEREAS, Articles 22(e) and (g) of such water supply contract provide that the Delta Water Charge as computed in accordance with Articles 22(c) and (d) shall include all projected costs of additional project and supplemental conservation facilities commencing in the years in which the State first incurs capital costs for such facilities after the facilities are authorized; and

WHEREAS, the parties desire that all water supply contracts be amended to postpone inclusion of the projected costs of any authorized additional project and supplemental conservation facilities in the computation of the Delta Water Charge until after the year 1970 and to fix the rate for computing the Delta Water Charge for the year 1970 at \$6.65; and

WHEREAS, the payments to be made by the Agency to the State include interest calculated at the "project interest rate" defined in Article 1(r) of such water supply contract to mean the weighted average of the interest rates paid by the State on bonds issued under the Water Resources Development Bond Act (Bond Act) disregarding premiums received on the sale of such bonds; and

WHEREAS, the underlying assumption upon which the "project interest rate" was established was that all of the initial facilities of the State Water Resources Development System (Project) would be financed principally with proceeds of bonds issued under the Bond Act or from other sources on which the interest rate would not exceed that of the bonds issued under the Bond Act; and

WHEREAS, the State already has financed the Oroville-

Thermalito power facilities through Central Valley Project Revenue Bonds and may finance other portions of the project facilities through additional revenue bond issues, bonds issued under other authority granted by the Legislature or the voters, bonds issued by other state agencies, advances from contractors, and other methods under which the financing costs relate to interest rates that may exceed the interest rate of the bonds issued under the Bond Act; and

WHEREAS, either the State or contractors making advances to the State may be subject to interest rates, or other financing costs that relate to interest rates, which will be greater than the "project interest rate" as presently defined in the contracts; and

WHEREAS, the parties desire that (1) the interest costs hereafter incurred by or on behalf of the State in financing the construction of project facilities by means other than the use of moneys provided under the Bond Act will be reflected in appropriate adjustments of the "project interest rate" (excepting the interest costs incurred for the Central Valley Project Revenue Bonds issued prior to the date of this amendment); (2) appropriate credit will be given to any contractor having made an advance of funds to the State corresponding to the bond service obligation payable by such contractor by reason of such advance or if bonds were not used to obtain funds for such advance, then to the net interest cost which would have resulted if the contractor had sold bonds for the purpose of funding the advance; and (3) if any sources of funds other than those provided under the Bond Act are employed to finance the construction of specific project facilities and the interest or other costs of such financing are greater than the cost would have been if bonds issued under the Bond Act had been used, appropriate

adjustments to the charges to contractors will be made with respect to such facilities so that the charges to contractors taking water through reaches which include such facilities will be the same after such adjustments as such charges would have been if such facilities had been financed by the use of proceeds of bonds issued under the Bond Act, except insofar as the "project interest rate" has been adjusted pursuant to (1) in this recital:

NOW THEREFORE, it is mutually agreed that the following changes and additions are hereby made to the Agency's water supply contract with the State:

1. Subdivision (b) of Article 22 is amended to read as follows:

For each contractor receiving project water in any year through December 31, 1969, the Delta Water Charge shall be the product of \$3.50 and the contractor's annual entitlement to project water for the respective year. For each contractor receiving project water in the year 1970, the Delta Water Charge shall be the product of \$6.65 and the contractor's annual entitlement to project water for that year. The \$6.65 rate for the year 1970 shall consist of a capital cost component of \$5.04 and a minimum operation, maintenance, power and replacement component of \$1.61. After December 31, 1970, the Delta Water Charge shall consist and be the sum of the following components as these are computed in accordance with subdivisions (c) and (d) of this article: a capital cost component; a minimum operation, maintenance, power and replacement component; and a variable operation, maintenance, power and replacement component.

2. Subdivision (r) of Article 1 is amended to read as follows:

"Project interest rate" shall mean the weighted average interest rate of (1) through (6) below computed by dividing (i) the total interest cost required to be paid or credited by the State during the life of the indebtedness or advance by (ii) the total of the products of the various principal amounts and the respective terms in years of all such amounts:

- (1) general obligation bonds issued by the State under the Bond Act,
- (2) revenue bonds issued by the State under the Central Valley Project Act after May 1, 1969,
- (3) bonds issued by the State under any other authority granted by the Legislature or the voters,
- (4) bonds issued by any agency, district, political subdivision, public corporation, or non-profit corporation of this State,
- (5) funds advanced by any contractor without the actual incurring of bonded debt therefor, for which the net interest cost and terms shall be those which would have resulted if the contractor had sold bonds for the purpose of funding the advance, as determined by the State, and
- (6) funds borrowed from the General Fund or other funds in the Treasury of the State of California, for which the total interest cost shall be computed at the interest rate earned over the period of such borrowing

by moneys in the Pooled Money Investment
Account of such Treasury invested in
securities,

to the extent the proceeds of any such bonds, advances or loans are for construction of the State Water Facilities defined in Section 12934(d) of the Water Code, the additional project conservation facilities, and the supplemental conservation facilities (except advances for delivery structures, measuring devices and excess capacity) and without regard to any premiums received on the sale of bonds under item (1) above. The "project interest rate" shall be computed as a decimal fraction to five places.

3. Subdivision (f) of Article 17 is added to the contract to read as follows:

(f) Adjustments Due to Supplemental Financing Costs

(1) If a contractor, with approval of the State, advances funds to the State to assist the State in financing construction of project facilities (not including delivery structures, measuring devices and excess capacity), such advance shall be amortized by means of annual credits to the contractor having made such advance of funds to the State, with such credits being equal to the actual bond service obligations payable by such contractor by reason of such advance or, if no bonded debt was incurred, then such credits shall be sufficient to cover the repayment of principal and interest costs which would have resulted if the contractor had sold bonds for the purpose of funding the advance as determined by the State.

(2) If, after May 1, 1969, any source of funds other than those provided by the Bond Act is employed to finance

construction of specific project facilities, any additional costs incurred because of such financing will not be charged to the contractors, except for adjustments to the "project interest rate".

Approved as to legal form and sufficiency:

STATE OF CALIFORNIA
THE RESOURCES AGENCY
DEPARTMENT OF WATER RESOURCES

[Handwritten signature]

Chief Counsel
Department of Water Resources
P. O. Box 388
Sacramento, California

By *[Handwritten signature]*
Director

Attest:

EMPIRE WEST SIDE IRRIGATION
DISTRICT

[Handwritten signature]
Secretary

By *[Handwritten signature]*
President

STATE OF CALIFORNIA
THE RESOURCES AGENCY
DEPARTMENT OF WATER RESOURCES

⑤
AMENDMENT TO WATER SUPPLY
CONTRACT BETWEEN THE STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES AND
EMPIRE WEST SIDE IRRIGATION DISTRICT

THIS CONTRACT, made this *1st* day of *January*, 1977, pursuant to the provisions of the California Water Resources Development Bond Act, the State Central Valley Project Act, and other applicable laws of the State of California, between the State of California, acting by and through its Department of Water Resources, herein referred to as the "State", and Empire West Side Irrigation District, a public agency in the State of California, duly organized, existing, and acting pursuant to the laws thereof with its principal place of business in Stratford, California, herein referred to as the "Agency",

WITNESSETH, That:

WHEREAS, the State and the Agency have entered into and subsequently amended a water supply contract, dated December 30, 1963 (herein referred to as the "Amended Contract"), providing that the State shall supply certain quantities of water to the Agency, and that the Agency shall make certain payments to the State, and setting forth the terms and conditions of such supply and such payment; and

WHEREAS, the Amended Contract provides for a surcharge equivalent to the power credit per acre-foot of water to be charged to water users, other than the United States or the State of California, for each acre-foot of project water determined to have been put to agricultural or manufacturing uses on excess land, for collection by the Agency either itself or through a retail agency or another agency, for payment to the State of such surcharge, and for the application, on specified terms and conditions, of the amount of such surcharge as a credit against certain payments by certain water users and by the Agency to the State; and

WHEREAS, the Amended Contract establishes the power credit per acre-foot of water as two dollars until all of the facilities for generation of electrical energy in connection with operation of initial project conservation facilities are installed and in operation, and provides for a redetermination of such credit thereafter to reflect accurately increases or decreases from year to year in the power credit; and

WHEREAS, the provisions of the Amended Contract providing for or related to the power credit, surcharge and surcharge credit were suspended as to water deliveries during the years ending not later than December 31, 1969 pending the first redetermination of the power credit; and

WHEREAS, the power credit of two dollars is and will be grossly excessive for the year 1970 and thereafter, the estimated surcharge payments and surcharge credits, based on a redetermination of the power credit, would be relatively small

and the associated administrative costs of the State and its contractors would be large; and

WHEREAS, the State and water contractors are in the process of reevaluating the power credit and such surcharge and surcharge credit provisions;

NOW, THEREFORE, it is mutually agreed as follows:

The provisions of the Amended Contract providing for or related to the surcharge and surcharge credit shall not be effective as to water deliveries during the year ending December 31, 1970.

IN WITNESS WHEREOF, the parties hereto have executed this contract amendment on the date first above written.

Approved as to legal form and sufficiency:

STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES

By *[Signature]*
7/11/70 Chief Counsel
Department of Water Resources

By *W. G. Gannell*
Director

Attest:

EMPIRE WEST SIDE IRRIGATION
DISTRICT

By _____
(Title)

By *[Signature]*
(Title)
John F. Hattisen
Secretary - Manager

Approved as to form and execution:

By _____
(Title)

STATE OF CALIFORNIA
THE RESOURCES AGENCY
DEPARTMENT OF WATER RESOURCES

AMENDMENT NO. 6 TO WATER SUPPLY CONTRACT
BETWEEN THE STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES AND
EMPIRE WEST SIDE IRRIGATION DISTRICT

THIS CONTRACT, made this 31st day of December, 1970, pursuant to the provisions of the California Water Resources Development Bond Act, the State Central Valley Project Act, and other applicable laws of the State of California, between the State of California, acting by and through its Department of Water Resources, herein referred to as the "State", and Empire West Side Irrigation District, herein referred to as the "Agency";

WITNESSETH, That

WHEREAS, the State and the Agency have entered into and subsequently amended a water supply contract providing that the State will supply certain quantities of water to the Agency, and providing that the Agency shall make certain payments to the State, and setting forth the terms and conditions of such supply and such payment; and

WHEREAS, Article 22(b) of such water supply contract, as amended, provides that for each year through the year 1969 the Delta Water Charge shall be the product of \$3.50 and the Agency's annual entitlement for the respective year, that for the year 1970 the Delta Water Charge shall be the product of \$6.65 and the Agency's annual entitlement for that year, and that beginning in the year

1971 the Delta Water Charge shall be the sum of the capital cost component, minimum operation, maintenance, power and replacement component, and variable operation, maintenance, power and replacement component computed in accordance with Articles 22(c) and (d) of the water supply contract; and

WHEREAS, Articles 22(e) and (g) of such water supply contract provide that the Delta Water Charge as computed in accordance with Articles 22(c) and (d) shall include all projected costs of additional project and supplemental conservation facilities commencing in the years in which the State first incurs capital costs for such facilities after the facilities are authorized; and

WHEREAS, the parties desire that all water supply contracts be amended to postpone inclusion of the projected costs of any authorized additional project and supplemental conservation facilities in the computation of the Delta Water Charge until after the year 1971 and to fix the rate for computing the Delta Water Charge for the year 1971 at \$7.24;

NOW, THEREFORE, it is mutually agreed that the following changes and additions are hereby made to the Agency's water supply contract with the State:

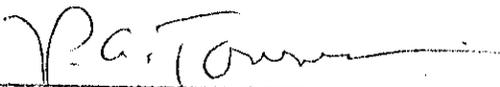
1. Subdivision (b) of Article 22 is amended to read as follows:

For each contractor receiving project water in any year through December 31, 1969, the Delta Water Charge shall be the product of \$3.50 and the contractor's annual entitlement to project water for the respective year. For each contractor receiving project water in the year 1970, the Delta Water Charge shall be the

product of \$6.65 and the contractor's annual entitlement to project water for that year. The \$6.65 rate for the year 1970 shall consist of a capital cost component of \$5.04 and a minimum operation, maintenance, power and replacement component of \$1.61. For each contractor receiving project water in the year 1971, the Delta Water Charge shall be the product of \$7.24 and the contractor's annual entitlement to project water for that year. The \$7.24 rate for the year 1971 shall consist of a capital cost component of \$5.44 and a minimum operation, maintenance, power and replacement component of \$1.80. After December 31, 1971, the Delta Water Charge shall consist and be the sum of the following components as these are computed in accordance with subdivisions (c) and (d) of this article: a capital cost component; a minimum operation, maintenance, power and replacement component; and a variable operation, maintenance, power and replacement component.

Approved as to legal form and sufficiency:

STATE OF CALIFORNIA
THE RESOURCES AGENCY
DEPARTMENT OF WATER RESOURCES



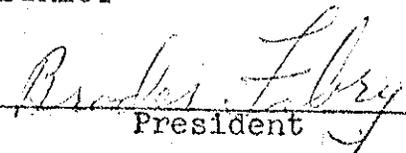
Chief Counsel
Department of Water Resources
P. O. Box 388
Sacramento, California

By 
Director

Attest:

EMPIRE WEST SIDE IRRIGATION
DISTRICT

~~Secretary~~

By 
President

STATE OF CALIFORNIA
THE RESOURCES AGENCY
DEPARTMENT OF WATER RESOURCES

AMENDMENT NO. 7 TO WATER SUPPLY CONTRACT
BETWEEN THE STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES AND
EMPIRE WEST SIDE IRRIGATION DISTRICT

Handwritten: 11/17/71
52,51431
Empire W.S.I.D.

THIS CONTRACT, made this 17 day of November, 1971, pursuant to the provisions of the California Water Resources Development Bond Act, the State Central Valley Project Act, and other applicable laws of the State of California, between the State of California, acting by and through its Department of Water Resources, herein referred to as the "State", and Empire West Side Irrigation District, herein referred to as the "Agency";

WITNESSETH, That:

WHEREAS, the State and the Agency have entered into and subsequently amended a water supply contract providing that the State will supply certain quantities of water to the Agency, and providing that the Agency shall make certain payments to the State, and setting forth the terms and conditions of such supply and such payment; and

WHEREAS, Article 22(b) of such water supply contract, as amended, provides that for each year through the year 1969 the Delta Water Charge shall be the product of \$3.50 and the Agency's annual entitlement for the respective year, that for the year 1970 the Delta Water Charge shall be the product of \$6.65 and the

Agency's annual entitlement for that year, that for the year 1971 the Delta Water Charge shall be the product of \$7.24 and the Agency's annual entitlement for that year, and that beginning in the year 1972 the Delta Water Charge shall be the sum of the capital cost component, minimum operation, maintenance, power and replacement component, and variable operation, maintenance, power and replacement component computed in accordance with Articles 22(c) and (d) of the water supply contract; and

WHEREAS, Articles 22(e) and (g) of such water supply contract provide that the Delta Water Charge as computed in accordance with Articles 22(c) and (d) shall include all projected costs of additional project and supplemental conservation facilities commencing in the years in which the State first incurs capital costs for such facilities after the facilities are authorized; and

WHEREAS, the parties desire that all water supply contracts be amended to postpone inclusion of the projected costs of any authorized additional project and supplemental conservation facilities in the computation of the Delta Water Charge until the happening of certain events;

NOW, THEREFORE, it is mutually agreed that the following changes and additions are hereby made to the Agency's water supply contract with the State:

1. Subdivision (e) of Article 22 is amended to read as follows:

Prior to the time that additional project conservation facilities or supplemental conservation facilities are constructed,

the Delta Water Charge shall be determined on the basis of an allocation to project purposes, by the separable cost-remaining benefits method, of all actual and projected costs of all those initial project conservation facilities located in and above the Delta, and upon an allocation to the purposes of water conservation and water transportation, by the proportionate use of facilities method, of all actual and projected costs of the following project facilities located below the Delta: The aqueduct intake facilities at the Delta, Pumping Plant I (Delta Pumping Plant), the aqueduct from the Delta to San Luis Forebay (O'Neill Forebay), San Luis Forebay (O'Neill Forebay), and San Luis Reservoir: Provided, That all of the actual and projected costs properly chargeable to the generation and transmission of electrical energy in connection with operation of project conservation facilities shall be allocated to the purpose of water conservation in, above, and below the Delta: Provided further, That allocations to purposes the cost of which are to be paid by the United States shall be as determined by the United States.

Commencing in the year in which the State first awards a major construction contract for construction of a major feature of additional project conservation facilities, or first commences payments under a contract with a federal agency in the event a major feature of additional project conservation facilities is constructed by such federal agency under an agreement requiring the State to pay all or part of the costs of such construction, the Delta Water Charge shall be determined on the basis of the

foregoing allocations and upon an allocation to project purposes, by the separable costs-remaining benefits method and subject to the foregoing provisos, of all projected costs of such feature of the additional project conservation facilities: Provided, That if the agreement with such federal agency allows repayment of costs of a portion of a facility to be deferred, the associated costs of such portion shall be excluded from the Delta Water Charge computations until repayment of such deferred costs or interest thereon is commenced by the State: Provided further, That all costs of additional project conservation facilities incurred prior to the award of a major construction contract, shall be included in the Delta Water Charge computations in the year in which they are incurred.

2. Subdivision (g) of Article 22 is amended to read as follows:

Upon the construction of the supplemental conservation facilities, the Delta Water Charge shall be paid by all contractors for supplemental water, as well as by contractors for project water, and, together with revenues derived from the sale or other disposal of electrical energy generated in connection with operation of project conservation facilities and supplemental conservation facilities, shall return to the State, in addition to those costs of the project conservation facilities allocated to the purpose of water conservation, in, above, and below the Delta pursuant to subdivision (e) of this article, all costs of such supplemental conservation facilities, including capital, operation, maintenance, power, and replacement costs

which are allocated to the purpose of water conservation, in, above, and below the Delta pursuant hereto. Commencing in the year in which the State first awards a major construction contract for construction of a major feature of any supplemental conservation facilities, or first commences payments under a contract with a federal agency in the event a major feature of supplemental conservation facilities is constructed by such federal agency under an agreement requiring the State to pay all or part of the costs of such construction, the Delta Water Charge shall be determined on the basis of the allocations made pursuant to subdivision (e) of this article, and upon an allocation to project purposes, by the separable costs-remaining benefits method and subject to provisos corresponding to those contained in said subdivision (e), of all projected costs of such feature of the supplemental conservation facilities. Commencing in the same year, the computation of the rates to be used in determining the components of the Delta Water Charge shall include the annual entitlements to water under all contracts for supplemental water. If the repayment period of any bonds sold to construct supplemental conservation facilities or the repayment period under any agreement with a federal agency for repayment of the costs of supplemental conservation facilities constructed by such federal agency extends beyond the repayment period of the contract, the Delta Water Charge shall be determined and redetermined on the basis of such extended repayment period as the State determines to be appropriate: Provided, That if the agreement with such federal agency allows repayment of costs

of a portion of a facility to be deferred, the associated costs of such portion shall be excluded from the Delta Water Charge computations until repayment of such deferred costs or interest thereon is commenced by the State.

IN WITNESS WHEREOF, the parties hereto have executed this contract on the date first above written.

Approved as to legal form and sufficiency:

STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES

By _____
Chief Counsel
Department of Water Resources

By W. J. Ganill
Director

EMPIRE WEST SIDE IRRIGATION
DISTRICT

By Charles F. Fry
(Title)
President

STATE OF CALIFORNIA
THE RESOURCES AGENCY
DEPARTMENT OF WATER RESOURCES

6-25-14-1
Tol
X Vault
~~X 632.51431~~
ES/1
na

AMENDMENT NO. 8 TO WATER SUPPLY CONTRACT
BETWEEN THE STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES AND
EMPIRE WEST SIDE IRRIGATION DISTRICT

THIS CONTRACT, made this 22 day of Dec, 1971,
pursuant to the provisions of the California Water Resources
Development Bond Act, the State Central Valley Project Act, and
other applicable laws of the State of California, between the
State of California, acting by and through its Department of
Water Resources, herein referred to as the "State", and Empire
West Side Irrigation District, herein referred to as the "Agency";

WITNESSETH, That:

WHEREAS, the State and the Agency have entered into and
subsequently amended a water supply contract providing that the
State will supply certain quantities of water to the Agency, and
providing that the Agency shall make certain payments to the State,
and setting forth the terms and conditions of such supply and
such payment; and

WHEREAS, the Amended Contract provides for a surcharge
equivalent to the power credit per acre-foot of water to be
charged to water users, other than the United States or the State
of California, for each acre-foot of project water determined to
have been put to agricultural or manufacturing uses on excess
land, for collection by the Agency either itself or through a
retail agency or another agency, for payment to the State of
such surcharge, and for the application, on specified terms and

conditions, of the amount of such surcharge as a credit against certain payments by certain water users and by the Agency to the State; and

WHEREAS, the provisions of the Amended Contract providing for or related to the power credit, surcharge and surcharge credit have been suspended as to water deliveries during the years ending December 31, 1970; and

WHEREAS, the State and water contractors are still in the process of reevaluating the power credit and such surcharge and surcharge credit provisions;

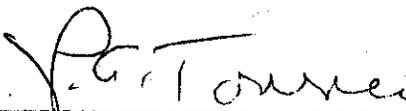
NOW, THEREFORE, it is mutually agreed as follows:

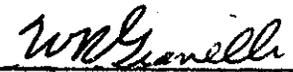
The provisions of the Amended Contract providing for or related to the power credit, surcharge and surcharge credit shall not be effective as to water deliveries during the year ending December 31, 1971.

IN WITNESS WHEREOF, the parties hereto have executed this contract amendment on the date first above written.

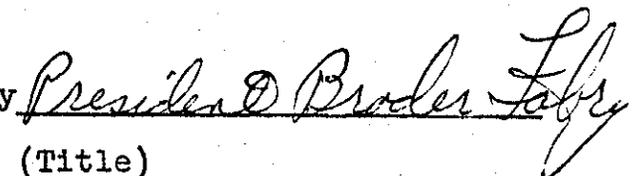
Approved as to legal form
and sufficiency:

STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES

By 
Chief Counsel
Department of Water Resources

By 
Director

EMPIRE WEST SIDE IRRIGATION
DISTRICT

By 
(Title)

STATE OF CALIFORNIA
THE RESOURCES AGENCY
DEPARTMENT OF WATER RESOURCES

AMENDMENT NO. 9 TO WATER SUPPLY CONTRACT
BETWEEN THE STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES AND
EMPIRE WEST SIDE IRRIGATION DISTRICT

THIS CONTRACT, made as of the 15th day of October, 1972, pursuant to the provisions of the California Water Resources Development Bond Act, the State Central Valley Project Act, and other applicable laws of the State of California, between the State of California, acting by and through its Department of Water Resources, herein referred to as the "State", and Empire West Side Irrigation District, herein referred to as the "Agency";

WITNESSETH, That:

WHEREAS, the State and the Agency have entered into and subsequently amended a water supply contract, dated December 30, 1963 (herein referred to as the "Amended Contract") providing that the State shall supply certain quantities of water to the Agency, and that the Agency shall make certain payments to the State, and setting forth the terms and conditions of such supply and such payment; and

WHEREAS, the Amended Contract provides for a surcharge equivalent to the power credit per acre-foot of water to be charged to water users, other than the United States or the State of California, for each acre-foot of project water determined to have been put to agricultural or manufacturing uses on excess land, for collection by the Agency either itself or through a retail

agency or another agency, for payment to the State of such surcharge, and for the allowance, on specified terms and conditions, of the amount of such surcharge as a credit to the Agency; and

WHEREAS, the Amended Contract establishes the power credit per acre-foot of water as two dollars until all of the facilities for generation of electrical energy in connection with operation of initial project conservation facilities are installed and in operation, and provides for a redetermination of such credit thereafter to reflect accurately increases or decreases from year to year in the power credit; and

WHEREAS, the provisions of the Amended Contract providing for or related to the power credit, surcharge and surcharge credit have been suspended as to water deliveries during the years prior to 1972 pending redetermination of the power credit and a reevaluation of the merits of such contract provisions; and

WHEREAS, estimates indicate that the power credit will be relatively negligible in amount and that administrative costs associated with the power credit, surcharge and surcharge credit provisions will be excessively burdensome to the State, the Agency and its water users; and

WHEREAS, the power credit, surcharge and surcharge credit provisions rest on unclear, confused or mistaken premises and should no longer be retained;

NOW, THEREFORE, it is mutually agreed as follows:

There are hereby deleted from the Amended Contract the following:

1. Article 30 entitled "Surcharge for Excess Use of Project Water".

2. The next-to-the-last sentence of the fifth paragraph of subdivision (a) of Article 45, entitled "Surplus Water", which reads as follows:

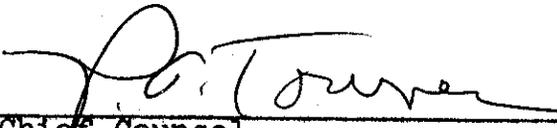
"A surcharge shall be added to the rate for surplus water furnished to excess land in an amount and under the conditions specified in Article 30 of this contract".

3. Subdivision (b) of Article 45 entitled "Surcharge Credit".

IN WITNESS WHEREOF, the parties hereto have executed this contract amendment as of the date first above written.

Approved as to legal form and sufficiency:

STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES

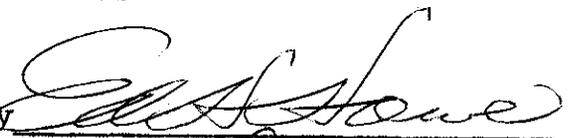
By 
Chief Counsel
Department of Water Resources

By 
Director

Attest:

EMPIRE WEST SIDE IRRIGATION
DISTRICT

By _____
(Title)

By 
(Title) Pres.

Approved as to form and execution:

By _____
(Title)

STATE OF CALIFORNIA
THE RESOURCES AGENCY
DEPARTMENT OF WATER RESOURCES

AMENDMENT NO. 10 TO WATER SUPPLY CONTRACT
BETWEEN THE STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES AND
EMPIRE WEST SIDE IRRIGATION DISTRICT

THIS CONTRACT, made this 28th day of August, 1973, pursuant to the provisions of the California Water Resources Development Bond Act, the State Central Valley Project Act, and other applicable laws of the State of California, between the State of California, acting by and through its Department of Water Resources, herein referred to as the "State", and Empire West Side Irrigation District, herein referred to as the "Agency";

WITNESSETH, That:

WHEREAS, the State and the Agency have entered into and subsequently amended a water supply contract providing that the State will supply certain quantities of water to the Agency, and providing that the Agency shall make certain payments to the State, and setting forth the terms and conditions of such supply and such payment; and

WHEREAS, Article 28 of such water supply contract provides that the State shall redetermine the annual amounts of the Transportation Charge in order that the charges to the Agency may accurately reflect increases or decreases from year to year in projected costs, outstanding reimbursable indebtedness of the State, annual entitlements, estimated deliveries, project interest rate, and all other factors which are determinative of such charges; and

WHEREAS, Article 28 also provides that each such redetermination shall include an adjustment of the components of the Transportation Charge to be paid by the Agency for succeeding years which shall account for differences, if any, between projections used by the State in determining the amounts of such components for all preceding years and actual costs incurred by the State during such years, but does not specify the computational details or the method of payment of such adjustments; and

WHEREAS, the State has been including such adjustments as "one-shot" credits or additional charges to be subtracted from or added to the Transportation Charge to be paid by the Agency in the year following the redetermination; and

WHEREAS, the magnitude of such adjustments together with changes in other determinants of charges may be significantly different in comparison with the amounts projected by the State under previous determinations and could impair the planned fiscal operations of the Agency, depending on the method of payment, and the parties desire to amend the contract to provide a method of amortizing the payment of the amounts of such differences over two or more years, depending on the magnitude of the differences; and

WHEREAS, bookkeeping will be simplified if the amortization of the payments of the amounts of such differences is reflected solely in the capital cost component of the Transportation Charge; and

WHEREAS, the method of payment should apply regardless of whether the adjustments tend to increase or to decrease the Transportation Charge;

NOW THEREFORE, it is mutually agreed that effective January 1, 1973:

1. Article 28 of the Agency's Water Supply Contract with the State is amended to read as follows:

28. Transportation Charge - Redetermination

(a) Determinative Factors Subject to Retroactive Change

The State shall redetermine the values and amounts set forth in Tables B, C, D, E, F, and G of this contract in the year following the year in which the State commences construction of the project transportation facilities and each year thereafter in order that the Transportation Charge to the Agency and the components thereof may accurately reflect the increases or decreases from year to year in projected costs, outstanding reimbursable indebtedness of the State incurred to construct the project transportation facilities described in Table I of this contract, annual entitlements, estimated deliveries, project interest rate, and all other factors which are determinative of such charges. In addition, each such redetermination shall include an adjustment of the components of the Transportation Charge to be paid by the Agency for succeeding years which shall account for the differences, if any, between those factors used by the State in determining the amounts of such components for all preceding years and the factors as then currently known by the State. Such adjustment shall be computed by the State and paid by the Agency or credited to the Agency's account in the manner described in (b) and (c) below or in Article 45(c) if the Agency elects that option.

(b) Adjustment: Transportation Charge-Capital Cost Component

Adjustments for prior underpayments or overpayments of the capital cost component of the Transportation Charge to the Agency, together with accrued interest charges or credits thereon computed at the then current project interest rate on the amount of the underpayment or overpayment and compounded annually for the number of years from the year the underpayment or overpayment occurred to and including the year following the redetermination, shall be paid in the year following the redetermination: Provided, That the Agency may elect to exercise the option whereby when the redetermined Transportation Charge for the following year, with adjustments, including adjustments of the operation, maintenance, power, and replacement components provided for in subdivision (c) of this article, is more or less than the last estimate of the Charge provided pursuant to Article 27 for the corresponding year, without adjustments, an amount equal to the total of such difference shall be deducted from or added to the adjusted capital cost component for that year and paid or credited in accordance with the following schedule:

<u>Percent that Transportation Charge differs from last estimate (+ or -)</u>	<u>Period, in years, for amortizing the difference in indicated charge</u>
for 10% or less	no amortization
more than 10%, but not more than 20%	2
more than 20%, but not more than 30%	3
more than 30%, but not more than 40%	4
more than 40%.	5

Such payments or credits shall be in equal semiannual amounts of principal and interest on or before the 1st day of January and the 1st day of July, with interest computed at the project interest

rate and compounded annually, during varying amortization periods as set forth in the preceding schedule: Provided, That for the purpose of determining the above differences in the Transportation Charge, the variable operation, maintenance, power, and replacement component shall be computed on the basis of the same estimated project water deliveries as was assumed in computing pursuant to Article 26(c).

(c) Adjustment: Transportation Charge-Minimum and Variable Components

One-twelfth of the adjustments for prior underpayments or overpayments of the Agency's minimum and variable operation, power, and replacement components for each year shall be added or credited to the corresponding components to be paid in the corresponding month of the year following the redetermination, together with accrued interest charges or credits thereon computed at the then current project interest rate on the amount of the underpayment or overpayment and compounded annually for the number of years from the year the underpayment or overpayment occurred to and including the year following the redetermination.

(d) Exercise of Option

The option provided for in subdivision (b) above and in Article 45(c) shall be exercised in writing on or before the January 1 due date of the first payment of the capital cost component of the Transportation Charge for the year in which the option is to become effective.

Such option, once having been exercised, shall be applicable for all of the remaining years of the project repayment period.

2. The following provision is added to subdivision (c) of Article 45:

Notwithstanding any conflicting provisions in Article 28, and as an alternative to the option for further adjustment of the capital cost component as provided for in subdivision (b) thereof, the Agency may elect to exercise an option whereby all adjustments of the capital cost component of the Transportation Charge for the Agency thereafter shall be included in the determination of the unit rate per acre-foot which, when paid for the Agency's projected annual entitlement, will return to the State, during the project repayment period, the total capital cost component of the Transportation Charge allocated to the Agency, including adjustments pursuant to Article 28, and interest thereon, computed at the projected interest rate and compounded annually.

IN WITNESS WHEREOF, the parties have executed this contract on the date first above written.

Approved as to legal form and sufficiency:

By J.C. Towne
Chief Counsel
Department of Water Resources

STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES

By W. S. Howell
Director

Attest:

By _____
(Title)

EMPIRE WEST SIDE IRRIGATION
DISTRICT

By [Signature]
(Title) Pres.

Approved as to form and execution:

By _____
(Title)

STATE OF CALIFORNIA
THE RESOURCES AGENCY
DEPARTMENT OF WATER RESOURCES

3R

AMENDMENT NO. 11 TO WATER SUPPLY CONTRACT
BETWEEN THE STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES AND
EMPIRE WEST SIDE IRRIGATION DISTRICT

THIS CONTRACT, made as of the 26th day of September, 1974, pursuant to the provisions of the California Water Resources Development Bond Act, the State Central Valley Project Act, and other applicable laws of the State of California, between the State of California, acting by and through its Department of Water Resources, herein referred to as the "State", and Empire West Side Irrigation District, herein referred to as the "Agency";

WITNESSETH, That:

WHEREAS, the State and the Agency entered into a contract whereby the State will deliver and the Agency will purchase a supply of water to be made available from project facilities constructed by the State; and

WHEREAS, the State and the Agency included in such contract a subarticle, hereinafter referred to as the agricultural and ground water replenishment provision, which entitles the Agency to obtain from the State a supply of surplus water for agricultural and ground water replenishment use when available; and

WHEREAS, Article 21 of such contract also provides for the sale by the State of a supply of surplus water when available; and

WHEREAS, the State and the Agency desire to amend the provisions of such contract related to the sale and purchase of surplus water;

NOW THEREFORE, it is mutually agreed as follows:

1. Subdivision (a) of Article 45 of the Agency's water supply contract is deleted.

2. Article 21 of the Agency's water supply contract is amended to read as follows:

21. Sale of Surplus Water.

(a) Definitions. When used in this article:

(1) "Noncontractor" shall mean a person or entity that is not a contractor as that term is defined in Article 1 of this contract.

(2) "Surplus water" shall mean water which can be furnished to contractors and noncontractors, subject to the provisions of Article 14(a) of this contract, without interfering with:

(i) The delivery of annual entitlements of all contractors as specified in Table A and the meeting of the quality criteria of Article 19 of their respective water supply contracts including any modifications of Table A pursuant to Articles 7(a), 12(d), 14(b), 18(b), or 18(c) of the water supply contracts or to any other provisions in such contracts which permit changes in the delivery of annual entitlements;

(ii) The furnishing of water required for use in construction of the System or in exchange for local water used in construction of the System;

(iii) Operational requirements regarding recreation and fish and wildlife uses;

(iv) Generation of power by the System or furnishing of project water required by power contracts;

(v) The exchange of water and the filling, retention, and release of storage in System reservoirs necessary for operational flexibility and to meet the requirements of paragraphs (i) through (iv) of this subdivision.

(vi) Losses of water due to evaporation, leakage, seepage, or other causes to meet the requirements of paragraphs (i) through (v) of this subdivision.

(3) "Ground water replenishment use" shall mean the use of project water exclusively for recharge of ground water basins by direct application to spreading basins, streambeds, or through other means of direct artificial recharge.

(4) "Contractors in the San Joaquin Service Area" shall mean those contractors which are furnished water through delivery structures from the California Aqueduct between Dos Amigos Pumping Plant and the South Portal of the Carley V. Porter Tunnel and from the Coastal Branch, California Aqueduct, from its junction with the California Aqueduct to the site for Devil's Den Pumping Plant.

(5) "Contractors in the Southern California Service Area" shall mean contractors for which water is delivered from the California Aqueduct downstream from the South Portal of the Carley V. Porter Tunnel.

(6) "Contractors in the Central Coastal Service Area" shall mean contractors for which water is delivered from the Coastal Branch, California Aqueduct, downstream from the site for Devil's Den Pumping Plant.

(7) "Deferred entitlement" shall mean those portions of annual entitlements to project water deferred in accordance with Article 7(e) of the contract with Alameda County Flood Control and Water Conservation District, Zone 7, Article 7(e) of the contract with Alameda County Water District, Article 7(e) of the contract with Santa Clara Valley Water District, Article 45(f) of the contract with Empire West Side Irrigation District, Article 45(e) of the contract with Hacienda Water District, Article 45(f) of the contract with County of Kings, Article 45(e) of the contract with Oak Flat Water District, and Article 45(e) of the contract with Tulare Lake Basin Water Storage District.

(b) Priorities. The State shall furnish surplus water in accordance with the following priorities:

(1) First, to contractors for agricultural use or for ground water replenishment use.

(2) Second, to contractors for other uses.

(3) Third, to noncontractors for any beneficial use.

These priority groups shall be referred to as first priority, second priority, and third priority respectively.

(c) Reductions in Requested Deliveries. If requests for surplus water cannot be met, the following reductions in requested deliveries shall be made:

(1) First, the quantity of surplus water to be delivered to noncontractors shall be limited to the quantity available in excess of the requests under the first priority and the second priority.

(2) Second, if there is not sufficient surplus water in excess of the requests under the first priority to meet the requests of contractors under the second priority, the quantity of water to be delivered under the second priority shall be limited to the quantity available in excess of the requests under the first priority and that quantity shall be apportioned in proportion to the amounts of the contractors' current annual entitlements that are to be used for purposes other than agricultural and ground water replenishment uses as determined by the State. If any contractor decides not to use the surplus water available to it under this provision, such surplus water shall be offered on a similar basis to other contractors for such uses.

(3) If there is not sufficient surplus water to meet the requests of contractors under the first priority, the quantity of water to be delivered under that priority shall be limited to the quantity available, and such quantity shall be apportioned to areas upstream and downstream from Dos Amigos Pumping Plant in proportion to the contractors' current annual entitlements that are to be used in such areas for agricultural and ground water replenishment purposes as determined by the State. The quantity of such water available upstream from Dos Amigos Pumping Plant shall be apportioned to contractors upstream from Dos Amigos Pumping Plant in proportion to the amounts of the contractors' current annual entitlements that are to be used for agricultural and ground water

replenishment purposes as determined by the State. If any such contractor decides not to use the surplus water available to it, such surplus water shall first be offered on a similar basis to other contractors upstream from Dos Amigos Pumping Plant and second offered to contractors downstream from Dos Amigos Pumping Plant. The quantity of surplus water available at Dos Amigos Pumping Plant for delivery to contractors downstream from that plant shall be apportioned 69 percent to the San Joaquin Service Area, 29 percent to the Southern California Service Area, and 2 percent to the Central Coastal Service Area. Within each such service area, surplus water shall be apportioned to contractors in proportion to the amounts of the contractors' current annual entitlements that are to be used for agricultural and ground water replenishment purposes as determined by the State. If any such contractor decides not to use the surplus water available to it, such surplus water, on a similar basis, shall first be offered to other contractors in such service area and second offered to contractors in the other such service areas.

(d) Schedules. On or before October 1 of each year, concurrently with the schedule submitted pursuant to the provisions of Article 12, the contractor shall submit in writing to the State a preliminary water delivery schedule, indicating the desired amounts of surplus water for each month of the subsequent six-year period beginning January 1 of the next succeeding year. The last five years of this preliminary surplus water delivery schedule shall be used by the State for planning and operations studies. If a contractor commits itself in writing at the time it submits its October 1 schedule to guarantee payment of the cost of power required

in the judgment of the State to furnish surplus water to it, the contractor shall have a prior right to have such power utilized for furnishing surplus water otherwise available to it pursuant to this article at a cost no higher than that which the State is obligated to pay at the time it orders such power, but it shall have no greater right or priority to receive surplus water. A contractor's commitment may be for any part of the six-year period of its schedule, and the contractor will become bound by such commitment and become entitled to the prior right provided for in the preceding sentence only when the State, after consultation with the contractor, notifies the contractor in writing that it has ordered power based on the contractor's commitment.

(e) Rates.

(1) Surplus water (except further surplus water as described in subdivision (e)(4) of this article) shall be furnished to a contractor for agricultural use and for ground water replenishment use at rates which will return to the State all power costs as defined in subdivision (f) of this article and all incremental operation, maintenance, and replacement costs, and any other incremental costs, incurred in the conservation and transportation of such surplus water as determined by the State, which rates shall include an administrative charge to be determined by the State for each acre-foot of surplus water scheduled for delivery during the year. The amount of such administrative charge shall be credited to general operating costs of the System prior to the allocation of such costs. Incremental costs shall mean those costs which would not be incurred if surplus water were not scheduled for or delivered to the contractor.

(2) Surplus water furnished to a contractor for purposes other than agricultural use or ground water replenishment use shall be sold at rates determined on the same basis as those charged for surplus water for agricultural use and for ground water replenishment use plus an amount equal to one-half of the current Delta water rate.

(3) Surplus water furnished to a noncontractor shall be at rates, as determined by the State, which will return to the State not less than the charges specified for a contractor for surplus water for agricultural use and for ground water replenishment use plus an amount equal to the current Delta water rate plus an appropriate share of the capital and the minimum operation, maintenance, power and replacement costs of the transportation facilities of the System utilized in conveying such surplus water to the noncontractor.

(4) To the extent that the combined volume of entitlement water and surplus water furnished to a contractor in any year for agricultural use and for ground water replenishment use exceeds 150 percent of such contractor's maximum annual entitlement, such further surplus water shall be sold to the contractor at a rate equal to the rate for surplus water sold for agricultural use and for ground water replenishment use specified in subdivision (e) (1) of this article plus an amount equal to one-quarter of the current Delta water rate.

For years prior to 1990, notwithstanding the provisions of the preceding sentence, an amount up to 3,000 acre-feet of further surplus water may be delivered in any year at the charges provided for in subdivisions (e)(1) and (2) of this

article to any contractor which, under Table A of its contract, is scheduled to receive its maximum annual entitlement prior to 1978 and every year thereafter.

(5) Any revenues in excess of operation, maintenance, power and replacement costs and the administrative charge derived from sales of surplus water shall be credited as follows: The Delta water rate or portion thereof paid in accordance with subdivisions (e)(2), (e)(3), or (e)(4) of this article shall be credited to the cost of project conservation facilities, and the balance of such excess revenues, if any, shall be apportioned and credited, as appropriate, to the capital and to the minimum operation, maintenance, power and replacement costs of reaches of the transportation facilities of the System utilized for conveying such water to the purchasers.

(6) The rates and charges for surplus water shall be subject to redetermination by the State to reflect actual costs incurred and the difference shall be promptly credited or debited to the contractor that purchased such surplus water.

(f) Power Costs. Power costs for pumping surplus water shall consist of the cost of capacity, energy and additional transmission service required for the delivery of surplus water, including but not limited to the following:

(1) To the extent utilized for pumping surplus water:

(i) The cost of power purchased for pumping entitlement water,

(ii) The value of project recovery plant generation scheduled for pumping entitlement water, and

(111) The value of project recovery plant generation not scheduled for pumping entitlement water; and

(2) Power purchased specifically for pumping surplus water including power ordered pursuant to subdivision (d) of this article.

The cost and value of power in (1)(i) and (ii) of this subdivision shall be credited to the pumping plant power cost attributable to annual entitlement water; the value of power in (1)(iii) that is generated by entitlement water shall be added to the net value of power attributable to such entitlement water; and the value of power in (1)(iii) that is generated by surplus water shall be credited to the costs incurred in pumping such surplus water.

The State shall determine the cost of power for pumping surplus water so that sufficient revenue will be available to the State to cover both the cost of purchased power and the value of recovery plant generation.

(g) Restrictions on Deliveries.

(1) In providing for the delivery of surplus water pursuant to this article, the State shall refuse to deliver such surplus water to any contractor or noncontractor to the extent that the State determines that such delivery would tend to encourage the development of an economy within the area served by such contractor or noncontractor which would be dependent upon the sustained delivery of surplus water.

(2) Surplus water shall not be scheduled to a contractor in a year unless an amount of project water equal to its annual entitlement set forth for that year in Table A of its

contract (disregarding any amendments reducing such Table A executed after July 1, 1974) is first scheduled and unless all of its deferred entitlements are first scheduled: Provided, That at the request of the contractor surplus water may be scheduled in lieu of deferred entitlements and the right to receive such deferred entitlements shall be reduced accordingly. If at the end of any year delivery of scheduled surplus water has prevented any annual entitlement or deferred entitlement from being delivered during that year, then for the purpose of charging for water delivered, deliveries during the year shall be considered first as annual entitlement water to the extent of the annual entitlement, and the balance as deferred entitlement or surplus water in accordance with the option of the contractor previously exercised pursuant to the first sentence of this subdivision.

(3) Before a contractor can receive surplus water under its contract in an amount greater than its annual entitlement for the year as shown in its Table A, it shall first increase its annual entitlement for such year to an amount equivalent to the surplus water scheduled, but it shall not be required to increase its annual entitlement to an amount in excess of 75 percent of its maximum annual entitlement.

(4) The State shall not sell surplus water to a contractor or noncontractor for use directly or indirectly within the boundaries of any other contractor without the written consent of such other contractor, nor shall the State authorize any contractor to supply surplus water for use outside such contractor's boundaries and within the boundaries of any other contractor without the written consent of such other contractor: Provided, That where

a contractor's boundaries include an area within the boundaries of another contractor, only the written consent of the contractor that serves the overlapping area with water under its annual entitlements need be obtained.

(h) Water from Nontributary Source. The provisions of this subdivision shall be applicable only to a contractor to which the delivery of project water for municipal use as of 1990 is estimated by the State to be in excess of 50 percent of such contractor's maximum annual entitlement. For the purpose of fixing such contractor's right to delivery of surplus water, water from a watershed not tributary to the contractor's area which is delivered within the contractor's boundaries for agricultural or ground water replenishment use shall be deemed to be part of the contractor's annual entitlement delivered for such use in computing the quantity of surplus water to which the contractor is entitled under this article: Provided, That the contractor shall not be deemed to have used more than its annual entitlement, as set forth in Table A, for such use. Surplus water shall be deemed to be used by the contractor for agricultural or ground water replenishment use if an equal quantity of water imported from a watershed not tributary to the contractor's area is delivered within the contractor's boundaries for such use.

(i) Determination of Use. For the purpose of computing the portion of the surplus water to which each contractor is entitled, the State shall determine the quantities of annual entitlement used for agricultural use and for ground water replenishment use and for other uses by each contractor in each year: Provided, That each contractor shall furnish certified copies of such records

and data concerning the use of water within its boundaries as the State may request.

(j) Contracts.

(1) To obtain a supply of surplus water, any contractor or noncontractor shall execute a further contract with the State which shall be in conformity with this article and will include at least the following: Further provisions concerning the scheduling of surplus water and provisions as to times and methods of payment.

(2) The State shall not contract to sell surplus water to noncontractors for periods in excess of five years.

IN WITNESS WHEREOF, the parties hereto have executed this contract amendment as of the date first above written.

Approved as to legal form
and sufficiency:

STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES

By [Signature]
For Chief Counsel
Department of Water Resources

By [Signature]
For Director

EMPIRE WEST SIDE IRRIGATION
DISTRICT

By [Signature]
(Title)

STATE OF CALIFORNIA
THE RESOURCES AGENCY
DEPARTMENT OF WATER RESOURCES

AMENDMENT NO. 12 TO WATER SUPPLY CONTRACT
BETWEEN THE STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES AND
EMPIRE WEST SIDE IRRIGATION DISTRICT

THIS CONTRACT, made this 28TH day of DECEMBER,
1979, pursuant to the provisions of the California Water Resources
Development Bond Act, the State Central Valley Project Act, and
other applicable laws of the State of California, between the
State of California, acting by and through its Department of Water
Resources, herein referred to as the "State", and Empire West Side
Irrigation District, herein referred to as the "Agency";

WHEREAS, the State and the Agency have entered into
and subsequently amended a water supply contract providing that
the State will supply certain quantities of water to the Agency,
and providing that the Agency shall make certain payments to the
State, and setting forth the terms and conditions of such supply
and such payment; and

WHEREAS, the State and the Agency desire to make certain
changes and additions to such contract, while otherwise continuing
the contract in full force and effect;

NOW, THEREFORE, it is mutually agreed that the following
changes and additions are hereby made to the Agency's water supply
contract with the State:

1. Subdivision (8) is added to Article 21(a) of the
Agency's water supply contract to read as follows:

1182

(8) "Extra Surplus Water" shall mean water available in the Delta as determined by the State at various times during the year when scheduled project demands are being delivered and project storage requirements for both project water deliveries and water to meet Delta water quality requirements established by the SWRCB are being met. Excepting Articles 21(b), 21(d), and subdivisions (3), (5) and (6) of Article 21(g), all provisions of this Article 21 related to surplus water shall apply to extra surplus water.

2. Article 21(b) is amended to read as follows:

(b) Priorities. The State shall furnish surplus water, not including extra surplus water, in accordance with the following priorities:

- (1) First, to contractors for agricultural use or for ground water replenishment use.
- (2) Second, to contractors for other uses.
- (3) Third, to noncontractors for any beneficial use.

The State shall furnish extra surplus water in accordance with the following priorities:

- (1) First, for ground water replenishment or for agricultural use in lieu of ground water pumping.
- (2) Second, for pre-irrigation to increase soil moisture prior to planting.

3. Add the following to Article 21(d):

The schedules required by this Article 21(d) shall not include amounts of extra surplus water. Scheduling of extra surplus water will be done pursuant to provisions of an annual agreement.

4. Add the following to subdivision (3) of Article 21(g):
Extra surplus water shall not be included in this determination.

5. Subdivisions (5) and (6) are added to Article 21(g) as follows:

- (5) Delivery of extra surplus water to a contractor shall not adversely affect deliveries or costs of entitlement and surplus water deliveries to any contractor during the respective year.
- (6) No extra surplus water shall be delivered when sufficient surplus water is available to satisfy contractor requests.

IN WITNESS WHEREOF, the parties hereto have executed this contract amendment on the date first above written.

Approved as to legal form and sufficiency:

STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES

By *J. A. Townes*
Chief Counsel
Department of Water Resources

By *Ronald B. White*
Director

EMPIRE WEST SIDE IRRIGATION
DISTRICT

By *Ronnie J. Silva*
Title: *Manager*

THE RESOURCES AGENCY
DEPARTMENT OF WATER RESOURCES

AMENDMENT NO. 13 TO WATER SUPPLY CONTRACT
BETWEEN THE STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES AND
EMPIRE WEST SIDE IRRIGATION DISTRICT

THIS CONTRACT, made this 23rd day of JANUARY, 1980,
pursuant to the provisions of the California Water Resources
Development Bond Act, the State Central Valley Project Act, and
other applicable laws of the State of California, between the
State of California, acting by and through its Department of Water
Resources, herein referred to as the "State", and Empire West Side
Irrigation District, herein referred to as the "Agency";

WHEREAS, the State and the Agency have entered into and
subsequently amended a water supply contract providing that the
State will supply certain quantities of water to the Agency, and
providing that the Agency shall make certain payments to the
State, and setting forth the terms and conditions of such supply
and such payment; and

WHEREAS, the State and the Agency desire to make certain
changes and additions to such contract, while otherwise continuing
the contract in full force and effect;

NOW, THEREFORE, it is mutually agreed that the following
changes and additions are hereby made to the Agency's water
supply contract with the State;

1. Subdivision t of Article 1 of the Agency's Water
Supply Contract with the State is amended to read as follows:

(t) Project Repayment Period

"Project repayment period" shall mean that period of years commencing on January 1, 1961, and extending until December 31, 2035; Provided, that whenever construction of any project facilities is financed by a bond issue with maturity dates later than December 31, 2035, whether the bonds are issued pursuant to the Bond Act or other authority, repayment of the costs of such facilities shall be extended to end on the date of the latest maturities of the bonds with which construction of such facilities is financed.

2. Article 2 of the Agency's Water Supply Contract with the State is amended to read as follows:

(2) Term of Contract

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

1. The project repayment period
2. 75 years
3. The period ending with the latest maturity date of any bond issue used to finance the construction costs of project facilities.

IN WITNESS WHEREOF, the parties hereto have executed
this contract amendment on the date first above written.

Approved as to legal form
and sufficiency:

STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES

by *J. A. Towne*
Chief Counsel
Department of Water Resources

by *Arnold B. White*
Director

EMPIRE WEST SIDE IRRIGATION
DISTRICT

by *Bonnie J. Silva*
Title *Manager*

63

State of California
The Resources Agency
DEPARTMENT OF WATER RESOURCES

AMENDMENT NO. 14 TO WATER SUPPLY CONTRACT
BETWEEN THE STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES AND
EMPIRE WEST SIDE IRRIGATION DISTRICT

THIS CONTRACT, made this *17* day of *February*, 1982, pursuant to the provisions of the California Water Resources Development Bond Act, the State Central Valley Project Act, and other applicable laws of the State of California, between the State of California, acting by and through its Department of Water Resources, herein referred to as the "State", and Empire West Side Irrigation District, herein referred to as the "Agency";

WHEREAS, the State and the Agency have entered into and subsequently amended a water supply contract providing that the State will supply certain quantities of water to the Agency, and providing that the Agency shall make certain payments to the State, and setting forth the terms and conditions of such supply and such payment; and

WHEREAS, the State and the Agency desire to make certain changes and additions to such contract, while otherwise continuing the contract in full force and effect;

NOW, THEREFORE, it is mutually agreed that the following change and addition is hereby made to the Agency's water supply contract with the State:

1. The term "unscheduled water" shall replace the term "Extra Surplus Water" wherever it appears in

Article 21 of the Water Supply Contract between the State of California Department of Water Resources and the Agency.

IN WITNESS WHEREOF, the parties hereto have executed this contract amendment on the date first above written.

Approved as to legal form and sufficiency:

STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES

PA Towne
Chief Counsel
Department of Water Resources

Ronald B. Robie
Ronald B. Robie
Director

EMPIRE WEST SIDE
IRRIGATION DISTRICT

By Ronnie John Silva
Title Manager

6.9.2.1481

STATE OF CALIFORNIA
THE RESOURCES AGENCY
DEPARTMENT OF WATER RESOURCES

AMENDMENT NO. 15 TO WATER SUPPLY CONTRACT
BETWEEN THE STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES AND THE
EMPIRE WEST SIDE IRRIGATION DISTRICT

THIS CONTRACT, made this ^{29th}~~16th~~ day of ~~February~~ ^{March}, 1983, pursuant to the provisions of the California Water Resources Development Bond Act, the State Central Valley Project Act, and other applicable laws of the State of California, between the State of California, acting by and through its Department of Water Resources, herein referred to as the "State", and Empire West Side Irrigation District, herein referred to as the "District";

WHEREAS, the State and the District have entered into and subsequently amended a water supply contract providing that the State will supply certain quantities of water to the District, and providing that the District shall make certain payments to the State, and setting forth the terms and conditions of such supply and such payment; and

WHEREAS, the State and the District desire to make certain changes and additions to such contract, while otherwise continuing the contract in full force and effect;

NOW, THEREFORE, it is mutually agreed that the following changes and additions are hereby made to the District's water supply contract with the State:

1. Article 1(e) is amended to read:

(e) Project Facilities

"Project facilities" shall mean those facilities of the system which will, in whole or in part, serve the purposes of this contract by conserving water and making it available for use in and above the Delta and for export from the Delta and from such additional facilities as are defined in Article 1(h)(2) herein, and by conveying water to the District. Said project facilities shall consist specifically of "project conservation facilities" and "project transportation facilities", as hereinafter defined.

2. Article 1(h) is amended to read:

(h) Additional Project Conservation Facilities

"Additional project conservation facilities" shall mean the following facilities and programs which will serve the purpose of preventing any reduction in the minimum project yield as hereinafter defined:

(1) Those project facilities specified in Section 12938 of the Water Code;

(2) Those facilities and programs described in (A), (B), (C), (D), and (E) below which, in the State's determination, are engineeringly feasible and capable of producing project water which is economically competitive with alternative new water supply sources, provided that, in the State's determination, the construction and operation of such facilities and programs will not interfere with the requested deliveries of annual entitlement to any contractor other than the sponsoring contractor, and will not result in any greater annual charges to any contractor other than the sponsoring contractor than would have occurred with the construction at the same time of alternative new water supply

sources which are either reservoirs located north of the Delta or off-Aqueduct storage reservoirs located south or west of the Delta designed to supply water to the California Aqueduct. The following facilities and programs shall hereinafter be referred to as "Local Projects":

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

(B) Ground water storage facilities that will produce project water for the System for a period of time agreed to by the sponsoring contractor;

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

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

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

(3) Whether a Local Project described in (2) above shall be considered economically competitive shall be determined by the State by comparing, in an engineering and economic analysis, such Local Project with alternative new water supply

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

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

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

(i) Contains the sponsoring contractor's approval of such facility or program.

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

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

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

(5) "Sponsoring contractor" as used in this Article 1(h) shall mean the contractor or contractors who either will receive the yield from facilities described in 2(A), (B), (C), or (D) above, or agree to reduce demands for project water from the System pursuant to 2(E) above.

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

3. Article 1(i)(2) is amended to read:

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

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

(B) All other generating and associated transmission facilities, except those dependent on water from project conservation facilities, for the generation of power. These facilities shall be called "off-aqueduct power facilities" and shall consist of the State's interest in the Reid-Gardner and

any other generating and associated transmission facilities, constructed or financed in whole or in part by the State, which are economically competitive with alternative power supply sources as determined by the State.

4. Article 1(r) is amended to read:

(r) Project Interest Rate

"Project interest rate" shall mean the weighted average interest rate of (1) through (6) below computed by dividing (i) the total interest cost required to be paid or credited by the State during the life of the indebtedness or advance by (ii) the total of the products of the various principal amounts and the respective terms in years of all such amounts:

(1) general obligation bonds issued by the State under the Bond Act,

(2) revenue bonds issued by the State under the Central Valley Project Act after May 1, 1969,

(3) bonds issued by the State under any other authority granted by the Legislature or the voters,

(4) bonds issued by any agency, district, political subdivision, public corporation, or nonprofit corporation of this State,

(5) funds advanced by any contractor without the actual incurring of bonded debt therefor, for which the net interest cost and terms shall be those which would have resulted if the contractor had sold bonds for the purpose of funding the advance, as determined by the State, and

(6) funds borrowed from the General Fund or other funds in the Treasury of the State of California, for which the total interest cost shall be computed at the interest

rate earned over the period of such borrowing by moneys in the Pooled Money Investment Account of such Treasury invested in securities,

to the extent the proceeds of any such bonds, advances or loans are for construction of the State Water Facilities defined in Section 12934(d) of the Water Code, the additional project conservation facilities, and the supplemental conservation facilities, (except off-aqueduct power facilities and advances for delivery structures, measuring devices and excess capacity) and without regard to any premiums received on the sale of bonds under item (1) above. The "project interest rate" shall be computed as a decimal fraction to five places.

5. Subdivision (h) is added to Article 22 to read:

(h) The determination of the rate for water under the Delta Water Charge shall be made by including the appropriate costs and quantities of water, calculated in accordance with subdivisions (c), (d) and (e) above, for all additional project conservation facilities as defined in Article 1(h) hereinabove. In the event a Local Project as defined in Article 1(h)(2) will, pursuant to written agreement between the State and the sponsoring contractor, be considered and treated as an additional project conservation facility for less than the estimated life of the facility, the rate under the Delta Water Charge will be determined on the basis of that portion of the appropriate cost and water supply associated with such facility as the period of time during which such facility shall be considered as an additional project conservation facility bears to the estimated life of such facility. No costs for the construction or implementation of any Local

Project are to be included in the Delta Water Charge unless and until the written agreement required by Article 1(h) has been entered into.

6. Subdivision (i) is added to Article 22 to read:

(i) In calculating the rate for project water to be paid by each contractor for the Delta Water Charge under subdivisions (c), (d) and (e) above, the component for operation, maintenance, power and replacement costs shall include, but not be limited to, all costs to the State incurred in purchasing water, which is competitive with alternative sources as determined by the State, for delivery as project water.

7. Subdivision (f) is added to Article 24 to read:

(f) The capital costs of project aqueduct power recovery plants shall be charged and allocated in accordance with this Article 24. The capital costs of off-aqueduct power facilities shall be charged and allocated in accordance with Article 25(d).

8. Subdivision (d) is added to Article 25 to read:

(d) Notwithstanding the provisions of subdivisions (a) and (b) of this article, or of Article 1(s), the costs of off-aqueduct power facilities shall be determined and allocated as follows:

(1) The off-aqueduct power costs shall include all annual costs the State incurs for any off-aqueduct power facility, which shall include, but not be limited to, power purchases, any annual principal and interest payments on funds borrowed by or advanced to the State, annual principal and interest on bonds issued by the State or other agency, or under revenue bond financing contracts, any requirements for coverage, deposits to reserves, and associated operation and maintenance costs of such

facility, less any credits, interest earnings, or other monies received by the State in connection with such facility. In the event the State finances all or any part of an off-aqueduct power facility directly from funds other than bonds or borrowed funds, in lieu of such annual principal and interest payments, the repayment of capital costs as to that part financed by such other funds shall be determined on the basis of the schedule that would have been required under Article 24.

(2) The annual costs of off-aqueduct power facilities as computed in (1) above shall initially be allocated among contractors in amounts which bear the same proportions to the total amount of such power costs that the total estimated electrical energy (kilowatt hours) required to pump through project transportation facilities the desired delivery amounts of annual entitlements for that year, as submitted pursuant to Article 12(a)(1) and as may be modified by the State pursuant to Article 12(a)(2), bears to the total estimated electrical energy (kilowatt hours) required to pump all such amounts for all contractors through project transportation facilities for that year, all as determined by the State.

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

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

9. Subdivision (e) is added to Article 25 to read:

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

10. Subdivision (b) of Article 32 is amended to read:

(b) Interest on Overdue Payments

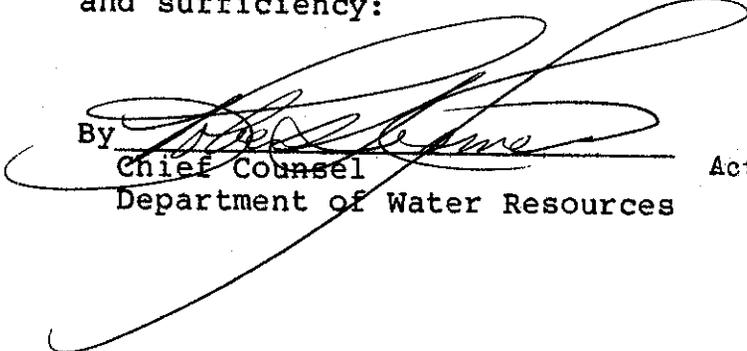
Upon every amount of money required to be paid by the District to the State pursuant to this contract which remains unpaid after it becomes due and payable, interest shall accrue at

an annual rate equal to that earned by the Pooled Money Investment Fund, as provided in Government Code Sections 16480, et seq. calculated monthly on the amount of such delinquent payment from and after the due date until it is paid, and the District hereby agrees to pay such interest: provided, that no interest shall be charged to or be paid by the District unless such delinquency continues for more than thirty (30) days.

IN WITNESS WHEREOF, the parties hereto have executed this contract amendment as of the date first above written.

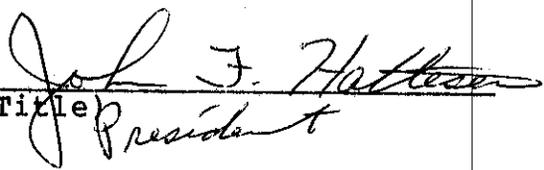
Approved as to legal form
and sufficiency:

STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES

By 
Chief Counsel
Department of Water Resources

By 
Acting Director

EMPIRE WEST SIDE IRRIGATION
DISTRICT

By 
(Title) President

STATE OF CALIFORNIA
THE RESOURCES AGENCY
DEPARTMENT OF WATER RESOURCES

AMENDMENT NO. 16 TO WATER SUPPLY CONTRACT
BETWEEN THE STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES AND
EMPIRE WEST SIDE IRRIGATION DISTRICT

THIS CONTRACT is made this 27th day of April, 1987, pursuant to the provisions of the California Water Resources Development Bond Act, the State Central Valley Project Act, and other applicable laws of the State of California, between the State of California, acting by and through its Department of Water Resources, herein referred to as the "State", and Empire West Side Irrigation District, herein referred to as the "Agency".

WHEREAS, the State and the Agency have entered into and subsequently amended a water supply contract providing that the State will supply certain quantities of water to the Agency, and providing that the Agency shall make certain payments to the State, and setting forth the terms and conditions of such supply and such payment;

WHEREAS, the State and the Agency wish to provide financing for project facilities with water system revenue bonds and provide for repayment of water system revenue bonds;

WHEREAS, the State and the Agency wish to clarify the definition of the project interest rate without changing the interpretation of Article 1(r), except for the addition of item (7), and to specify that financing costs of water system facilities and East Branch Enlargement facilities shall not be included in calculating the project interest rate; and

NOW THEREFORE, it is mutually agreed that the following changes and additions are hereby made to the Agency's water supply contract with the State:

1. Article 1(r) is amended to read:

(r) "Project interest rate" shall mean the weighted average interest rate on bonds, advances, or loans listed in this section to the extent the proceeds of any such bonds, advances, or loans are for construction of the State Water Facilities defined in Section 12934(d) of the Water Code, the additional project conservation facilities, and the supplemental conservation facilities (except off-aqueduct power facilities; water system facilities; advances for delivery structures, measuring devices and excess capacity; and East Branch Enlargement Facilities). The project interest rate shall be calculated as a decimal fraction to five places by dividing (i) the total interest cost required to be paid or credited by the State during the life of the indebtedness or advance by (ii) the total of the products of the various principal amounts and the respective terms in years of all such amounts. The bonds, advances, or loans used in calculating the project interest rate shall be:

(1) General obligation bonds issued by the State under the Bond Act, except that any premium received on the sale of these bonds shall not be included in the calculation of the project interest rate,

(2) Revenue bonds issued by the State under the Central Valley Project Act after May 1, 1969,

(3) Bonds issued by the State under any other authority granted by the Legislature or the voters,

(4) Bonds issued by any agency, district, political subdivision, public corporation, or nonprofit corporation of this State,

(5) Funds advanced by any contractor without the actual incurring of bonded debt therefor, for which the net interest cost and terms shall be those which would have resulted if the contractor had sold bonds for the purpose of funding the advance, as determined by the State,

(6) Funds borrowed from the General Fund or other funds in the Treasury of the State of California, for which the total interest cost shall be computed at the interest rate earned over the period of such borrowing by moneys in the Surplus Money Investment Fund of such Treasury invested in securities, and

(7) Any other financing capability available in the Treasury of the State of California at whatever interest rate and other financing costs are provided in the law authorizing such borrowing. However, the use of other financing from the State Treasury is intended to involve only short term borrowing at interest rates and other financing costs no greater than those charged to other State agencies during the same period until such time as the Department can sell bonds and reimburse the source of the short term borrowing from the proceeds of the bond sale.

2. Article 1(cc) is added to read:

(cc) "Water system revenue bonds" shall mean revenue bonds or revenue bond anticipation notes issued by the State under the Central Valley Project Act after January 1, 1987 for water system facilities identified in Article 1(hh).

3. Article 1(gg) is added to read:

(gg) "East Branch Enlargement Facilities" shall mean all of the following:

(1) The facilities remaining to be constructed as part of the East Branch Enlargement construction;

(2) The work done pursuant to the letter agreement between the State and The Metropolitan Water District of Southern California dated November 29, 1966, which consisted of constructing the California Aqueduct between Cottonwood (now known as Alamo) Powerplant and Cedar Springs (now known as Silverwood) Reservoir so that, by future additions to the canal lining, siphons, and additional pumping units at Pearblossom Pumping Plant, the capacity could be increased by a then-estimated approximately 700 cubic feet per second;

(3) That portion of the enlargement of the Pearblossom Pumping Plant Forebay and Cofferdam construction which would not have been constructed but for the proposed East Branch Enlargement and which was done pursuant to the letter agreement between the State and The Metropolitan Water District of Southern California, dated January 19, 1984;

(4) That portion of the canal lining work between Alamo Powerplant and Pearblossom Pumping Plant done pursuant to the letter agreements between the State and The Metropolitan Water District of Southern California, dated July 2, 1984, and May 15, 1985, which increased the East Branch Aqueduct capacity beyond that set forth in Table B-2 as shown in State Bulletin 132-70;

(5) That portion of Reach 24 (Silverwood Lake) to be determined by reallocation of Reach 24 to reflect the additional use to be made of that reach as a result of the East Branch Enlargement operation; and

(6) That portion of Reach 25 (San Bernardino Tunnel) to be determined by an allocation of total delivery capacity of Reach 25 between the basic East Branch facilities and the East Branch Enlargement as a result of East Branch Enlargement operation.

4. Article 1 (hh) is added to read:

(hh) "Water System Facilities" shall mean the following facilities to the extent that they are financed with water system revenue bonds or to the extent that other financing of such facilities is reimbursed with proceeds from water system revenue bonds:

(1) The North Bay Aqueduct,

(2) The Coastal Branch Aqueduct,

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

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

(5) Land acquisition for the Kern Fan Element of the Kern Water Bank,

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

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

(8) Repairs, additions, and betterments to conservation or transportation facilities existing as of January 1, 1987, and to all other facilities described in this subarticle (hh) except for item (5).

5. Article 22(j) of the Agency's water supply contract with the State is added as follows:

(j) Notwithstanding provisions of Article 22(a) through (i), the capital cost component and the minimum OMP&R component of the Delta Water Charge shall include an annual charge to recover the Agency's share of the conservation portion of the water system revenue bond financing costs. Charges to the Agency for these costs shall be calculated in accordance with provisions in Article 50 of this contract.

6. Article 24(g) of the Agency's water supply contract with the State is added as follows:

(g) Notwithstanding provisions of Article 24(a) through (d), the capital cost component of the Transportation charge shall include an annual charge to recover the Agency's share of the transportation portion of the water system revenue bond financing costs. Charges to the Agency for these costs shall be calculated in accordance with provisions in Article 50 of this contract.

7. Article 28(f) of the Agency's water supply contract with the State is added as follows:

f. Adjustment: Water System Revenue Bond Financing Costs.

The use of water system revenue bonds for financing facilities listed in Article 1(hh) would result in adjustments for prior underpayments or overpayments of the capital cost component of the Transportation Charge to the Agency under the provisions of this article; however, in place of making such adjustments, charges to the Agency will be governed by Article 50.

8. Article 50 of the Agency's water supply contract with the State is added as follows:

50. Water System Revenue Bond Financing Costs.

(a) Charges to the Agency for water system revenue bond financing costs shall be governed by provisions of this article. Charges to all contractors for water system revenue bond financing costs shall return to the State an amount equal to the annual financing costs the State incurs in that year for water system revenue bonds (including water system revenue bond anticipation notes). Annual financing costs shall include, but not be limited to, any annual principal and interest on water system revenue bonds plus any additional requirements for bond debt service coverage, deposits to reserves, and annual premiums for insurance or other security obtained pursuant to subdivision (f) of this article. The State shall provide credits to the contractors for excess reserve funds, excess debt service coverage, interest, and other earnings of the State in connection with repayment of such revenue bond financing costs, when and as permitted by the bond resolution. When such

credits are determined by the State to be available, such credits shall be promptly provided to the contractors and shall be in proportion to the payments under this article from each contractor. Reserves, bond debt service coverage, interest, and other earnings may be used in the last year to retire the bonds.

(b) Annual charges to recover water system revenue bond financing costs shall consist of two elements.

(1) The first element shall be an annual charge to the Agency for repayment of capital costs of water system facilities as determined under Articles 22 and 24 of this contract with interest at the project interest rate. For conservation facilities, the charge shall be a part of the capital cost component of the Delta Water Charge in accordance with Article 22. For transportation facilities, the charge shall be a part of the capital cost component of the Transportation Charge in accordance with Article 24.

(2) The second element shall be the Agency's share of a Water System Revenue Bond Surcharge to be paid in lieu of a project interest rate adjustment. The total annual amount to be paid by all contractors under this element shall be the difference between the total annual charges under the first element and the annual financing costs of the water system revenue bonds. The amount to be paid by each contractor shall be calculated annually as if the project interest rate were increased to the extent necessary to produce revenues from all contractors sufficient to pay such difference for that year. In making that calculation, adjustments in the Agency's Transportation capital cost component charges for prior overpayments and underpayments shall be determined as if amortized over the remaining years of the project repayment period.

(c) The Water System Revenue Bond Surcharge will be identified by component and charge in the Agency's invoice.

(d) Timing of Payments. Payments shall be made in accordance with Article 29(f) of this contract.

(e) Reduction in Charges. The Water System Revenue Bond Surcharge under Article 50(b)(2) shall cease for each series of water system revenue bonds when that series is fully repaid. However, the annual charge determined pursuant to Article 50(b)(1) shall continue to be collected for the time periods otherwise required under Articles 22 and 24.

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

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

(g) Before issuing each series of water system revenue bonds, the State shall consult with the contractors, prepare a plan for the State's future financing of water system facilities, and give the Agency an opportunity to comment on the plan. The plan shall include but not be limited to the size

of any water system revenue bond issuances and the form of any necessary resolutions or supplements.

(h) Defaults. (1) If a contractor defaults partially or entirely on its payment obligations calculated under this article and sufficient insurance or other security protecting the non-defaulting contractors is not provided under Article 50(f), the State shall allocate a portion of the default to each non-defaulting contractor. The Agency's share of the default shall be equal to an amount determined by multiplying the total default amount to be charged to all non-defaulting contractors by the ratio that the Agency's maximum Table A entitlement bears to the maximum Table A entitlements of all non-defaulting contractors. However, such amount shall not exceed in any year 25 percent of the Water System Revenue Bond financing costs that are otherwise payable by the Agency in that year. The amount of default to be charged to non-defaulting contractors shall be reduced by any receipts from insurance protecting non-defaulting contractors and bond debt service coverage from a prior year and available for such purpose.

(2) If a contractor defaults partially or entirely on its payment obligations under this article, the State shall also pursuant to Article 20, upon six months' notice to the defaulting contractor, suspend water deliveries under Article 20 to the defaulting contractor so long as the default continues. The suspension of water deliveries shall be proportional to the ratio of the default to the total water system revenue bond payments due from the defaulting contractor. However, the State may reduce, eliminate, or not commence suspension of deliveries pursuant to this subparagraph if it determines suspension in the amounts otherwise required is likely to impair the

defaulting contractor's ability to avoid further defaults or that there would be insufficient water for human consumption, sanitation, and fire protection. The State may distribute the suspended water to the non-defaulting contractors on terms it determines to be equitable.

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

(4) Except as otherwise provided in Article 50(h)(3), the defaulting contractor shall repay the entire amount of the default to the State with interest compounded annually at the Surplus Money Investment Fund rate before water deliveries that had been suspended shall be fully resumed to that contractor. If the defaulting contractor makes a partial repayment of its default, the Department may provide a proportional restoration of suspended deliveries. The amount of the default to be repaid shall include any amounts previously received by the State from insurance proceeds, bond debt service coverage, or other reserves, and payments from other contractors pursuant to this subparagraph (h). The defaulting contractor shall not be entitled to any make-up water deliveries as compensation for any water deliveries suspended during the period when the contractor was in default.

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

(6) In the event there is an increase in the amount a non-defaulting contractor contributes to reserves and/or bond debt service

coverage, such increase shall be handled in the same manner as provided in Article 50(a).

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

(i) Power of Termination.

(1) The Department and the Agency agree to negotiate in good faith the development of a means to provide adequate protection for the Department's cash flow into priorities one and two for revenues under Water Code Section 12937(b) with the goal of obtaining agreement by April 1, 1987. The Department and the Agency agree to continue negotiations beyond April 1, 1987 if necessary to meet their common goal of arriving at agreement.

(2) If such an agreement has not been reached by April 1, 1987, and if the Director of Water Resources determines that adequate progress has not been made toward such an agreement, the Director may give notice to the Agency and other contractors that he intends to exercise the power to terminate provided in this subarticle 50(1). The Director's authority to give such a notice shall terminate on July 1, 1988.

(3) After six months from the date of issuing the notice of intent to terminate, but in no event later than January 1, 1989, the Director may terminate the authority of the Department to issue additional series of water system revenue bonds using the repayment provisions of Article 50. The Department shall promptly notify the Agency and other contractors that the Director has exercised the power of termination.

(4) No additional series of water system revenue bonds

shall be issued under the provisions of this Article 50 after the Director has exercised the power to terminate, but Article 50 shall remain in effect as to any series of water system revenue bonds issued prior to the time the Director exercises the power to terminate.

(5) An exercise of the power to terminate provided in this subarticle 50(i) shall also rescind any changes made by this amendment in the schedule of payment of overpayment or underpayment of capital costs resulting from a change in the project interest rate and shall also rescind the addition of item (7) to Article 1(r). However, if the Department has borrowed any funds under Article 1(r)(7), Article 1(r)(7) shall remain in effect as to that and only that borrowing. Upon the exercising of the power to terminate, subarticles 28(e) and (f) shall be rescinded and Article 1(r) shall read as it previously read as shown on Attachment Number 1 to this amendment.

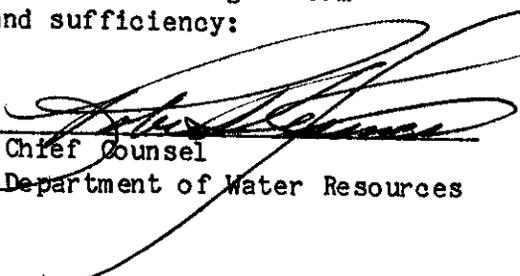
(6) At any time before January 1, 1989, so long as the Director has not already exercised the power of termination, the Director may irrevocably waive his right to exercise the power of termination or may rescind any previously issued notice of intention to terminate.

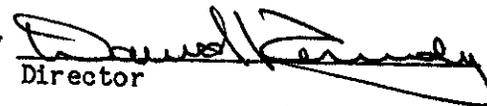
(7) If the Director does not exercise the power of termination before January 1, 1989, this Subarticle 50(i) shall expire, and the remainder of this Article 50 shall remain in effect. Changes made by this amendment to other articles shall also remain in effect.

IN WITNESS WHEREOF, the parties have executed this contract on the date first above written.

Approved as to legal form
and sufficiency:

STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES

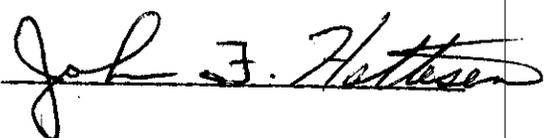
By 
Chief Counsel
Department of Water Resources

By 
Director

Attest:

EMPIRE WEST SIDE IRRIGATION DISTRICT

By _____

By 

Article 1(r) is amended to read:

(r) Project Interest Rate

"Project interest rate" shall mean the weighted average interest rate of (1) through (6) below computed by dividing (i) the total interest cost required to be paid or credited by the State during the life of the indebtedness or advance by (ii) the total of the products of the various principal amounts and the respective terms in years of all such amounts:

- (1) general obligation bonds issued by the State under the Bond Act,
- (2) revenue bonds issued by the State under the Central Valley Project Act after May 1, 1969,
- (3) bonds issued by the State under any other authority granted by the Legislature or the voters,
- (4) bonds issued by any agency, district, political subdivision, public corporation, or nonprofit corporation of this State,
- (5) funds advanced by any contractor without the actual incurring of bonded debt therefor, for which the net interest cost and terms shall be those which would have resulted if the contractor had sold bonds for the purpose of funding the advance, as determined by the State, and
- (6) funds borrowed from the General Fund or other funds in the Treasury of the State of California, for which the total interest cost shall be computed at the interest rate earned over the period of such borrowing by moneys in the Pooled Money Investment Account of such Treasury invested in securities,

to the extent the proceeds of any such bonds, advances or loans are for construction of the State Water Facilities defined in Section 12934(d) of the Water Code, the additional project conservation facilities, and the supplemental conservation facilities, (except off-aqueduct power facilities and advances for delivery structures, measuring devices and excess capacity) and without regard to any premiums received on the sale of bonds under item (1) above. The "project interest rate" shall be computed as a decimal fraction to five places.

STATE OF CALIFORNIA
THE RESOURCES AGENCY
DEPARTMENT OF WATER RESOURCES

632.51431
EWSID

AMENDMENT NO. 17 TO WATER SUPPLY CONTRACT
BETWEEN THE STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES
AND
EMPIRE WEST SIDE IRRIGATION DISTRICT

THIS AMENDMENT to the Water Supply Contract is made this 20th day of March 1991, pursuant to the provisions of the California Water Resources Development Bond Act, and other applicable laws of the State of California, between the State of California, acting by and through its Department of Water Resources, herein referred to as "State", and Empire West Side Irrigation District, herein referred to as the "Agency".

WHEREAS, the State and the Agency entered into a contract whereby the State will deliver and the Agency will purchase a supply of water to be made available from project facilities constructed by the State;

WHEREAS, a more efficient use of entitlement water may be achieved by deferral of its use from October, November and December of one calendar year into the first three months of the next year.

WHEREAS, the State and the Agency desire to amend the provisions of such contract related to the delivery and scheduling of entitlement water to allow, under certain conditions, the carry-over of a portion of the Agency's entitlement deliveries from a respective year into the first three months of the next calendar year.

WHEREAS, the carry-over of entitlement by the Agency is not intended to adversely impact current or future project operations.

WHEREAS, the State Water Project contractors and the Department are aware that the carry-over of entitlement water from one year into the next may increase or decrease the costs to other SWP contractors in either year. The tracking of those costs may be too complex and expensive and does not warrant special accounting procedures to be established; however, any significant identifiable cost shall be charged to those contractors causing such cost, as determined by the Department;

WHEREAS, the carry-over of entitlement water is not to affect the payment provisions of the contract.

NOW THEREFORE, it is mutually agreed that the following changes and additions are hereby made to the Agency's Water Supply Contract with the State:

1. Article 1(ii) is added to read:

"Carry-over Entitlement Water" shall mean water from a contractor's annual entitlement for a respective year which is made available for delivery by the State in the next year pursuant to Article 12(e).

2. Article 12(e) is added to read:

(e) Delivery of Carry-over Entitlement Water

Upon request of the Agency, the State shall make Carry-over Entitlement Water available for delivery to the Agency during the first three months of the next year, to the extent that such deliveries do not adversely affect current or future project operations, as determined by the State. The State's determination shall include, but not be limited to the operational constraints of project facilities, filling of project conservation storage, flood control releases and water quality restrictions.

Carry-over of entitlement water shall be limited to entitlement water that was included in the Agency's approved delivery schedule for October, November and December, but was not delivered due to:

- (1) scheduled or unscheduled outages of facilities within the Agency's service area; or
- (2) a delay in the planned application of a contractor's annual entitlement water for pre-irrigation; or
- (3) a delay in the planned spreading of the Agency's annual entitlement water for ground water storage.

After determining that the carry-over of entitlement water would not adversely affect project operations, the State shall notify the Agency of the amount of entitlement water to be carried over to the following January through March period. The notification shall include the proposed terms and

conditions consistent with this Article 12(e) that would govern the delivery of the Carry-over Entitlement Water.

The Agency agrees to pay all significant identifiable costs associated with its Carry-over Entitlement Water, as determined by the State.

All scheduling and delivery of Carry-over Entitlement Water shall be carried out pursuant to the provisions of this contract.

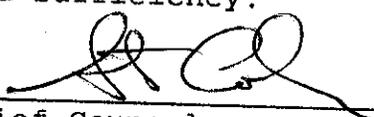
The Agency agrees to forego the delivery of any Carry-over Entitlement Water that is lost because of project operations or is not delivered by March 31 of the next year.

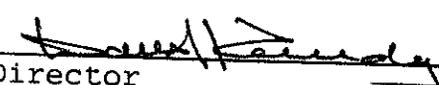
Any Carry-over Entitlement Water foregone by the Agency will become a part of the current year's total project supply.

WITNESS WHEREOF, the parties have executed this contract on the date first above written.

Approved as to legal form and sufficiency:

STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES

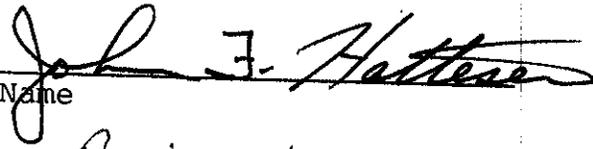

Acting Chief Counsel
Department of Water Resources


Director

Attest:

EMPIRE WEST SIDE IRRIGATION DISTRICT

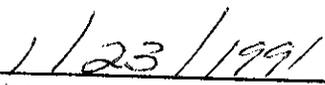
Name


Name

Title


Title

Date


Date

STATE OF CALIFORNIA
THE RESOURCES AGENCY
DEPARTMENT OF WATER RESOURCES

632.5/431

AMENDMENT NO. 18 TO WATER SUPPLY
CONTRACT BETWEEN THE STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES AND
EMPIRE WEST SIDE IRRIGATION DISTRICT

THIS AMENDMENT to the Water Supply Contract is made this 11th day of APRIL, 1991, pursuant to the provisions of the California Water Resources Development Bond Act, the State Central Valley Project Act, and other applicable laws of the State of California, between the State of California, acting by and through its Department of Water Resources, herein referred to as the "State", and Empire West Side Irrigation District, herein referred to as the "Agency".

RECITALS:

WHEREAS, the State and the Agency entered into a contract whereby the State will deliver and the Agency will purchase a supply of water to be made available from project facilities constructed by the State;

WHEREAS, the State and the Agency included in such contract an article which entitles the Agency to obtain from the State deliveries of surplus water when available;

WHEREAS, the State and the Agency desire to amend the provisions of such contract related to the deliveries of surplus water; and

WHEREAS, beginning January 1, 1991 the Agency desires to be charged for the power used for pumping surplus water at the Melded Power Rate as provided herein for the remainder of the project repayment period; and

WHEREAS, the parties to this Amendment, and those approving the Amendment, intend no impact upon their positions with respect to the interpretation of any existing contractual provisions.

AGREEMENT:

It is agreed that the following changes are hereby made to the Agency's water supply contract as follows:

1. Purpose and Scope. This Amendment is only intended to define the procedure for determining the charges for power used to pump surplus and unscheduled water. The scope of the Amendment is strictly confined to that purpose.

2. Article 21(d) of the Agency's water supply contract with the State is amended to read:

(d) Schedules. On or before October 1 of each year, concurrently with the schedule submitted pursuant to the provisions of Article 12, the Agency shall submit in writing to the State a preliminary water delivery schedule, indicating the desired amounts of surplus water for each month of the subsequent six-year period beginning January 1, of the next succeeding year. The last five years of this preliminary surplus water delivery schedule shall be used by the State for planning and operations studies.

3. Article 21(f) of the Agency's water supply contract with the State is amended to read:

(f) Power Costs.

(1) Beginning January 1, 1991, the Agency shall pay power charges for pumping surplus water as follows:

(A) If during a calendar month it is either not necessary to purchase power for pumping surplus water, or it is necessary to purchase power for pumping surplus water and the purchased power rate is less than or equal to the Melded Power Rate (defined as the average unit charge for pumping entitlement water during the calendar year for all power resources, including on-aqueduct power resources, off-aqueduct power resources, and any other power resources), then the monthly charges to the Agency for the Net Power (gross power used to pump the surplus water less power generated by the surplus water) used to pump surplus water to the Agency shall be determined using the Melded Power Rate.

(B) If during a calendar month it is necessary to purchase power for pumping surplus water and the purchased power rate is greater than the Melded Power Rate, the monthly charges to the Agency for the Net Power used to pump surplus water for delivery to the Agency shall be determined using a composite rate equal to the sum of:

(i) The monthly average purchased power rate per unit of power so purchased times the power purchased for pumping surplus water and that result divided by the Net Power; plus,

(ii) The Melded Power Rate per unit of power times a quantity which equals the Net Power used for pumping surplus water minus the power purchased for pumping surplus water and that result divided by the Net Power.

(C) In all cases, the power charges shall include the cost of any additional transmission service required for the delivery of surplus water to the Agency.

(2) By receiving surplus or unscheduled water under this Article 21(f), the Agency accepts the responsibility to indemnify, defend, and hold harmless the State, its officers, employees and agents from all liability, expenses, defense costs, attorney fees, claims, actions, liens, and lawsuits of whatever kind, arising out of or related to this article.

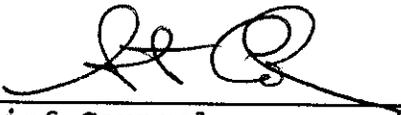
(3) Effective January 1, 1991, power charges for delivery of unscheduled water to the Agency shall be calculated in the same manner as provided in this Article 21(f).

4. This Amendment shall take effect on January 1, 1991, only if, by January 31, 1991 an Amendment substantially the same as this one is executed by contractors that together have maximum annual entitlements totaling at least 3,796,007 acre-feet. By February 15, 1991, the State will inform the Agency of whether sufficient contractors had executed the Amendment to cause the Amendment to take effect.

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

Approved as to legal form
and sufficiency:

STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES



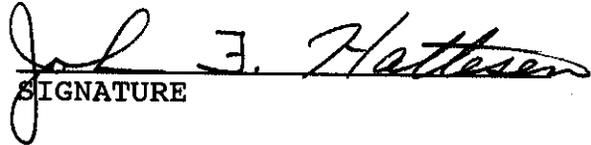
Acting Chief Counsel
Department of Water Resources



Director

EMPIRE WEST SIDE IRRIGATION
DISTRICT

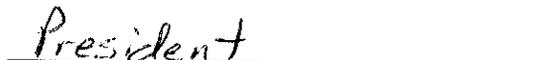
ATTEST:



SIGNATURE



NAME



TITLE