



Official Memorandum

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To: SLDMWA Board of Directors, Alternates

From: Pablo Arroyave, Chief Operating Officer
Rebecca L. Harms, Deputy General Counsel

Date: December 11, 2025

RE: Resolution Authorizing Execution of Amendment 7 to the Agreement for the Supply and Conveyance of Water by DWR to the San Luis & Delta-Mendota Water Authority Under the Dry Year Water Purchase Program and Actions Related Thereto

Background

Extension of Yuba Accord Transfer Program – Several efforts are underway or have been completed to facilitate the extension of the Yuba Accord Long-Term Water Transfer Program (“Yuba Accord Transfer Program”) through 2050: **(1)** Yuba Water Agency filed a petition for long-term transfer with the State Water Board seeking approvals necessary to continue operation of the Yuba Accord Transfer Program; the State Water Board will consider the Administrative Hearing Officer’s proposed order regarding the petition at its January meeting¹; **(2)** pursuant to CEQA, Yuba Water Agency issued a Final Supplemental Environmental Impact Report for the extension (State Clearinghouse No. 200506211); **(3)** pursuant to NEPA, the Water Authority is cooperating with Reclamation to prepare the necessary Warren Act contracts and associated environmental review documents for conveyance of the transfer water in Federal Facilities; and **(4)** certain members of the Water Authority entered into the September 4, 2025 Yuba Transfers 2026-2050 Activity Agreement (see Board of Directors Resolution No. 2025-543).

In addition to the above, the following efforts are underway.

Yuba-DWR Agreement – The Yuba Accord Transfer Program is operated, in part, pursuant to the Agreement for the Long-Term Purchase of Water from Yuba County Water Agency by the Department of Water Resources (“Yuba-DWR Agreement”). Pursuant to the Yuba-DWR Agreement, DWR purchases specified components of water for delivery to State Water Project (“SWP”) contractors and members of the Water Authority. The Yuba-DWR Agreement has been amended several times, the most recent of which is Amendment 7, dated September 30, 2020. The Water Authority and the State Water Contractors worked with DWR to negotiate an Amendment 8 which extends the term of the Yuba-DWR Agreement through 2050. Yuba Water Agency approved Amendment 8 on November 18, 2025, and DWR is expected to execute the agreement by the end of December 2025.

Dry Year Purchase Agreement – In order to implement the purchase and sale of water acquired by DWR under the Yuba-DWR Agreement to members of the Water Authority, DWR and the Water Authority entered into the Agreement for the Supply and Conveyance of Water by DWR to the San Luis & Delta-Mendota Water Authority Under the Dry Year Water Purchase Program, dated December 21, 2007 (“Dry Year Purchase Agreement”)

¹ Yuba Water Agency also filed a short term-petition with the State Water Board requesting a one-year extension of the transfer program for 2026 in the event no order on the long-term petition is issued in time.



(see Board of Directors Resolution No. 2007-277). The Dry Year Purchase Agreement has been amended several times, the most recent of which is Amendment 6, dated September 30, 2020 (see Board of Directors Resolution No. 2020-470), pursuant to which the Dry Year Purchase Agreement was to expire on December 31, 2025. The Water Authority worked with DWR to develop an Amendment 7 to the Dry Year Purchase Agreement, attached hereto. Amendment 7 is a restatement of the Dry Year Purchase Agreement, meaning it incorporates the original agreement and all amendments to date. Under Amendment 7, the term of the Dry Year Purchase Agreement is extended through 2050.

Issue for Decision

Whether the Water Authority should adopt the proposed Resolution Authorizing Execution of Amendment 7 to the Dry Year Purchase Agreement and Actions Related Thereto.

Recommendation

Staff recommends the Board adopt the proposed resolution.

Analysis

Amendment 7 to the Dry Year Purchase Agreement governs participation in all benefits and the incurrence of all obligations of the Yuba Dry Year Purchase Agreement for Yuba Accord transfers beginning in 2026 and continuing through December 2050. Water Authority members who may receive the Yuba Accord transfer water purchased by the Water Authority under the Dry Year Purchase Agreement are those that have joined the Water Authority's Yuba Transfers 2026-2050 Activity Agreement, currently: Byron-Bethany Irrigation District, Del Puerto Water District, Eagle Field Water District, Mercy Springs Water District, Pacheco Water District, Panoche Water District, Patterson Irrigation District, San Benito County Water District, San Luis Water District, Santa Clara Valley Water District, Westlands Water District, and West Stanislaus Irrigation District.

The physical, operational, and financial details of the Yuba Accord Transfer Program through 2050 are analyzed by the Yuba Water Agency as lead agency pursuant to CEQA in its September 2024 Final Supplemental Environmental Impact Report. The Water Authority and/or Activity Agreement Members may be responsible agencies under CEQA for actions related to water transfers; however, the actions contemplated by Amendment 7 to the Dry Year Purchase Agreement are within the scope of Yuba Water Agency's Supplemental Environmental Impact Report, such that no subsequent or supplemental CEQA review is required. (Pub. Resources Code, § 21166; CEQA Guidelines, §§ 15162, 15163, 15168(c).)

Budget

No direct budget impact because all financial obligations and liabilities associated with the coordination and implementation of transfer activities or individual transfers will be paid for by only the Yuba Transfers 2026-2050 Activity Agreement Members.



Attachments

1. Resolution No. 2025-XX Authorizing Execution of Amendment 7 to the Dry Year Purchase Agreement and Actions Related Thereto
2. Proposed Amendment 7 to the Dry Year Purchase Agreement

SAN LUIS & DELTA-MENDOTA WATER AUTHORITY

RESOLUTION NO. 2025-

**RESOLUTION AUTHORIZING EXECUTION OF AMENDMENT 7 TO THE
AGREEMENT FOR THE SUPPLY AND CONVEYANCE OF WATER BY DWR TO
THE SAN LUIS & DELTA-MENDOTA WATER AUTHORITY UNDER THE DRY
YEAR WATER PURCHASE PROGRAM AND ACTIONS RELATED THERETO**

WHEREAS, the existing Yuba Accord Long-Term Water Transfer Program (“Yuba Accord Transfer Program”) is operated, in part, pursuant to the Agreement for the Long-Term Purchase of Water from Yuba County Water Agency by the Department of Water Resources (“Yuba-DWR Agreement”); and

WHEREAS, pursuant to the Yuba-DWR Agreement, DWR purchases specified components of water for delivery to State Water Project contractors and members of the Water Authority; and

WHEREAS, consistent with and to further facilitate funding the Yuba River Accord, DWR and Yuba Water Agency have entered into several amendments to the Yuba-DWR Agreement, the most recent of which is Amendment 7, dated September 30, 2020; and

WHEREAS, the Water Authority and the State Water Contractors worked with DWR to negotiate an Amendment 8 to the Yuba-DWR Agreement which extends the term of the Yuba-DWR Agreement through 2050; Yuba Water Agency approved Amendment 8 on November 18, 2025, and DWR is expected to execute the agreement by the end of December 2025; and

WHEREAS, in order to implement the purchase and sale of water acquired by DWR under the Yuba-DWR Agreement to members of the Water Authority, DWR and the Water Authority entered into that certain Agreement for the Supply and Conveyance of Water by DWR to the San Luis & Delta-Mendota Water Authority Under the Dry Year Water Purchase Program, dated December 21, 2007 (“Dry Year Purchase Agreement”) (see Water Authority Board of Directors (“Board of Directors”) Resolution No. 2007-277); and

WHEREAS, DWR and the Water Authority have entered into several amendments to the Dry Year Purchase Agreement, the most recent of which is Amendment 6, dated September 30, 2020 (see Board of Directors Resolution No. 2020-470); and

WHEREAS, the Dry Year Purchase Agreement through Amendment 6 expires on December 31, 2025; and

WHEREAS, in order to implement the purchase and sale of water acquired by DWR under the Yuba-DWR Agreement to Water Authority Members beginning in 2026, DWR and the Water Authority have developed an Amendment 7 to the Dry Year Purchase Agreement; and

WHEREAS, the Board has considered that certain proposed form of the Amendment 7 to the Dry Year Purchase Agreement between the Water Authority and DWR, a copy of which has been presented to the Board; and

WHEREAS, to facilitate the conveyance of the Yuba Transfer Water in Federal Facilities to the Water Authority members, the Water Authority is cooperating with Reclamation to prepare the necessary Warren Act contracts and associated environmental review documents for said contracts under NEPA; and

WHEREAS, the physical, operational, and financial details of the Yuba Accord Transfer Program through 2050 are analyzed by the Yuba Water Agency as lead agency pursuant to CEQA in its September 2024 SEIR; the Water Authority and/or Activity Agreement Members may be responsible agencies under CEQA for actions related to water transfers; however, the actions contemplated by Amendment 7 to the Dry Year Purchase Agreement are within the scope of Yuba Water Agency's SEIR, such that no subsequent or supplemental CEQA review is required. (Pub. Resources Code, § 21166; CEQA Guidelines, §§ 15162, 15163, 15168(c).)

NOW, THEREFORE, BE IT RESOLVED, AS FOLLOWS, THAT:

Section 1. The facts stated in the recitals above are true and correct, and the Board so finds and determines.

Section 2. The Board hereby authorizes the Executive Director to execute Amendment 7 to the Dry Year Purchase Agreement in substantially the form presented to the Board, subject to such additions, deletions and other revisions as the said Executive Director shall approve prior to execution.

Section 3. The Executive Director, or such Water Authority employee or consultant the Executive Director so designates, is further authorized and directed to take such additional steps, and to execute such additional documents, as may be required or reasonably necessary to the completion of the activities authorized by this Resolution.

PASSED, APPROVED AND ADOPTED this 11th day of December, 2025, by the Board of Directors of the San Luis & Delta-Mendota Water Authority.

Cannon Michael, Chair
San Luis & Delta-Mendota Water Authority

Attest:

Federico Barajas, Secretary

I hereby certify that the foregoing Resolution No. 2025- was duly and regularly adopted by the Board of Directors of the San Luis & Delta-Mendota Water Authority at the meeting thereof held on the 11th day of December, 2025.

Federico Barajas, Secretary

State of California
California Natural Resources Agency
DEPARTMENT OF WATER RESOURCES

AMENDMENT NO. 7
TO
AGREEMENT FOR THE SUPPLY AND CONVEYANCE OF WATER
BY THE DEPARTMENT OF WATER RESOURCES OF THE STATE OF CALIFORNIA
UNDER THE DRY YEAR WATER PURCHASE PROGRAM
BETWEEN
THE DEPARTMENT OF WATER RESOURCES
AND
THE SAN LUIS & DELTA-MENDOTA WATER AUTHORITY

SWP #25-803

This AMENDMENT 7 (Amendment) to the “Agreement for the Supply and Conveyance of Water by the Department of Water Resources of the State of California Under the Dry Year Water Purchase Program” (Participation Agreement) is entered into as of _____ between the Department of Water Resources of the State of California (DWR), 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, and the San Luis & Delta-Mendota Water Authority, a public agency in the State of California, herein referred to as the “AUTHORITY.” DWR and the AUTHORITY are herein referred to separately as the “Party” and collectively as the “Parties.” Unless otherwise provided in this Amendment, the definitions in the Yuba Water Purchase Agreement, and the exhibits to that agreement shall apply to this Amendment.

RECITALS

- A. The Yuba County Water Agency (Yuba) is engaged in the Yuba River Accord initiative (Yuba River Accord) to resolve issues associated with operation of the Yuba Project in a way that protects lower Yuba River fisheries and local water-supply reliability, while providing revenues for local flood control projects, water to use for protection and restoration of Sacramento-San Joaquin Delta (Delta) fisheries, and improvements in state-wide water supply management.
- B. The Yuba River Accord includes three major elements, all of which must be in place for the Yuba River Accord to become effective: (1) the Fisheries Agreement (dated November 3, 2007) to provide higher flows for fish in the lower Yuba River under certain conditions, (2) Conjunctive Use Agreements between Yuba and its Member Units for implementing a conjunctive use and water use efficiency program; and (3) the “Agreement for the Long-Term Purchase of Water from Yuba County Water Agency by the Department of Water Resources” dated December 4, 2007 (Yuba Water Purchase Agreement), as amended.
- C. Under the Yuba Water Purchase Agreement, Yuba makes surface water available for delivery and purchase by DWR, some of which is made available through substitution of groundwater for surface flows that would otherwise be used by its Member Units.
- D. In 2007 and 2008, 21 State Water Project (SWP) Contractors and the AUTHORITY entered into agreements with DWR for the purchase and delivery of the water made available under the Yuba Water Purchase Agreement (cumulatively referred to as the Participation Agreements). The Participating SWP Contractors and the AUTHORITY are jointly referred to as “Participating Contractors.” In 2014, two additional Participating SWP Contractors entered into Participation Agreements; and in 2020, one Participating SWP Contractor declined to renew the Participation Agreements. As of 2025, there are a total of 23 Participating Contractors.
- E. Since entering into the Participation Agreements, the Participating Contractors have approved Amendments 1 through 6.
- F. The Parties desire to extend the term and other provisions of this water supply and conveyance agreement whereby DWR will purchase water under the Yuba River Accord to make available for purchase by the Participating Contractors, including the AUTHORITY, through this Amendment 7.

Now, therefore, in accordance with the Recitals and in consideration of the terms and conditions herein, the Parties agree to the following:

1. **DEFINITIONS**

When used in this Participation Agreement, the following definitions will apply:

“Amendment” means this Amendment 7 to this Participation Agreement.

“Balanced Conditions” mean the hydrologic condition of the Delta as defined in the November 24, 1986 “Agreement between the United States of America and the State of California for Coordinated Operations of the Central Valley Project and the State Water Project” (COA), as amended.

“Banks Pumping Plant” means a SWP facility in the south Delta owned and operated by DWR.

“Carriage Water” means the water losses due to increased Delta outflow necessary to maintain baseline Delta salinity conditions as determined by DWR and Reclamation, that are associated with Storage Component Water and Net Accrued Groundwater Substitution Component Water that is exported by the Projects.

“Conference Year” means a Water Year for which the North Yuba Index is less than 500,000 acre-feet, calculated according to the procedures and formulas set forth in Exhibits 4 and 5 of the Fisheries Agreement, and using the latest available forecasts for the Water Year.

“Delivered Transfer Water” means Released Transfer Water from Yuba that is accounted as being exported by the Projects, or contributing to exports, as described in Section 5 of Exhibit 1 of the Yuba Water Purchase Agreement.

“Final Classification” means the Water Year classification for the Sacramento Valley Index in the May issue of DWR’s Bulletin 120.

“Fisheries Agreement” means the agreement, which is part of the Yuba River Accord, among Yuba, the California Department of Fish and Game (now known as Department of Fish and Wildlife), and other parties, under which Yuba operates the Yuba Project to provide higher flows in the lower Yuba River under certain conditions to improve fisheries protection.

“Management Committee” means the committee, consisting of one representative each from Yuba, DWR, and Participating Contractors, established under Section 12 ("Technical Committee and Management Committee") of the Yuba Water Purchase Agreement.

“Member Unit” means a "Member Unit" as defined in Section 2(g) of the 1959 Yuba County Water Agency Act.

“Net Accrued Groundwater Substitution Component Water” is the net amount of water resulting from Yuba’s groundwater substitution pumping program that is made available to the Participating Contractors. The Net Accrued Groundwater Substitution Component Water will be released and delivered by Yuba to DWR in accordance with the Yuba Water Purchase Agreement.

“Participating Contractors” means all SWP Contractors and the AUTHORITY that have executed an agreement with DWR to purchase water originating from the Yuba Water Purchase Agreement.

“Participating SWP Contractors” means all Participating Contractors that are also SWP contractors.

“Participation Agreement” means the December 21, 2007 “Agreement for the Supply and Conveyance of Water by the Department of Water Resources of the State of California Under the Dry Year Water Purchase Program” as amended.

“Projects” means the State Water Project (SWP) and the Central Valley Project (CVP).

“Purchased Water” means the supply of Storage Component Water and Net Accrued Groundwater Substitution Component Water that has been delivered by Yuba to DWR and is accounted for as Delivered Transfer Water in the manner set forth in Exhibit 1 (“Scheduling and Accounting Principles”) of the Yuba Water Purchase Agreement. Purchased Water includes Carriage Water, water used as Delta outflow when the Export/Inflow ratio is controlling in the time period of July 1 through January 31 pursuant to the Revised Water Right Decision 1641, evaporation, and other losses assessed by DWR.

“Released Transfer Water” means the average daily flows measured at the Marysville Gage that are greater than the Baseline Flows and is further described in Section 4.2 of Exhibit 1 of the Yuba Water Purchase Agreement.

“Storage Component Water” means the water supplies available to DWR pursuant to Section 6 of the Yuba Water Purchase Agreement.

“Technical Committee” means the committee, consisting of technical representatives from Yuba, DWR, and Participating Contractors, established under Section 12 (“Technical Committee and Management Committee”) of the Yuba Water Purchase Agreement.

“Third Party” means an agency, entity or individual other than DWR, a Participating Contractor, a Member Unit, customer, landowner, or any other entity within the boundaries of a Participating Contractor, as defined in Section 9 (“Right of Yuba to Transfer Certain Quantities of Water to a Third Party”) of the Yuba Water Purchase Agreement.

“Third-Party Transfer” means a water transfer from Yuba to a Third Party as defined in Section 9 (“Right of Yuba to Transfer Certain Quantities of Water to a Third Party”) of the Yuba Water Purchase Agreement.

“Water Accounting Year” means the twelve-month period commencing January 1 through December 31.

“Water Year” means the twelve-month period from October 1 of one year through September 30 of the following year. For this Participation Agreement, each Water Year will be classified: (1) as "Wet," "Above Normal," "Below Normal," "Dry" or "Critical," based on the Sacramento Valley Water Year Hydrologic Classification in Figure 1 on page 188 of the State Water Resources Control Board's March 15, 2000, Revised Water-Right Decision 1641; or (2) as a "Conference Year."

“Yuba Project” means the Yuba River Development Project, including New Bullards Bar Dam and Reservoir on the North Yuba River.

“Yuba River Accord” means Yuba’s initiative as described in Recitals A and B of this Participation Agreement.

“Yuba Water Purchase Agreement” means the Agreement for the Long-Term Purchase of Water from Yuba County Water Agency by the Department of Water Resources, which is attached hereto as Attachment A, and as amended.

2. EFFECT OF THIS AMENDMENT

After December 31, 2025, this Amendment supersedes the Participation Agreement in its entirety.

3. TERM OF PARTICIPATION AGREEMENT

- A. This Participation Agreement will become effective upon execution by the Parties and will terminate on December 31, 2050.
- B. The Parties may terminate this Participation Agreement on December 31, 2030, if the Parties fail to amend this Participation Agreement pursuant to Section 4.B.3 as necessary to address amendments made to the Yuba Water Purchase Agreement regarding the quantity and pricing of water pursuant to Section 10 thereof.
- C. This Participation Agreement will remain in effect beyond the termination dates set forth above to the extent required to enable the Parties to satisfy all obligations then existing or outstanding.

4. PURCHASED WATER

A. METHODS FOR ESTABLISHING ALLOCATIONS AND SHARING OF WATER

- 1. DWR will make available to the AUTHORITY 50% of the following types of water: Storage Component Water and Net Accrued Groundwater Substitution Component Water.
- 2. DWR will make available to the AUTHORITY, and the AUTHORITY may accept and purchase, Storage Component Water and Net Accrued Groundwater Substitution Component Water that is made available to the Participating SWP Contractors, if the Participating SWP Contractors elect to not take said water.
- 3. For Storage Component Water, if the AUTHORITY does not take some or all of the water made available to it after the May 22 initial allocation, DWR will make that water available to the Participating SWP Contractors. If that water is not purchased by the Participating SWP Contractors, then the AUTHORITY will be required to purchase the remaining amount.

B. TYPES AND PRICES OF PURCHASED WATER

1. STORAGE COMPONENT WATER

- a) For Storage Component Water that is accounted for as Purchased Water and made available to the AUTHORITY from January 1, 2026 through December 31, 2030, the AUTHORITY will pay:
 - i) Wet Year. \$75 per acre-foot in a Final Classification Wet Water Year.
 - ii) Above Normal Year. \$150 per acre-foot in a Final Classification Above Normal Water Year.
 - iii) Below Normal Year. \$225 per acre-foot in a Final Classification Below Normal Water Year.
 - iv) Dry Year. \$300 per acre-foot in a Final Classification Dry Water Year (except as provided in subsection vi, below).
 - v) Critical Year. \$450 per acre-foot in a Final Classification Critical Water Year (except as provided in subsection vi, below).
 - vi) Consecutive Dry or Critical Years. \$525 per acre-foot in two or more consecutive years with either a Final Classification of Dry or Critical Water Years.
- b) Specified quantities of Storage Component Water in Dry and Critical Years (previously known as Component 2 Water) are subject to a price reduction. In 2004 during development of the Yuba River Accord, the Participating Contractors identified quantities of water they believed that the SWP and CVP would have received in Dry and Critical Years from the Yuba Project if alternative regulatory conditions of D-1644 had gone into effect (i.e., the long-term flow requirements). To address this concern, DWR and Yuba agreed to discount pricing for a portion of the Storage Component Water delivered in these year types. As a result, the price for such discounted Storage Component Water in Dry and Critical Water Years is 80% of the price of Storage Component Water agreed to by the Parties for the following quantities.
 - i) In any Water Year that has a Final Classification as Dry, the first 15,000 acre-feet of Storage Component Water; and

- ii) In any Water Year that has a Final Classification as Critical, the first 30,000 acre-feet of Storage Component Water.

2. NET ACCRUED GROUNDWATER SUBSTITUTION COMPONENT WATER

The following provisions shall apply to Net Accrued Groundwater Substitution Component Water made available by Yuba, through DWR, to the AUTHORITY beginning on January 1, 2016, and continuing through the term of this Participation Agreement.

- a) Except as otherwise provided herein, Net Accrued Groundwater Substitution Component Water will be accounted for in accordance with the provisions of the Yuba Water Purchase Agreement.
- b) In every year within the term of this Participation Agreement when one or more Participating Contractors desire to purchase Net Accrued Groundwater Substitution Component Water from Yuba through DWR, the Management Committee representatives of DWR, Yuba, and the Participating Contractors will convene by February 15 and conclude by March 31 to negotiate the price per acre-foot of Net Accrued Groundwater Substitution Component Water, any provisions for the Delta export priority for such water, and any other terms applicable to the transfer of Net Accrued Groundwater Substitution Component Water. If necessary, the dates herein may be adjusted if approved in writing by Yuba and DWR with written notice to the AUTHORITY.
- c) In every Water Accounting Year when: (1) one or more Participating Contractors desire to purchase Net Accrued Groundwater Substitution Component Water; (2) the annual negotiations referenced in Section 4.B.2.b have reached a successful conclusion calling for the purchase of such water that year; (3) the Management Committee representatives have agreed as to the terms of, and each of these representatives has recommended in writing said terms and the approval of, a letter agreement between Yuba and DWR establishing the price per acre-foot and any modified terms that will be applicable to the Net Accrued Groundwater Substitution Component Water for that Water Accounting Year; and (4) DWR and Yuba have executed said letter agreement, DWR will offer in writing to the AUTHORITY the opportunity to purchase Net Accrued Groundwater Substitution Component Water at the price and terms as provided in the letter agreement between DWR and Yuba.

3. POSSIBLE FUTURE ADJUSTMENTS TO QUANTITIES

If the provisions of Section 10 or 20 of the Yuba Water Purchase Agreement require changes to the quantity of water available therein, the Parties agree that amendment of this Participation Agreement for such purposes will be a condition precedent of any amendment of the Yuba Water Purchase Agreement pursuant to Section 10 or 20 thereof. The Parties agree to meet and negotiate in good faith potential changes to this Participation Agreement.

4. PRICE FOR FALL DELIVERED WATER

Storage Component Water and Net Accrued Groundwater Substitution Component Water that is accounted as Delivered Transfer Water in the months of October and November will be priced using the determination of Water Year that was in effect before September 30 of that year.

C. THIRD-PARTY TRANSFERS PURSUANT TO SECTION 9 OF THE YUBA WATER PURCHASE AGREEMENT

The Yuba Water Purchase Agreement provides for the sale of water to Third Parties under the terms outlined in Section 9 (“Right of Yuba to Transfer Certain Quantities of Water to a Third Party”) of the Yuba Water Purchase Agreement. So long as a Third-Party Transfer is carried out consistent with the accounting provisions of Exhibit 1 for Released Transfer Water during Balanced Conditions in the Yuba Water Purchase Agreement, the AUTHORITY will not object based on the use of the transfer water accounting provisions of Exhibit 1 to such a transfer as not protective of DWR and the AUTHORITY as legal users of water during the time the AUTHORITY remains a Participating Contractor. The AUTHORITY also agrees that, as a Participating Contractor, it will not purchase water directly from Yuba other than through the Yuba Water Purchase Agreement.

5. REQUESTS, SCHEDULING, AND CONVEYANCE

Scheduling and conveyance of Purchased Water will be dependent on factors like releases by Yuba (including the flow schedule for the lower Yuba River as provided for in the Fisheries Agreement, the North Yuba Index, or the Yuba River Index), capacity of CVP and SWP facilities, and Bay-Delta conditions. To meet the goals of Section 7, the AUTHORITY may modify the requests in writing and DWR may update the allocation of Purchased Water without amending this Participation Agreement.

A. REQUESTS FOR STORAGE COMPONENT WATER

1. On or about April 11 of each Water Accounting Year, DWR will inform the AUTHORITY of the potential quantity of Storage Component Water that is available to the AUTHORITY.
2. On or before April 18, the AUTHORITY will submit an initial request to DWR for Storage Component Water.
3. On or about May 22, DWR will notify the AUTHORITY of the quantity of Storage Component Water to be allocated to the AUTHORITY pursuant to Section 5.A. DWR will continue to update the allocation to reflect the latest conditions.
4. In the event that Yuba wishes to conduct the First Type of Third-Party Transfer (as described in the Yuba Water Purchase Agreement) in the months of July through November during Balanced Conditions, and Yuba notifies DWR to not back a specified quantity of Released Transfer Water into Project storage, DWR will notify the AUTHORITY within 5 business days after Yuba issued the notice and provide an opportunity for the AUTHORITY to guarantee purchase of that portion of such water allocated to the AUTHORITY in accordance with Section 4.A at the current year pricing regardless of whether it becomes Delivered Transfer Water. Such water, when stored in Project storage, will be released in a subsequent year to the AUTHORITY provided it was stored in Project storage and not spilled by flood control releases before its scheduled release. The AUTHORITY will pay for this allocated amount at the current year pricing regardless of whether it becomes Delivered Transfer Water in the current year.

B. REQUESTS FOR NET ACCRUED GROUNDWATER SUBSTITUTION COMPONENT WATER

1. On or about April 1 of each Water Accounting Year, DWR will notify the AUTHORITY of the quantity of Net Accrued Groundwater Substitution Component Water that Yuba will make available and the terms of such water, including the price per acre-foot, and any other applicable terms.
2. On or before April 11, the AUTHORITY will submit an initial request to DWR for the amount of Net Accrued Groundwater Substitution Component Water.

3. On or before May 14, the AUTHORITY may adjust the requested quantity of Net Accrued Groundwater Substitution Component Water.
4. On or before May 14, the AUTHORITY will commit to the final quantity of Net Accrued Groundwater Substitution Component Water to be purchased during the Water Accounting Year, but such amount will not be less than the actual amount of Net Accrued Groundwater Substitution Component Water made available between April 1 and May 15 in accordance with the accounting provisions for Net Accrued Groundwater Substitution Component Water set forth in Exhibit 1 of the Yuba Water Purchase Agreement.
5. On or about May 22, DWR will notify the AUTHORITY of the final quantity of Net Accrued Groundwater Substitution Component Water to be allocated to the AUTHORITY.
6. DWR will provide Yuba not less than 72-hours' notification for suspension or termination of groundwater pumping due to limitations on the ability to divert the Net Accrued Groundwater Substitution Component Water. In the event of such suspension or termination, the AUTHORITY will pay for its allocated quantity of Net Accrued Groundwater Substitution Component Water, including the amount incurred through the 72-hour notification period irrespective of whether DWR was able to divert the Net Accrued Groundwater Substitution Component Water.
7. The Parties acknowledge that Section 5.1.8 of the Yuba Accord Fisheries Agreement allows the River Management Team to schedule the release of a portion of Net Accrued Groundwater Substitution Component Water at a time when it might not be transferable. The AUTHORITY will not be required to pay for any portion of Net Accrued Groundwater Substitution Component Water that is released under Section 5.1.8 to the extent that it is not transferable under the accounting provisions set forth in Exhibit 1 of the Yuba Water Purchase Agreement.
8. The final allocated Net Accrued Groundwater Substitution Component Water can be reduced if Yuba Member Units pump less than the quantity in letter agreement between Yuba and DWR. The AUTHORITY will not be required to pay for this reduction.

9. If necessary, the dates herein may be adjusted if approved in writing by Yuba and DWR with written notice to the AUTHORITY.

C. SCHEDULING

1. The AUTHORITY shall submit monthly water delivery schedules and revised monthly schedules, if any, for approval to the Division of Operation and Maintenance, Office of the Division Manager, Water Deliveries Reporting Unit, indicating timing and point of delivery requested under this Agreement with reference to SWP #25-803. Monthly and revised schedules shall be sent by electronic mail to SWP-SWDS@water.ca.gov.
2. The AUTHORITY shall submit weekly water delivery schedules that indicate timing and point of delivery requested with reference to SWP #25-803, by electronic mail by 10:00 am, Wednesday, for Monday through Sunday of next week to the following:
 - a) Water Delivery Scheduling
Water_deliv_sched@water.ca.gov
 - b) Power Management and Optimization Section
POCOptimization@water.ca.gov
 - c) Day-Ahead Scheduling Unit
Presched@water.ca.gov
 - d) Water Operations Scheduling Section
WOSS@water.ca.gov

D. CONVEYANCE

1. If requested by the AUTHORITY, DWR will convey for the AUTHORITY water under this Agreement through the Banks Pumping Plant, provided that DWR evaluates and determines that the conveyance of Purchased Water through Banks Pumping Plant to the AUTHORITY can be done without adversely affecting the SWP operations.
2. Purchased Water is subject to deduction of Carriage Water and other losses assessed by DWR. DWR will export the remaining Purchased Water through Banks Pumping Plant to turnouts along Reaches 3 through 7 of the

California Aqueduct as determined by the AUTHORITY. Delivery within other reaches of the California Aqueduct will be subject to a separate agreement or an amendment of this Participation Agreement.

3. The AUTHORITY will have two options for power required to convey water under this Participation Agreement through Banks Pumping Plant. Option 1 is for the AUTHORITY to provide power at the Banks Pumping Plant during on-peak hours or otherwise directed by DWR. Option 2 is for the AUTHORITY to rely on power from SWP and be responsible for the associated costs.
4. From Banks Pumping Plant to turnouts, there will be conveyance loss through the California Aqueduct: (a) 2% percent if the turnout is within Reach 3 or; (b) 3% if the turnout is within Reach 4 or beyond.
5. The AUTHORITY shall be responsible for and shall bear all risks for all conveyance losses and other water losses, if applicable, and DWR shall deduct any losses, as determined by DWR, from the amount of Purchased Water.

6. INVOICING AND PAYMENTS

DWR will invoice the AUTHORITY and the AUTHORITY will submit payment to DWR based on each invoice as provided below.

A. INVOICING FOR PURCHASED WATER

1. Initial Storage Component Water Invoice: On or about May 22 (or within 10 business days of the date that DWR receives an invoice from Yuba), DWR will invoice the AUTHORITY for 50% of the estimated amount of Storage Component Water allocated to the AUTHORITY.
2. Initial Net Accrued Groundwater Substitution Component Water Invoice: On or about May 22 (or within 10 business days of the date that DWR receives an invoice from Yuba) DWR will invoice the AUTHORITY for 50% of the amount of Net Accrued Groundwater Substitution Component Water allocated to the AUTHORITY.
3. Second Net Accrued Groundwater Substitution Component Water Invoice: On or about August 30 (or within 10 business days of the date that DWR receives an invoice from Yuba) DWR will invoice the AUTHORITY for 40%

of the allocated Net Accrued Groundwater Substitution Component Water allocated to the AUTHORITY.

4. Final Invoice for Purchased Water: On January 17 of the next calendar year (or within 10 business days of the date that DWR receives an invoice from Yuba), DWR will invoice the AUTHORITY for the remaining unpaid cost for Purchased Water.

B. INVOICE FOR CONVEYANCE AND ADMINISTRATIVE COSTS

1. DWR will invoice the AUTHORITY for the conveyance charges and fees described below. Each invoice will include itemization of monthly charges, as appropriate.
2. DWR will invoice the AUTHORITY a one-time fee of \$2,100,000 to recover the costs incurred in the development of this Amendment 7.

OR

DWR will invoice the AUTHORITY an annual fee of \$121,000 until December 31, 2050 through a total of 25 allotments to recover the costs incurred in the development of this Amendment 7.

3. DWR will invoice the AUTHORITY an annual fee of \$15,000 for regular activities that include, but are not limited to, monthly coordination meetings, data tracking and reporting, invoicing, and other efforts regardless of the hydrologic and operational conditions.
4. The AUTHORITY will pay DWR the following charges for conveyance:
 - a) If the AUTHORITY used SWP power for pumping Purchased Water at Banks Pumping Plant, the AUTHORITY shall be responsible for all power costs incurred by DWR as described below:
 - i) The AUTHORITY shall pay all incremental costs incurred by DWR associated with scheduling power to pump Purchased Water at SWP facilities. Such costs include, but are not limited to, load based California Independent System Operator (CAISO) costs, CAISO marginal cost of congestion, CAISO energy loss charges, Transmission Access Charges and/or Wheeling Access Charges, Grid Management Charges, Ancillary Service costs, Scheduling fees,

costs related to Greenhouse Gas compliance, and Resource Adequacy charges.

- ii) Resource Adequacy charges will be based on the total amount of CVP Water conveyed in that month, due to advance scheduling practices through CAISO.
 - iii) The AUTHORITY shall pay the CAISO incurred costs associated with the pumping at SWP facilities under this Agreement, pursuant to the terms established by Contract 12-SNR-01605 entitled "California Independent System Operator Scheduling Services for Joint-Use Facilities of the San Luis Unit and Certain CDWR Pumping Facilities" between DWR and the Western Area Power Administration, as may be amended.
- b) The AUTHORITY shall pay for a use-of-facilities charge for conveyance to turnouts along the California Aqueduct. The calculation of this charge is based on the total monthly exported amount of Purchased Water at Banks Pumping Plant pursuant to this Participation Agreement. DWR will notify the AUTHORITY, in writing, prior to December 31 of each calendar year of the use-of-facility charge per acre-foot for the following calendar year. That charge will be determined by DWR in a manner consistent with the use of facilities charge applied to other non-SWP contractors based on information from the annual Appendix B of DWR Bulletin 132.
 - c) The AUTHORITY will pay DWR for any demonstrable costs that the SWP contractors or DWR would otherwise bear as a result of DWR's activities under this Participation Agreement; provided the costs are not addressed in this Participation Agreement; provided further that DWR substantiates in writing to the AUTHORITY that such costs resulted solely from DWR's activities under this Participation Agreement.
5. DWR is not responsible for the use, effects, or disposal of the water beyond the points of delivery authorized by this Participation Agreement.

C. PAYMENTS FOR COSTS ATTRIBUTABLE TO YUBA WATER PURCHASE AGREEMENT

The Parties agree that costs DWR is obligated to pay Yuba pursuant to the Yuba Water Purchase Agreement, and that have not been identified by this Participation Agreement, will be an obligation of the Participating Contractors. If necessary, the Parties will

amend this Participation Agreement to provide for invoicing and payment of such costs if not provided for herein.

D. PAYMENT TERMS AND CONDITIONS

1. The AUTHORITY will pay DWR within 31 days after receiving an invoice.
2. DWR will assess on the AUTHORITY a 1% interest rate per month from the due date until paid in full.
3. If the AUTHORITY disputes an invoice, the AUTHORITY will still pay the full invoiced amount. The AUTHORITY will submit a notice to DWR identifying the dispute within 31 days of receipt of the invoice. Within 21 days after DWR receives the notice, the Parties will meet and, if appropriate, obtain assistance from the Technical Committee and Management Committee to resolve the dispute. If the Parties find that the AUTHORITY overpaid, DWR will apply a credit on the next invoice. If there is no resolution, the Parties will follow the dispute resolution process in Section 11.
4. Invoices will itemize any prior payments and credits, and the total due, less any additional credits.

7. EFFORTS TO MAXIMIZE THE BENEFICIAL USE OF WATER

DWR will use all reasonable efforts to maximize the amount of Purchased Water available to the Participating Contractors. Those efforts will include, but are not limited to fully exercising its rights and obligations under the Yuba Water Purchase Agreement, coordinating with Reclamation on the operations of the SWP and CVP, and storing water in SWP facilities when Delta pumping is constrained, as provided in the Yuba Water Purchase Agreement.

8. MEMBERSHIP ON COMMITTEES

DWR agrees that a representative of the Participating Contractors will be a member of the Management Committee and Technical Committee.

9. CONFERENCE YEAR PRINCIPLES

During any Conference Year, DWR will meet with Yuba and the other parties to the Fisheries Agreement and the Conjunctive Use Agreements to: (1) determine how to

address the circumstances, and (2) discuss the operation of the Yuba Project during that Water Accounting Year.

10. LIABILITY

- A. DWR will not assert that the AUTHORITY, its directors, officers, agents or employees, are liable for damages of any nature whatsoever arising out of any actions or omissions by DWR, its Director, officers, agents or employees, related to DWR's performance of this Participation Agreement, where such liability is caused by an act, error or omission of DWR, its Director, officers, agents or employees.
- B. The AUTHORITY will not assert that DWR, its Director, officers, agents or employees, are liable for damages of any nature whatsoever arising out of any actions or omissions by the AUTHORITY, its directors, officers, agents or employees, related to the AUTHORITY's performance of this Participation Agreement, where such liability is caused by an act, error or omission of the AUTHORITY, its director, officers, agents or employees.
- C. To the extent permitted by California law, the AUTHORITY will indemnify, defend and hold DWR, its Director, officers, agents and its employees safe and harmless from any and all, claims, judgments, damages, penalties, costs, liabilities and losses (including without limitation, sums paid in settlement of claims, actual attorney's fees paralegal fees, consultant fees, engineering fees, expert fees, and any other professional fees) that arise from or are related in any way to the AUTHORITY's activities or performance under this Participation Agreement that are under the exclusive control of the AUTHORITY, including but not limited to the release, conveyance, use or distribution of water by the AUTHORITY for purposes of this Participation Agreement.
- D. To the extent permitted by California law, DWR will indemnify, defend and hold the AUTHORITY, its directors, officers, agents and its employees safe and harmless from any and all, claims, judgments, damages, penalties, costs, liabilities and losses (including without limitation, sums paid in settlement of claims, actual attorney's fees, paralegal fees, consultant fees, engineering fees, expert fees, and any other professional fees) that arise from or are related in any way to DWR's activities or performance under this Participation Agreement that are under the exclusive control of DWR, including but not limited to the release, conveyance, use or distribution of water by DWR for purposes of this Participation Agreement.

11. DISPUTE RESOLUTION

- A. Should any material disputes arise concerning any provision of this Participation Agreement, or the rights and obligations of the Parties hereunder, including those involving possible termination or those that might cause the initiation of any administrative or judicial proceeding to enforce or interpret this Participation Agreement, the Party that believes a dispute exists will notify the other Party, and the Parties will promptly meet and confer to attempt to resolve the perceived dispute.
- B. If the process described in the preceding subsection fails to resolve the dispute within 30 days, the Parties will submit the dispute to a mediator who has experience in water-related disputes. The costs of any such mediation will be borne equally by the Parties. Initiation of this mediation process will be through written notice by one Party to the other Party. The Parties reserve all of their other remedies that may be provided by law or equity in the event that such mediation fails to resolve a dispute. The Parties, in consultation with the mediator, will use their best efforts to resolve the dispute within 30 days. Under no circumstances, however, will mediation under this Section result in a requirement that diminishes, limits or contravenes the discretion, authority or any delegated authority of the Director of DWR or the AUTHORITY under State law.
- C. If mediation fails to resolve the dispute, and prior to commencing any legal action to resolve the dispute, the Party proposing to commence legal action will provide the other Party 30 days' written notice of such action, provided that such notice will not be required where a delay in commencing an action would prejudice the interests of the Party that intends to file suit. During the 30-day notice period, the Parties will continue to attempt to resolve the dispute.

12. NOT A PRECEDENT

The terms and conditions set forth in this Participation Agreement are not intended to set a precedent for any future contractual arrangements for conveying non-SWP water by DWR to the AUTHORITY.

13. PAYMENTS, NOTICES, OR OTHER COMMUNICATIONS

The time for providing any payments, notices, or other communications specified in this Participation Agreement may be extended within the term of this Participation

Agreement with the consent of the Parties, confirmed in writing, without requiring an amendment to this Participation Agreement. All payments, notices, or other communications required under this Participation Agreement will be in writing, and will be deemed to have been duly given upon the date of service, if: (a) served personally on the Party to whom notice is to be given; (b) sent by electronic mail, and the Party to whom notice is to be given confirms receipt; or (c) on the third day after mailing, if mailed to the Party to whom payment, notice or other communication is directed, by first-class mail, postage prepaid, and properly addressed to the designated representatives of the Party set forth below.

DWR:

Assistant Division Manager of Water Management
Department of Water Resources
P.O. Box 942836
Sacramento, CA 94236-0001
cc: swpwatertransfers@water.ca.gov

AUTHORITY:

Executive Director
San Luis & Delta-Mendota Water Authority
Post Office Box 2157
Los Banos, California 93635

A Party may notify the other Party in writing of a change in its designated representatives, without requiring an amendment to this Participation Agreement. When requested, unless otherwise specified in this Participation Agreement, DWR will provide to the AUTHORITY copies of any and all communications it sends or receives pursuant to the terms of the Yuba Water Purchase Agreement. These communications will be shared as soon as possible, but not later than 14 days after DWR receives, or sends, such communications to Yuba, the AUTHORITY, and/or other Participating SWP Contractors.

14. SIGNATORIES' AUTHORITY

The signatories to this Participation Agreement represent that they have authority to execute this Participation Agreement and to bind the Party on whose behalf they execute this Participation Agreement.

The Parties agree that this Participation Agreement will be executed using DocuSign by electronic signature, which shall be considered an original signature for all purposes and shall have the same force and effect as an original signature. All Parties will receive an executed copy of this Agreement via DocuSign after all Parties have signed.

15. COUNTERPARTS OF THIS PARTICIPATION AGREEMENT

This Participation Agreement may be signed in any number of counterparts by the Parties, each of which will be deemed to be an original, and all of which together will be deemed to one and the same instrument. This Participation Agreement, if executed in counterparts, will be valid and binding on a Party as if fully executed all in one copy.

16. BINDING ON SUCCESSORS/ASSIGNMENT

This Participation Agreement will bind and inure to the benefit of the respective successors and assigns of the Party, except that, none of the obligations of the Parties set forth in this Participation Agreement will be assigned without the prior, written approval of the other Party, which approval will not unreasonably be withheld.

17. NO THIRD-PARTY BENEFICIARIES

This Participation Agreement will not be construed to create any third-party beneficiaries, except as set forth in this section. This Participation Agreement is for the sole benefit of the Parties, their respective successors and assigns, and no other person or entity will be entitled to rely on or receive any benefit from this Participation Agreement or any of its terms.

18. AMENDMENTS

- A. This Participation Agreement may be amended or modified only by written agreement approved and executed by the Parties.
- B. Prior to any amendment of this Participation Agreement, the Parties will meet and confer with the AUTHORITY and the Participating SWP Contractors. The Parties will not agree to any amendment to this Participation Agreement that would adversely affect the rights and obligations of the AUTHORITY under its “Agreement for the Supply and Conveyance of Water by the Department of Water Resources of the State of California to the San Luis & Delta-Mendota Water Authority under the Dry Year Water Purchase Program” and the Participating SWP Contractors under each of their respective agreements with DWR to purchase water originating from the Yuba Water Purchase Agreement.

- C. Prior to any amendment of the “Agreement for the Supply and Conveyance of Water by the Department of Water Resources of the State of California to the San Luis & Delta-Mendota Water Authority under the Dry Year Water Purchase Program”, DWR will meet and confer with the AUTHORITY. DWR will not agree to any amendments to any agreement between DWR and the Participating SWP Contractor to purchase water originating from the Yuba Water Purchase Agreement or the “Agreement for the Supply and Conveyance of Water by the Department of Water Resources of the State of California to the San Luis & Delta-Mendota Water Authority under the Dry Year Water Purchase Program” that would adversely affect the rights and obligations of the AUTHORITY under this Participation Agreement.
- D. DWR will meet and confer with the AUTHORITY and the Participating SWP Contractors before agreeing to any proposed changes, amendments, or supplements to the Yuba Water Purchase Agreement. DWR will not agree to any changes, amendments, or supplements to the Yuba Water Purchase Agreement or its Exhibits that would be inconsistent with or adversely affect the Parties’ rights and obligations under this Participation Agreement, any other agreement between DWR and the Participating SWP Contractor to purchase water originating from the Yuba Water Purchase Agreement or under the “Agreement for the Supply and Conveyance of Water by the Department of Water Resources of the State of California to the San Luis & Delta-Mendota Water Authority under the Dry Year Water Purchase Program.”

19. OPINIONS AND DETERMINATIONS

Where the terms of this Participation Agreement provide for action to be based upon the opinion, determination, approval or review of either Party, such terms are not intended to be, and will not be construed as permitting such actions to be arbitrary, capricious or unreasonable. Any opinion, determination, approval or review required of a Party under this Participation Agreement will be provided in a timely manner.

20. REASONABLE COOPERATION

The Parties will reasonably cooperate with each other, including the execution of all necessary documents and providing assistance in obtaining approvals and permits from regulatory agencies required to perform the obligations under this Participation Agreement and to carry out the purpose and intent of this Participation Agreement.

21. CONSTRUCTION AND INTERPRETATION

This Participation Agreement is entered into freely and voluntarily. This Participation Agreement has been arrived at through negotiation, and each Party has had a full and fair opportunity to revise the terms of this Participation Agreement. Consequently, the normal rule of construction that any ambiguities are to be resolved against the drafting party will not apply in construing or interpreting this Participation Agreement.

22. COMPLETE CONTRACT

This Participation Agreement constitutes the sole, final, complete, exclusive and integrated expression and statement of the terms of this Participation Agreement among the Parties concerning the subject matter, and supersedes all prior negotiations, representations or agreements, either oral or written, that may be related to the subject matter of this Participation Agreement, except as to those other agreements that are expressly referred to in this Participation Agreement.

23. DETERMINATION OF UNENFORCEABLE PROVISIONS

If any term or provision of this Participation Agreement is deemed invalid or unenforceable by any court of final jurisdiction, the Parties will meet and attempt to address this situation pursuant to the provisions of Section 11 of this Participation Agreement.

24. WAIVER

The waiver at any time by a Party of its rights with respect to a default or other matter arising in connection with this Participation Agreement will not be deemed a waiver with respect to any other default or matter.

25. TIME

Time is of the essence in this Participation Agreement. Any date specified in this Participation Agreement may be changed with the written consent of the Parties.

26. APPLICABLE LAW

This Participation Agreement will be construed under and will be deemed to be governed by the laws of the State of California.

27. VENUE

Any appropriate County under California law will be venue for any state court litigation concerning the enforcement or interpretation of this Participation Agreement.

28. REMEDIES NOT EXCLUSIVE

The remedies provided in this Participation Agreement are cumulative and not exclusive, and are in addition to any other remedies that may be provided by law or equity. The exercise by the Party of any remedy under this Participation Agreement will be without prejudice to the enforcement of any other remedy.

29. OFFICIALS NOT TO BENEFIT

No member or delegate to Congress, Resident Commissioner, or Federal or State official will be admitted to any share or part of this Participation Agreement or to any benefit that may arise therefrom.

30. STANDARD CLAUSES

With respect to the mutual obligations of the Parties under this Participation Agreement, the Parties will comply with the Standard Clauses as shown on Attachment B ("State of California Standard Clauses") to this Participation Agreement for the State of California, Contracts with Public Entities.

31. ATTACHMENTS INCORPORATED

Each attachment to which reference is made is deemed incorporated in this Participation Agreement, whether or not actually attached.

IN WITNESS WHEREOF, the Parties hereto, by their authorized representatives, have executed this Participation Agreement on the last date set forth below.

Approved as to legal form
and sufficiency:

STATE OF CALIFORNIA DEPARTMENT
OF WATER RESOURCES

Ann Carroll
General Counsel

Karla Nemeth
Director

Date

Date

Approved as to legal form
and sufficiency:

THE SAN LUIS & DELTA-MENDOTA
WATER AUTHORITY

Name
Counsel

Federico Barajas
Executive Director

Date

Date

ATTACHMENTS:

Attachment A: Amendment 8 to the Agreement for the Long-Term Purchase of Water from Yuba County Water Agency by the Department of Water Resources.

Attachment B: DWR Standard Clauses

DRAFT

ATTACHMENT A

AMENDMENT 8 TO THE AGREEMENT FOR THE LONG-TERM PURCHASE OF
WATER FROM YUBA COUNTY WATER AGENCY BY THE DEPARTMENT OF
WATER RESOURCES.

DRAFT

ATTACHMENT B
DEPARTMENT OF WATER RESOURCES STANDARD CLAUSES
FOR
AGREEMENT FOR THE SUPPLY AND CONVEYANCE OF WATER
BY THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF CALIFORNIA
TO THE AUTHORITY
UNDER
THE DRY YEAR WATER PURCHASE PROGRAM

Worker's Compensation Clause. Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700).

Nondiscrimination Clause. During the performance of this Agreement, Contractor and its subcontractors shall not deny the contract's benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. Contractor shall insure that the evaluation and treatment of employees and applicants for employment are free of such discrimination. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12900 et seq.), the regulations promulgated thereunder (Cal. Code Regs., tit. 2, §11000 et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Gov. Code §§11135-11139.5), and the regulations or standards adopted by the awarding state agency to implement such article. Contractor shall permit access by representatives of the Department of Fair Employment and Housing and the awarding state agency upon reasonable notice at any time during the normal business hours, but in no case less than 24 hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or Agency shall require to ascertain compliance with this clause. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. (See Cal. Code Regs., tit. 2, §11105.)

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

Compliance with Laws, Regulations, Permit Requirements. Contractor shall at all times comply with, and require its contractors and subcontractors to comply with, all applicable federal and State laws, rules and regulations, permits and all applicable local ordinances, specifically including but not limited to environmental, procurement and safety laws, rules, regulations, permits and ordinances.

Availability of Funds. Work to be performed under this contract is subject to the availability of funds through the State's normal budget process.

Audit Clause. Contractor agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).

Compensation. The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.

Drug-Free Workplace Certification. Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.

b. Establish a Drug-Free Awareness Program to inform employees about:

1) the dangers of drug abuse in the workplace;

- 2) the person's or organization's policy of maintaining a drug-free workplace;
- 3) any available counseling, rehabilitation and employee assistance programs; and,
- 4) penalties that may be imposed upon employees for drug abuse violations.

c. Every employee who works on the proposed Agreement will:

- 1) receive a copy of the company's drug-free workplace policy statement; and,
- 2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: the Contractor has made false certification, or violated the certification by failing to carry out the requirements as noted above. (Gov. Code §8350 et seq.)

Americans with Disabilities Act. Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

Conflict of Interest. Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

Current State Employees (Pub. Contract Code §10410):

- 1) No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.

- 2) No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (Pub. Contract Code §10411):

- 1) For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.
- 2) For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (Pub. Contract Code §10420)

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (Pub. Contract Code §10430 (e))

Child Support Compliance Act. For any Agreement in excess of \$100,000, the contractor acknowledges in accordance with Public Contract Code 7110, that:

- a. The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and
- b. The contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

Air or Water Pollution Violation. Under the State laws, the Contractor shall not be: 1) in violation of any order or resolution not subject to review promulgated by the State Air

Resources Board or an air pollution control district; 2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or 3) finally determined to be in violation of federal law relating to air or water pollution.

Recycling Certification. The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post-consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub. Contract Code §12205).