

Nacimiento Project Water Delivery Entitlement Contract between the District
and Bella Vista MHP LLC, a California Limited Liability Company

NACIMIENTO PROJECT WATER
DELIVERY ENTITLEMENT CONTRACT

BELLA VISTA MHP, LLC

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**NACIMIENTO PROJECT WATER
DELIVERY ENTITLEMENT CONTRACT**

This Water Delivery Entitlement Contract (the “Contract”), made this ___ day of _____, 2016, by and between the San Luis Obispo County Flood Control and Water Conservation District, a Flood Control and Water Conservation District duly established and existing under the San Luis Obispo County Flood Control and Water Conservation District Act, Act 7205 of the Uncodified Acts of the California Water Code (the “District”), and Bella Vista MHP, LLC, a California Limited Liability Company, that operates a community water system located within the County of San Luis Obispo (the “Participant”), as follows:

WITNESSETH:

WHEREAS, the District has certain rights to water stored in the Nacimiento Reservoir located in the northwest corner of the County of San Luis Obispo (the “County”); and

WHEREAS, on or about August 17, 2004, prior to the design and construction of the Nacimiento Project, the District and each of the Initial Participants (City of Paso Robles, City of San Luis Obispo, Atascadero Mutual Water Company and Templeton Community Services District) entered into a Nacimiento Project Water Delivery Entitlement Contract (a Like-Contract to the Contract); and

WHEREAS, on or about October 24, 2006, the District and the County of San Luis Obispo, on behalf of County Service Area No. 10, Zone A, (“CSA 10A”) entered into a Nacimiento Project Water Delivery Entitlement Contract (also a Like-Contract to the Contract) (the Nacimiento Project Water Delivery Entitlement Contracts with the Initial Participants and with CSA 10A are referred to collectively as the “Existing Nacimiento Project Water Delivery Entitlement Contracts”); and

WHEREAS, the Initial Participants and CSA 10A notified the District of their desire to acquire additional delivery entitlement in accordance with Article 6, subdivision (D) and Article 29, subdivision (B) through execution of an amendment to the Existing Nacimiento Project Water Delivery Entitlement Contracts; and

WHEREAS, shortly thereafter, Participant (as well as SMR Mutual Water Company) notified the District of its desire to acquire a delivery entitlement in accordance with Article 29, subdivision (C), because the lands and inhabitants within the jurisdiction of the Participant are in need of water; and

WHEREAS, because Participant’s predecessor in interest (Lewis C. Pollard Family Trust) is identified in the Existing Nacimiento Project Water Delivery Entitlement Contracts as an Environmental Impact Report Entity, consultation with the Nacimiento Project Commission and written approval from All Participants is not a prerequisite to the District entering into the Contract; and

WHEREAS, the Participant has paid the Purchase of Reserve Water Delivery Entitlement and Reserved Capacity Fee as described in Article 29, subdivision (C); and

WHEREAS, it is anticipated that the District will execute the amendments to the Existing Nacimiento Project Water Delivery Entitlement Contracts described above and a Like-Contract with SMR Mutual Water Company at the same time that it executes the Contract such that no Reserve Water will remain; and

WHEREAS, because the Design and Construction Phases of the Nacimiento Project are complete, provisions of the Existing Nacimiento Project Water Delivery Entitlement Contracts related exclusively to the Design and Construction Phase (Article 2(B) through Article 3; portions of Article 6(B); Article 8(B); Article 17(B)(1) and (B)(2) and 17(C); Articles 20 through 22; and Article 24) have been omitted from the body of the Contract and moved to Exhibit C for reference purposes only; and

WHEREAS, the omissions described in the prior recital shall not be construed in any way to limit the payment obligations of the Participant set forth herein, including, without limitation, the Participant's obligation to pay all applicable Nacimiento Project Costs excluding only those costs already paid to District by Participant as part of the Purchase of Reserve Water Delivery Entitlement and Reserved Capacity Fee.

NOW, THEREFORE, IT IS HEREBY MUTUALLY AGREED by and between the Participant and the District as follows:

**ARTICLE 1:
DEFINITIONS**

(A) Unless the context otherwise requires, the terms defined in this Article shall, for all purposes of this Water Delivery Entitlement Contract, have the meanings set forth in the Recitals hereof or hereunder specified, to be equally applicable to both the singular and plural forms of any of the terms herein defined. Defined terms used herein without capitalization shall have the same meanings as the corresponding capitalized defined terms but do not refer to the specific Participant hereunder.

“Additional Capital Project” shall mean one or more capital projects related to the Nacimiento Facilities, or other improvements or repairs to the Nacimiento Facilities, undertaken from time to time by the District in addition to the Nacimiento Project, which is an Approved Additional Project, an Emergency Project or a Required Additional Project.

“Additional Capital Project Costs” shall mean costs expended or incurred by the District for Additional Capital Projects and not attributable to, financed by or included in Capital Projects Installment Debt Service.

“Additional Debt” shall mean, as to the Participant and its Water Enterprise, and as to the Water Enterprises, individually, of the respective Other Participants, such debt or similar obligations to be payable from the revenues of such Water Enterprise, as may be permitted under the terms of the Legal Documents.

“Approved Additional Project” shall mean a capital improvement to the Nacimiento Facilities that has been agreed to by the Participant and/or certain Other Participants, and that will be paid by that group within All Participants which has requested or agreed to such capital improvement.

“All Other Construction Costs” shall mean all Nacimiento Project Construction Costs expended or incurred by the District that do not constitute an Environmental Mitigation Construction Cost or a Reserved Capacity Construction Cost.

“All Participants” or “Participants” shall mean the Participant and all Other Participants.

“Available Capital Reserves” shall mean amounts maintained by the Participant for its Water Enterprise as and for capital reserves, including unreserved, unrestricted working capital balances in the funds established for the Water Enterprise, taking into account allowances for contingencies, as of each Calculation Date.

“Board of Supervisors” shall mean the Board of Supervisors of San Luis Obispo County acting as the governing board of the District.

“Calculation Date” shall mean the date that is five (5) Business Days prior to each Due Date hereunder.

“Calendar Quarter” shall mean each three (3)-month period commencing on January 1, April 1, July 1, and October 1 of each year.

“Calendar Year” shall mean each twelve (12)-month period commencing January 1 and ending December 31, both dates inclusive.

“Capital Projects” shall mean and include the following terms, each of which is separately defined herein: Additional Capital Projects; Approved Additional Projects; Required Additional Projects; Emergency Projects and the Nacimiento Project.

“Capital Projects Installment Debt Service” shall mean payments on debt or similar obligations incurred by the District for the Nacimiento Facilities consisting of, in the aggregate, (a) principal and interest (or mandatory sinking fund payments, installments or lease or similar payments due) with respect to all Municipal Obligations at the time outstanding in accordance with their terms, *provided* that capitalized interest funded from the proceeds of Municipal Obligations need not be taken into account, (b) annual costs of administering the Municipal Obligations, including the annual fees of any trustee or paying agent therefor, and (c) the costs, if any, of annual credit enhancement for the Municipal Obligations, whether or not based on a derivative structure as provided in Section 5922(a) of the Government Code. In the event, and to the extent that, any Additional Capital Project is financed by means of the issuance of a series of additional Municipal Obligations, then the payments and costs associated with the additional Municipal Obligations shall become a part of the Capital Projects Installment Debt Service.

“Capital Reserve Costs” shall mean the District’s annual costs of maintaining Capital Reserves, determined by the District and budgeted annually by the District as provided for in

Article 4(C) hereof, to be apportioned among All Participants as provided for in Article 16(C)(1) hereof.

“Capital Reserves” shall mean those reserves established and maintained by the District for (i) Scheduled Maintenance or (ii) for anticipated costs of a Required Additional Project imposed, or likely to be imposed, by a Governmental Authority (an “External Requirement”) in order for the District to continue to operate the Nacimientto Facilities, *provided* however, that the District shall not expend any portion of the Capital Reserves for any External Requirement until and unless such External Requirement becomes a final order of such Governmental Authority, not subject to further appeal. Such Capital Reserves may be established either, (i) on a year-to-year basis by the District in its annual budgets, copies of which shall be supplied to the Participant promptly following adoption, or (ii) on a multi-year basis by the District through the development and promulgation to the Participant of a long-term capital improvement plan of the District; *provided*, however, that no Approved Additional Projects shall be funded from the Capital Reserves.

“Cash Contribution” shall mean the cash payment(s) made to the District by the Participant towards its *pro rata* share of Design Phase Costs pursuant to Article 2.5. Proceeds of Notes do not constitute the payment of a Cash Contribution.

“Commission” or “Nacimientto Project Commission” shall mean the commission formed and operated as provided under Article 33 hereof.

“Commissioner” shall mean a member of the Commission.

“Construction Bids” shall mean the bids for construction of the Nacimientto Project, as further described in Article 2(B).

“Construction Phase” shall mean the period of time following the opening of the first group of Construction Bids resulting in the award of a construction contract for all, or a sub-phase of, the Nacimientto Project. During the Construction Phase, the District shall apply the proceeds of the Municipal Obligations to pay the Nacimientto Project Costs. The Construction Phase shall end no later than the first Fiscal Year during which Delivery Entitlement is made available to the Initial Participants. The District shall provide written notice to the Initial Participants upon the end of the Construction Phase.

“Consultants” shall mean contractors, environmental specialists, engineers, financial advisors, underwriters, attorneys, accountants and similar consultants under contract with the District to perform services related to the Nacimientto Project or the Nacimientto Facilities.

“Contract Payments” shall mean those payments due from the Participant to the District, representing the Participant’s *pro rata* share of Nacimientto Project Costs.

“Costs” shall include the following terms, each of which is separately defined herein: Additional Capital Project Costs; Nacimientto Project Construction Costs; Master Water Contract Costs; Nacimientto Project Costs; Reserved Capacity Construction Cost; and Variable Energy Costs.

“County Treasury Pool” shall mean the Treasury Pool of the County of San Luis Obispo, California.

“Coverage Account” shall mean an account established for the Participant either with the District or with a Depository, as provided in Article 24 hereof.

“Coverage Factor” shall mean one hundred twenty-five percent (125%) of Participant’s pro rata share of Capital Projects Installment Debt Service, determined in accordance with Article 20(C) hereof, calculated for each Fiscal Year.

“CPA” shall mean a certified public accountant or firm of certified public accountants.

“Debt Service Shortfall” shall mean the aggregate amount of Delinquent Debt Service Payments due from Defaulting Participants on the Due Date in question.

“Delinquent Debt Service Payment” shall mean those payments of Capital Projects Installment Debt Service due under the Contract or any Like-Contract that are not, in fact, paid on its Due Date.

“Delinquent Participant” shall mean any of the Participant or any Other Participant which fails to meet its obligation for payment for Nacimiento Project Water hereunder or under any Like-Contract, as further described in Article 25(A) hereof.

“Delivery Entitlement” shall mean the quantity of Nacimiento Project Water which the Participant is entitled to have delivered by the District to the Participant under the Contract in any given Water Year, as set forth in Article 6(A) herein.

“Delivery Entitlement Share” shall mean the proportion of the Delivery Entitlement as compared to the Total Delivery Entitlement Obligation in any given Water Year.

“Depository” shall mean a financial institution designated for the deposit and administration of the Participant’s Coverage Account, as and when appointed in accordance with Article 24 hereof.

“Design Phase” shall mean that period of time preceding the Construction Phase during which the design, engineering and/or planning for the construction of the Nacimiento Project are being undertaken. The Design Phase shall conclude with the opening of the first group of Construction Bids resulting in the award of a construction contract for all, or a sub-phase of, the Nacimiento Project. Any costs incurred for the design, engineering, and/or planning of the Nacimiento Project after the Design Phase still constitute part of the Nacimiento Project Construction Costs.

“Design Phase Costs” shall mean the costs and expenses incurred by or on behalf of the District, the Participant or any Other Participant in connection with the design, engineering and/or planning of the Nacimiento Project during the Design Phase.

“Due Date” shall mean the date upon which each payment of Capital Projects Installment Debt Service is required to be made by the Participant or any Other Participant hereunder or under a Like-Contract.

“Effective Date” shall mean the date upon which the Participant has executed and delivered the Contract to the District, and the District has executed the Contract.

“Eligible Participant” shall be as described in Article 33(E).

“Emergency Projects” shall mean those Additional Capital Projects undertaken by the District without notice to or consultation with the Participant, any Other Participant, or the Commission, whenever the District determines that there is a substantial risk of harm to the Nacimientto Facilities or to the operation of the Nacimientto Facilities which requires immediate remedy.

“Environmental Mitigation Construction Cost” shall mean those costs expended or incurred by the District relating to the District’s efforts to comply with any applicable permits or regulations relating to any mitigation of impacts on the environment resulting from the Nacimientto Project. These costs may occur prior to, during, or after construction of the Nacimientto Facilities.

“Fiscal Year” shall mean the twelve (12)-month period from July 1 of a Calendar Year to June 30 of the immediately following Calendar Year, both dates inclusive or such other dates constituting the designated fiscal year of the Participant as shall be determined by the governing board of the Participant.

“Governing Board” shall mean the legislative or governing body which at the time in question governs the Participant and is responsible for the administration and operation of its Water Enterprise.

“Governmental Authority” shall mean any State of California, federal or local government authority having jurisdiction or authority over the District or the Nacimientto Facilities, or any portion thereof, empowered to regulate or control any aspect of its or their operations.

“Initial Participant” shall mean the following Other Participants, each of which has executed a Like-Contract with the District: City of San Luis Obispo, the Atascadero Mutual Water Company, Templeton Community Services District and City of Paso Robles.

“Legal Documents” shall mean any legal documents entered into by or on behalf of the District with respect to the Municipal Obligations.

“Like-Contract” shall be as described within the definition for “Other Participant.”

“Long-Term Project Debt” shall mean those Municipal Obligations, whether Tax-Exempt or Taxable as to their interest component, whose proceeds are to be expended for the costs of the Construction Phase of the Nacimientto Project.

“Master Water Contract” shall mean that certain Agreement, entered into by and between the District and the Monterey County Water Resource Agency (the “Monterey Water Agency”),

successor to the Monterey County Flood Control and Water Conservation District, on October 19, 1959, and all amendments thereto.

“Master Water Contract Costs” shall mean those amounts that the District is obligated to pay under the Master Water Contract and which are attributable to the 15,750 acre-feet per year of Nacimientto Project Water.

“Municipal Obligations” shall mean all the Taxable Obligations and the Tax-Exempt Obligations, in the form of bonds, notes, certificates or similar securities, sold by or on behalf of the District to finance all or a portion of the Nacimientto Facilities or an Additional Capital Project, and specifically includes the Notes and Long-Term Project Debt.

“Nacimientto Facilities” shall mean all those facilities comprising the water delivery and treatment facilities bringing water from the Nacimientto Reservoir to the Participants, to be purchased hereunder, including without limitation, the Nacimientto Project, any Additional Capital Project, the land underlying the same and any easements or similar rights associated therewith or appurtenant thereto, as they may exist from time to time.

“Nacimientto Project” shall mean the project described in the Nacimientto Water Project Environmental Impact Report SCH # 2001061022 certified January 2004.

“Nacimientto Project Commission” – see definition for “Commission.”

“Nacimientto Project Construction Costs” shall mean all of the costs relating to the construction of any portion of the Nacimientto Facilities, including, but not necessarily limited to, costs relating to design, engineering, planning, environmental permitting, rights-of-way acquisition, equipping new facilities and/or construction efforts, Project Administration Costs, installation, grading, razing and building the Nacimientto Facilities and all costs related thereto. It shall have three components: Environmental Mitigation Construction Cost, Reserved Capacity Construction Cost, and All Other Construction Costs.

“Nacimientto Project Costs” shall be as described in Article 16(B).

“Nacimientto Project Water” shall mean, in each Water Year, the Total Delivery Entitlement Obligation plus the Reserve Water, but not more than Fifteen Thousand Seven Hundred Fifty (15,750) Acre-Feet of Nacimientto Reservoir Water. Nacimientto Project Water is the source of the Delivery Entitlement, Surplus Water and Reserve Water.

“Nacimientto Reservoir Water” shall mean the Seventeen Thousand Five Hundred (17,500) Acre-Feet of water which the District has the right to take from the Nacimientto Reservoir pursuant to the Master Water Contract in each Water Year.

“Nacimientto Water Fund” shall mean the separate fund established and maintained by the District within the County Treasury Pool, into which the District shall deposit all Net Revenues and all payments received by the District under the Contract and each Like-Contract.

“Net Revenues” shall mean the sum of (a) the proceeds of sale by the District of Surplus Water, (b) revenues received by the District from Wheeling Customers, and (c) revenues received

by the District from the sale of Reserve Water, less the costs of making such sales and collecting said revenues.

“New Participant” shall mean and include each Other Participant which executes a Like-Contract after the Effective Date, in accordance with Article 29(C) hereof.

“Non-Delinquent Participant” shall mean any of the Participant or any Other Participant which at the time is then complying with its obligations to pay for Nacimiento Project Water hereunder or under its Like-Contract, as set forth in Article 25(A) hereof.

“Notes” shall mean those short-term notes to be issued by the District after the Effective Date, whether Tax-Exempt or Taxable as to their interest component, whose proceeds are to be expended for the costs of design, engineering and planning for the construction of the Nacimiento Project.

“Operation and Maintenance Costs” shall mean the reasonable and necessary current and future expenses of maintaining, repairing and operating the Nacimiento Facilities, including all District administrative expenses including all related District overhead costs and expenditures directly attributable to the Nacimiento Facilities, but excluding the Capital Reserve Costs and the Capital Projects Installment Debt Service, all computed in accordance with generally accepted accounting principles applicable to enterprise funds of government agencies.

“Operation and Maintenance Phase” shall mean the period of time beginning at the conclusion of the Construction Phase and continuing through the term of the Contract.

“Opt-out Date” shall mean the date upon which the Participant may elect to opt out of the Construction Phase of the Nacimiento Project and cease to accrue obligations under this Contract, as further described in Article 2(B).

“Other Delivery Entitlement” shall mean the quantity of Nacimiento Project Water which any Other Participant is entitled to have delivered by the District under its Water Delivery Entitlement Contract in any given Water Year.

“Other Delivery Entitlement Share” shall mean the proportion of the Other Delivery Entitlement of each Other Participant as compared to the Total Delivery Entitlement Obligation in any given Water Year.

“Other Participant” shall mean any other water-distributing public agency of the State of California, city, mutual water company or other entity established under the laws of the State of California, which, having the legal power to do so, executes a Water Delivery Entitlement Contract substantially identical to the Contract (as it may be amended from time to time) for the delivery of water from the Nacimiento Facilities (a “Like-Contract”), except for Participant information, dates, Unit Participations, Participant’s Unit Percentage Share and Delivery Entitlement Share, other than for the purpose of purchasing Surplus Water.

“Parity Debt” shall mean, as to the Participant and its Water Enterprise, and as to the Water Enterprises, individually, of the respective Other Participants, all Additional Debt that, by its terms, is payable on a parity with the obligations of the Participant under the Contract.

“Participant Revenue Fund” shall mean that special segregated fund established with or by the District for the deposit of amounts collected from the Participant hereunder as its portion of Capital Projects Installment Debt Service.

“Participants” – see definition for “All Participants.”

“Participation” includes the following types of participation in the purchase of Nacimientto Project Water, each of which is separately defined herein: All Participants; Participants; Delinquent Participant; Initial Participants; New Participants; Non-Delinquent Participants; Other Participants and Participant.

“Participant’s Capital Share” shall mean the portion of the Total Nacimientto Project Construction Costs to be borne by the Participant, and as set forth in Article 16(C)(3).

“Prior Commitment Water” shall mean One Thousand Seven Hundred Fifty (1,750) Acre-Feet of Nacimientto Reservoir Water available to the District each Water Year from the Nacimientto Reservoir under the terms of the Master Water Contract that has been committed to persons and entities other than the Participant and the Other Participants.

“Project Administration Costs” shall mean those costs expended or incurred by the District relating to the administration or management of the Nacimientto Project or the Nacimientto Facilities, including, but not limited to, costs relating to accounting services, legal services, risk management, insurance, and claims management. Project Administration Costs occur during the Design Phase, Construction Phase, and Operation and Maintenance Phase.

“Required Additional Project” shall mean any capital improvement to the Nacimientto Facilities that the District has determined to be necessary in order to keep the Nacimientto Facilities in good repair and operating condition and to maintain the water supply at the quality required hereunder, or which has been ordered or directed by a Governmental Authority.

“Reserved Capacity” shall mean that part of the capacity of the Nacimientto Facilities, if any, which is not needed by the District for the delivery of the Total Delivery Entitlement Obligation.

“Reserved Capacity Construction Cost” shall mean costs expended or incurred by the District on the Nacimientto Facilities in order to be capable of conveying and delivering the Reserve Water, if any.

“Reserve Pool Water” shall mean the portion of Reserve Water remaining, if any, after the District applies and delivers the Reserve Water, if any, in accordance with the priorities set forth in Article 29(A) hereof.

“Reserve Water” shall mean, if any, that part of the Nacimientto Reservoir Water remaining after the subtraction of the Prior Commitment Water and the Total Delivery Entitlement Obligation.

“Reserve Water Customer” shall mean any person or entity that is a party to a contract with the District pursuant to which that person or entity is obligated to purchase Reserve Water from the District.

“Scheduled Maintenance” shall mean the maintenance tasks for the Nacimientto Facilities which are required to be accomplished less frequently than annually, a portion of the costs of which shall be set aside in each annual budget of the District in anticipation of such requirement.

“Surplus Water” shall mean, in each Water Year, the sum of (i) the Reserve Water for such Water Year, if any, plus (ii) the Turn-Back Pool Water for such Water Year, if any.

“Taxable Obligations” shall mean those certain obligations of the District under an indenture of trust or evidenced by an installment purchase agreement or similar instrument whose proceeds are used in whole or in part to pay the costs of the Nacimientto Project, any Approved Additional Project or any Required Additional Project, the interest on which is included in gross income pursuant to federal income tax law.

“Tax-Exempt Obligations” shall mean those certain obligations of the District under an indenture of trust or evidenced by an installment purchase agreement or similar instrument whose proceeds are used in whole or in part to pay the costs of the Nacimientto Project, any Approved Additional Project, or any Required Additional Contract, the interest on which is excluded from gross income for federal income tax purposes.

“Technical Support Group” shall mean that group of representatives from the District and the Participants who have been assigned by their respective organizations to consult as a group on technical and policy matters in support of the Nacimientto Project and the Nacimientto Project Commission.

“Total Delivery Entitlement Obligation” shall mean, subject to the Master Water Contract, the total amount of Nacimientto Project Water which the District shall make available in each Water Year as Delivery Entitlements to the Participant and Other Delivery Entitlements to the Other Participants under the Contract and under all the other Like-Contracts, and which total shall not exceed the Nacimientto Reservoir Water, less the Prior Commitment Water and less the Reserve Water, if any.

“Total Nacimientto Project Construction Costs” shall mean the costs and expenses incurred by the District in the acquisition and construction of the Nacimientto Facilities.

“Total Participant Contract Payments” shall mean all of the payments due from the Participant and the Other Participants pursuant to Articles 16 and 17 hereof and the corresponding Articles of the Like-Contracts with the Other Participants.

“Turn-Back Pool Water” shall mean that part of the Delivery Entitlement which the Participant does not request be delivered for the Water Year in question in accordance with Article 7 hereof, together with those portions of the Other Delivery Entitlements which are not requested to be so delivered under the correlative provisions of the affected Like-Contracts.

“Unit” shall mean those facilities, which collectively make up the operating segments of the Nacimientto Facilities, delineated as provided in Exhibit A.

“Unit Percentage Share” shall mean the Participant’s pro rata share of the Capital Reserve Costs, the Operation and Maintenance Costs and All Other Construction Costs component for each Unit and as set forth in Article 16(C)(1) and 16(C)(3)(c) herein; or, in the context of a Like-Contract with any Other Participant, the term “Unit Percentage Share” shall mean and refer to the correlative pro rata share of such Other Participant or Participants.

“Variable Energy Costs” shall mean the actual Nacimientto Facilities pumping energy costs incurred by the District in conveying and delivering: (i) the Delivery Entitlement and Surplus Water to the Participant and (ii) the respective Other Delivery Entitlements and Surplus Water to the Other Participants as defined under their respective Like-Contracts and as set forth in Article 16(C)(2) hereof.

“Water Delivery Entitlement Contracts” shall mean the Contract and the other Nacimientto Project Water Delivery Entitlement Contracts entered into by and between the District and the Other Participants and any amendments thereto.

“Water Enterprise” shall mean the water system operated and to be operated by the Participant for sale of water to its customers or to the general public within the Participant’s jurisdiction.

“Water Enterprise Charges” shall mean the rates and charges imposed and collected by the Participant for the provision of water through its Water Enterprise.

“Water Rights” shall mean (a) water rights, (b) claims to water rights or (c) agreements concerning water rights, including, but not limited to, overlying, prescriptive, appropriative, riparian or pueblo rights.

“Water Year” shall mean the twelve (12)-month period from October 1 of each year to and including September 30 of next following year.

“Wheeling Customer” shall mean any person or entity to which the District conveys water, other than Nacimientto Project Water, through any Unit.

ARTICLE 2: TERM OF CONTRACT; RESCISSION

(A) Term. This Contract shall become effective on the Effective Date and shall remain in effect throughout the term provided by Section 3 of the Master Water Contract; *provided*, that if and when, through no fault of the District, one or more provisions of the Master Water Contract shall be terminated or suspended in the manner and for a cause specified in the Master Water Contract, the District’s obligations to the Participant and to the Other Participants under the Contract and under the Like-Contracts shall likewise be terminated or suspended; *provided*, however, that the Contract may not be terminated, suspended or rescinded so long as there remain outstanding any Municipal Obligations issued by the District for the Nacimientto Facilities.

[ARTICLE 2(B) through (E) intentionally omitted and attached hereto as Exhibit C for reference purposes only]

**ARTICLE 2.5:
ALTERNATE FINANCING OF DESIGN PHASE COSTS**

[ARTICLE 2.5 intentionally omitted and attached hereto as Exhibit C for reference purposes only]

**ARTICLE 3:
CONSTRUCTION OF THE NACIMIENTO FACILITIES**

[ARTICLE 3 intentionally omitted and attached hereto as Exhibit C for reference purposes only]

**ARTICLE 4:
OWNERSHIP, OPERATION AND MAINTENANCE OF NACIMIENTO FACILITIES**

(A) District Ownership of the Nacimiento Facilities. The Nacimiento Facilities and all of its pumps, machinery, conduits, apparatus, fixtures, fittings and equipment of any kind, real property (including rights-of-way) and capacity are and shall be, owned by the District and shall be held and operated and maintained by the District as provided for herein.

(B) District's Objectives and Covenants. The parties hereto acknowledge and agree that the primary goal of the District under the Contract shall be to deliver Nacimiento Project Water to the Participant and to the Other Participants, subject to cost considerations, as to which the District shall be expected to exercise sound business judgment. In this regard, the District covenants and agrees that it will operate and maintain the Nacimiento Facilities in accordance with the Master Water Contract, all governmental laws, ordinances, approvals, rules, regulations and requirements, including, without limitation, such zoning, sanitary, pollution, environmental and safety ordinances and laws and such rules and regulations thereunder as may be binding upon the District. The District further covenants and agrees that it will maintain and operate the Nacimiento Facilities in good repair, working order and condition, and that it will from time to time inspect and test all Nacimiento Facilities against then-current water supply industry standards, and that the District will pursue all necessary and proper replacement, repairs, renewals and improvements thereto. In its operation of the Nacimiento Project, the District shall have as an objective the maximum beneficial use of the Nacimiento Project Water and its conservation. The District, the Participant and the Other Participants agree that they shall individually and collectively cooperate and work towards this objective. The District, the Participant and the Other Participants, individually and collectively, agree further that, to the extent feasible, all revenues received and interest accrued thereon from the Nacimiento Facilities shall be used for the sole benefit of the Nacimiento Facilities and that all parties shall pay their respective shares of Nacimiento Project Costs for Nacimiento Project Water received.

The District further covenants and agrees that it will take any and all actions necessary to enforce the rights vested in the District by the Contract and the Master Water Contract as the District deems most appropriate. However, in the event the District fails to enforce any such rights, the Participant may assert such rights on behalf of the District by such means as the Participant

deems most appropriate. Nothing in the Contract shall impair or otherwise affect, in any manner, the Participant's right to assert, defend, enforce or otherwise protect any and all rights vested in the Participant by the Contract.

(C) District's Capital Reserves; Annual Budgets to Be Prepared by the District. In order to satisfy its covenants set forth in this Article, the District shall determine the amount of Capital Reserves necessary for the Nacimiento Facilities for the upcoming Water Year and shall prepare its draft annual budget by no later than March 1 to reflect such Capital Reserves. The District shall provide copies of each such budget to the Nacimiento Project Commission, the Participant and the Other Participants for review and comment prior to the distribution of the draft annual budget to the Board of Supervisors, and shall, if deemed necessary or advisable, develop and promulgate to the Nacimiento Project Commission, the Participant and the Other Participants a multi-year improvement plan for the Nacimiento Facilities reflecting the annual requirements for the Capital Reserves.

ARTICLE 5: EXISTING OBLIGATIONS: MASTER WATER CONTRACT AND PRIOR COMMITMENT WATER

(A) Primacy of Master Water Contract. The obligations of the District under the Contract and the obligations of the District under each and every Like-Contract with the Other Participants, shall be subject to the provisions of the Master Water Contract and should the provisions of the Master Water Contract restrict, impair or prohibit the District from the performance of any or all of the District's obligations under the Contract and/or the Like-Contracts with the Other Participants, then the District shall, to the extent that the District is so restricted, impaired or prohibited, be relieved of its said performance obligations to the Participant under the Contract. The Contract does not create in the Participant any rights or interest in or to the Master Water Contract. The Participant has been provided with a copy of the Master Water Contract for review. On advice of counsel, the Participant has reviewed the Master Water Contract and determined that the terms of the Master Water Contract do not conflict with the terms of the Contract or the Participant's obligations hereunder.

(B) Prior-Commitment Water. No part of the Prior-Commitment Water shall be used by the District to satisfy any of the District's obligations under the Contract with the Participant, Like-Contracts with Other Participants or the District's agreements with Reserve Water Customers or third parties.

ARTICLE 6: DELIVERY ENTITLEMENT

[ARTICLE 6(B) paragraph 2 intentionally omitted and attached hereto as Exhibit C for reference purposes only]

(A) Amount of Delivery Entitlement. Subject to the provisions of Article 14(D), and so long as water is made available to the District under the Master Water Contract, the District shall make available to the Participant, in each Water Year, the Delivery Entitlement specified in Table 1. Notwithstanding the foregoing:

(1) The Total Delivery Entitlement Obligation available under the Contract and under the Like-Contracts with the Other Participants may be reduced, following written notice given to the Participant from the District, for any of the conditions or reasons set forth in Articles 13, 14 and 15 hereof; and

(2) Under the Contract and all Like-Contracts, the District shall not be obligated to deliver to the Participant or to any Other Participants, nor shall said Participants have any rights in or to, any of the District's Prior-Commitment Water.

(B) Limit on Rate of Deliveries of Water to Participant. In no event shall the District be obligated to deliver the Delivery Entitlement and/or Surplus Water through any delivery structure of the Nacimiento Facilities at a total combined instantaneous rate of flow exceeding that specified in Table 1. The maximum amount of said water to be delivered by the District to the Participant from the Nacimiento Facilities in any one month of any year shall not exceed that specified in Table 1. While the District is not required to deliver more than that specified in Table 1 of water to the Participant in any one month of any year, and while the District is not obligated to deliver the Delivery Entitlement and/or Surplus Water through any delivery structure of the Nacimiento Facilities at a total combined instantaneous rate of flow exceeding that specified in Table 1, in the event deliveries required to be made by the District to the Other Participants do permit a higher monthly rate of delivery to the Participant, then the District shall have the discretion temporarily to exceed the maximum monthly deliveries provided for herein.

(C) No District Obligation to Deliver at Particular Head or Pressure. The District is under no obligation to the Participant to deliver the Delivery Entitlement at any particular head or pressure.

(D) Participant's Right to Acquire Additional Delivery Entitlement. To the extent that the District has available Reserve Water, Participant shall have the right to apply to, and acquire from, the District, additional delivery entitlement as provided for in Article 29 herein.

ARTICLE 7: WATER YEAR DELIVERY AMOUNTS AND SCHEDULE

The amounts, times and rates of delivery of the Delivery Entitlement to the Participant during any Water Year shall be in accordance with a water delivery schedule determined by the District in the following manner:

(A) Preliminary Water Delivery Schedule. On or before October 1 of each Calendar Year, the Participant shall submit in writing to the District a preliminary water delivery schedule which sets forth the amounts, rates and times of the conveyance and delivery of the Delivery Entitlement as is desired by the Participant for each month of the next succeeding three (3) Water Years.

(B) Coordination with Other Participant Preliminary Schedules. Upon receipt of the Participant's preliminary water delivery schedule, the District will consider the Participant's requested schedule, and the preliminary water delivery schedules submitted to the District by the

Other Participants, and, after consultation with the Participant, the District shall make such modifications in the Participant's preliminary water delivery schedule as will allow the District to schedule the amounts, times and rates of the conveyance and delivery of the Delivery Entitlement, and those of the Other Participants, so that the requests of the respective Participants will match as closely as possible their respective requests but in a manner which is consistent with the efficient and economical operation of the Nacimiento Facilities.

(C) Amendment of Schedules. The Participant's water delivery schedule may be amended, from time to time, upon the written request of the Participant to the District, subject to the pre-existing obligations of the District under the water delivery schedules of Other Participants for the same period of time.

ARTICLE 8: PLACE OF DELIVERY

(A) Place of Delivery. All of the Delivery Entitlement and all Surplus Water furnished to the Participant shall be delivered to the Participant at Unit 11 (the "Place of Delivery").

(B) [Intentionally omitted and attached hereto as Exhibit C for reference purposes only].;

(C) Request for Change in Place of Delivery at any Time. If the Participant shall desire at any time during the term of this Contract to change the Place of Delivery, or to request an additional place(s) of delivery, the Participant may do so, *provided*, the new or additional place of delivery will not interfere with, or restrict, or impair, the conveyance or delivery of the delivery entitlement of any Other Participant and, *provided* that the Participant shall furnish to the District all of the costs and expenses which the District shall incur in the acquisition and construction of the new or additional place of delivery for the Participant.

ARTICLE 9: MEASUREMENT OF DELIVERY ENTITLEMENT AND SURPLUS WATER

All of the Delivery Entitlement and all Surplus Water furnished to the Participant pursuant to the Contract shall be measured by the District by means of the District's measuring device(s) located at the place(s) of delivery established for the Participant under Article 8 of the Contract. Upon the request of the Participant, the District shall investigate the accuracy of the District's measurements, and the District, in writing, shall deliver the findings of the District to the Participant. Any error discovered in the course of such an investigation shall be cause for an adjustment in the amounts charged the Participant. The Participant may, at the Participant's expense, and after reasonable notice to the District, inspect the District's measuring equipment for the purpose of determining the accuracy of the equipment.

ARTICLE 10: NO RESPONSIBILITY

After the Delivery Entitlement or any portion thereof, and/or after the Surplus Water or any portion thereof, shall have passed the place(s) of delivery established for the Participant under Article 8 of the Contract, neither the District nor its officers, agents or employees shall be liable

for the control, carriage, conveyance, handling, use, disposal, distribution or changes occurring in the quality or quantity of such water, or for any claim or damages of any nature whatsoever, including, but not limited to, property damage or personal injury or death arising out of or connected with the control, carriage, conveyance, handling, use, disposal, distribution or changes occurring in the quality or quantity of such water beyond such place(s) of delivery. The Participant shall defend, indemnify and hold harmless the District and its officers, agents and employees from and against any such damages or claims of damage.

ARTICLE 11: WATER QUALITY

When the District shall deliver the Delivery Entitlement and/or any Surplus Water to the Participant from the Nacimiento Project Water, said water shall be at a quality that is substantially the same as the quality of said water at the time it was taken from the Nacimiento Reservoir by the District. The District shall assume no further or additional responsibility for the quality of the water delivered to the Participant under the Contract and the District does not warrant the quality of any such water for any particular use. The Participant shall be responsible for the treatment of all such water to the minimum water quality standards for water for domestic use as may be established from time to time by the State of California and/or by the federal government and the Participant shall defend, indemnify and hold harmless the District from and against any and all claims, damages, costs, expenses, judgments, attorney fees or other liability to any person or entity asserting that said water does not meet or has not met said domestic use water quality standards.

ARTICLE 12: SURPLUS WATER

(A) District Determination of Amount of Surplus Water; Reserve Pool; Turn-Back. The District shall notify All Participants of the total amount of Surplus Water, if any, available for a Water Year on or about the first day of the then-current Water Year, and once so declared by the District, said amount shall not be changed without first obtaining the consent of All Participants. Surplus Water purchased by the Participant will be delivered to the Participant in the same manner provided for the delivery of the Participant's Delivery Entitlement and to the extent that all of said Surplus Water purchased is not in fact taken by the Participant by the end of the Water Year in question, then such undelivered amount of Surplus Water shall revert to the District and shall not thereafter be available to the Participant.

(B) Sale of Surplus Water by District; Rates. From the Surplus Water held by the District, the District shall first sell any and all of the Reserve Pool Water portion of the Surplus Water. No Turn-Back Pool Water shall be sold by the District so long as any Reserve Pool Water remains unsold.

(1) Sale of Reserve Pool Water. The District shall offer the Reserve Pool Water, if any, to the Participant and to Other Participants pro rata in proportion to their respective Delivery Entitlement Share and Other Delivery Entitlement Shares. Any amounts of Reserve Pool Water not purchased by an Other Participant shall be re-offered to the Participant, if it purchased its pro rata share of Reserve Pool Water, and the Other Participants purchasing Reserve Pool Water pro rata according to their respective Delivery

Entitlement Share and Other Delivery Entitlement Shares until all of the Reserve Pool Water has been sold.

(a) Price for Reserve Pool Water. For Reserve Pool Water, the Participant shall pay to the District the sum of the following:

(1) The portion of the Operation and Maintenance Costs attributable to the Reserve Pool Water and incurred by the District in the immediately preceding Water Year per acre-foot; plus

(2) The Variable Energy Costs incurred by the District for the delivery of the Reserve Pool Water as calculated in Article 16(C)(2) hereof.

(b) Revenues from Sale of Reserve Pool Water. All revenues derived by the District from the sale of Reserve Pool Water shall be applied as a credit against the obligations of the Participant and the Other Participants in proportion to the Delivery Entitlement Share and the Other Delivery Entitlement Shares of the Participant and the Other Participants, respectively.

(2) Sale of Turn-Back Pool Water. The District shall offer the Turn-Back Pool Water to the Participant and to the Other Participants pro rata in proportion to their Delivery Entitlement Share and Other Delivery Entitlement Shares, respectively.

(a) Price for Turn-Back Pool Water. For the Turn-Back Pool Water, the Participant shall pay to the District the sum of the following:

(1) The average of the Operation and Maintenance Costs incurred by the District in the immediately preceding Water Year per acre-foot for the delivery of the Delivery Entitlement and the Other Delivery Entitlements to the Participant and to the Other Participants, respectively; plus

(2) The Variable Energy Costs incurred by the District for the delivery of the Turn-Back Pool Water as calculated in Article 16(C)(2) hereof.

(b) Revenues from Sale of Turn-Back Pool Water. All revenues derived by the District from the sale of Turn-Back Pool Water shall be applied as a credit against the obligations of those Participants contributing to the Turn-Back Pool Water and in the proportion to the amount each Participant contributes to the Turn-Back Pool Water in the Water Year, if at all.

(C) If the Participant shall commit in writing to purchase such Surplus Water from the District, the Participant shall be obligated to pay for such Surplus Water, whether or not the Participant accepts delivery of the Surplus Water, so long as such Surplus Water was available for the period in question. Neither the Participant nor any Other Participant shall resell Surplus Water on a wholesale basis at any time to persons or entities not a party to the Contract or to Like-Contracts, without the prior written consent of the District and all Other Participants; provided,

however, that this provision is not intended to limit the sales of Surplus Water to the end customers of the Participant.

(D) The District may offer to sell and deliver any Surplus Water not purchased by the Participant or the Other Participants to any other prospective purchaser without right of renewal, in a manner and at prices which will return to the District the largest Net Revenue practicable for the benefit of the Nacimiento Facilities, but in no event at prices less than those at which such Surplus Water is offered to the Participant, unless the Participant is first tendered such Surplus Water by the District at the lower price in writing, and in each case, attempting to recapture the Operation and Maintenance Costs, the Variable Energy Costs and the Capital Projects Installment Debt Service attributable to the volume of Surplus Water actually purchased by such third parties, at the highest price the market will then bear.

ARTICLE 13: CURTAILMENT OF DELIVERY

The District may temporarily discontinue or reduce the amount of Nacimiento Project Water to be furnished to the Participant during such time as the District is maintaining, repairing, replacing, investigating, or inspecting any of the portions of the Nacimiento Facilities necessary for the furnishing of water to the Participant. Insofar as it is feasible, the District shall give the Participant notice in advance of any such temporary discontinuance or reduction, except in the case of emergency, in which case no notice need be given. In the event of such discontinuance or reduction, the District will upon resumption of service, deliver, as nearly as may be feasible, the quantity of Nacimiento Project Water which would have been furnished to the Participant in the absence of such discontinuance or reduction. Notwithstanding the foregoing, under no circumstances shall the Participant be relieved of any obligation to make Contract Payments as a result of such temporary discontinuance or reduction of Nacimiento Project Water.

ARTICLE 14: NACIMIENTO PROJECT WATER SHORTAGES

(A) Temporary Shortages. In any Water Year in which there may occur a shortage or interruption due to drought or other temporary cause in the supply of the Nacimiento Reservoir Water available for delivery by the District to the Participant, to the Other Participants and/or to the Reserve Water Customers, with the result that the amount of such supply is less than the total of: (i) the Delivery Entitlement and (ii) the Other Delivery Entitlements, plus (iii) the amount of the District's obligations to the Reserve Water Customers for that Water Year, the District shall calculate the amount of said reduced supply of water available to the District for use as Nacimiento Project Water and shall apportion the reduced supply of water as follows:

(1) Subject to the provisions of paragraph (D) below, from the reduced amount of Nacimiento Reservoir Water available to the District under the Master Water Contract in the Water Year in question, the District will subtract One Thousand Seven Hundred Fifty (1,750) Acre-Feet of the Prior-Commitment Water and the result shall be the reduced supply of Nacimiento Reservoir Water available to the District for use as Nacimiento Project Water under the Contract and under the Like-Contracts with Other Participants, and for the District's obligations to Reserve Water Customers; and

(2) For the Water Year in question, the District shall first apply the said reduced supply of Nacimiento Project Water to satisfy the Delivery Entitlement and the Other Delivery Entitlements, and then, to the satisfaction of the District's obligations to Reserve Water Customers. In the event that the said reduced supply of Nacimiento Project Water is insufficient to meet, in full, the Delivery Entitlement and the Other Delivery Entitlements, then the District (i) shall make no deliveries to Reserve Water Customers for that Water Year, and (ii) shall reduce the delivery of water to All Participants pro rata according to the Delivery Entitlement Share or Other Delivery Entitlement Shares of the Participant and each Other Participant, respectively. In the event that said reduced supply of Nacimiento Project Water is sufficient to meet the Delivery Entitlement and the Other Delivery Entitlements, but not the full amount then due to Reserve Water Customers, the District shall reduce the delivery of Reserve Water among the Reserve Water Customers pro rata, according to the amounts they have contracted for during the Water Year in question.

(B) Permanent Shortages. In the event that there is a reduction in the supply of Nacimiento Reservoir Water provided to the District under the Master Water Contract, which notwithstanding the preventative or remedial measures taken by the Monterey Water Agency, threatens or causes a permanent shortage in the amount of Nacimiento Reservoir Water available to the District under the Master Water Contract, with the result that the District concludes such supply will, for an indefinite period extending beyond the current Water Year, be less than Seventeen Thousand Five Hundred (17,500) Acre-Feet, the District shall calculate and apportion the permanently reduced supply of water as follows:

(1) Subject to the provisions of paragraph (D) below, from the reduced supply of Nacimiento Reservoir Water available to the District under the Master Water Contract, the District will subtract One Thousand Seven Hundred Fifty (1,750) Acre-Feet of Prior-Commitment Water and the result shall be the amount of Nacimiento Reservoir Water available to the District for use as the reduced Nacimiento Project Water under the Contract, the Like-Contracts with Other Participants and for the District's obligations to Reserve Water Customers; and

(2) For future Water Years, the District shall first apply the reduced supply of Nacimiento Project Water to satisfy the District's obligations to the Participant under the Contract and to the Other Participants under Like-Contracts, and then to the satisfaction of the District's obligations to Reserve Water Customers. In the event that the reduced Nacimiento Project Water is insufficient to meet, in full, the District's obligations to the Participant under the Contract and to the Other Participants under the Like-Contracts, the District shall permanently reduce the delivery of water to All Participants pro rata, in proportion to the Participant's Delivery Entitlement Share and the Other Participants' Other Delivery Entitlement Shares. In the event that the reduced Nacimiento Project Water is sufficient to meet the District's obligations to All Participants under the Contract and the Like-Contracts, but not the full amount then due to Reserve Water Customers then the District shall reduce the delivery of Reserve Water to Reserve Water Customers pro rata, according to the amounts contracted for during the most recent Water Year completed.

(3) In the event and to the extent that the permanent shortage is ameliorated and some or all of the reduced Nacimiento Reservoir Water is later restored to the District, the restored amount of water shall be allocated to the Participant and the Other Participants in proportion to the Delivery Entitlement Share and the Other Delivery Entitlement Shares, respectively.

(C) No Liability for Shortages. Neither the District nor any of its officers, agents, or employees shall be liable for any damage, direct or indirect, arising from shortages in the amount of Nacimiento Project Water to be made available to the Participant under the Contract caused by the non-availability of water to the District under the Master Water Contract or caused by drought, operation of the Nacimiento Reservoir, operation of area of origin laws, or any other cause beyond the control of the District.

(D) Equitable Sharing of Shortages with Prior-Commitment Water. To the extent that the District is able to do so under the District's contractual obligations to the persons and entities entitled to Prior-Commitment Water, the District will, during times of shortage, endeavor to reduce the amounts of Prior-Commitment Water extracted from the District's 17,500 acre-feet of water from the Nacimiento Reservoir in proportion to the ratio of 1,750 to 17,500.

ARTICLE 15: LIMITATIONS ON OBLIGATION TO FURNISH WATER

(A) Limited District Obligations. Notwithstanding any provisions of the Contract to the contrary, the obligation of the District to furnish Nacimiento Project Water hereunder shall be limited to the times and to the extent that water from the Nacimiento Reservoir and the facilities necessary for furnishing the same are available to the District pursuant to the Master Water Contract.

(B) District Not Liable for Monterey Water Agency Failure to Perform Master Water Contract. The District shall not be liable for its failure to perform any part of the Contract to the extent that such failure is caused by the wrongful failure of the Monterey Water Agency to perform any obligation imposed on the Monterey Water Agency by the Master Water Contract; *provided*, that the District shall diligently and promptly pursue all rights and remedies available to the District to enforce the rights of the District against the Monterey Water Agency under the Master Water Contract relative to such failure to perform and *provided* further, that the costs and expenses incurred by the District in the enforcement or attempted enforcement of said rights under the Master Water Contract shall be considered to be a part of the Operation and Maintenance Costs under the Contract.

ARTICLE 16: OBLIGATIONS FOR NACIMIENTO PROJECT COSTS

(A) Participant's Obligations to Pay. The Participant shall pay its Contract Payments to the District, in the manner provided below

(B) District's Determination of Nacimiento Project Costs for each Fiscal Year. On or before April 1 of each Calendar Year, the District shall estimate the new or additional Nacimiento Project Costs for the Fiscal Year commencing on the immediately following July 1 and the result

shall comprise the Total Participant Contract Payments due, collectively, from the Participant hereunder and from the Other Participants under their respective Like-Contracts for the said Fiscal Year. Nacimientto Project Costs shall include:

- (1) Nacimientto Project Construction Costs;
- (2) Additional Capital Project Costs;
- (3) Capital Projects Installment Debt Service. The Capital Projects Installment Debt Service existing as of the Effective Date is covered by the Purchase of Reserve Water Delivery Entitlement and Reserved Capacity Fee, already paid by the Participant;
- (4) Master Water Contract Costs;
- (5) Capital Reserve Costs;
- (6) Operation and Maintenance Costs;
- (7) Variable Energy Costs;
- (8) Other annual or incidental costs associated with the Nacimientto Facilities.

(C) District's Allocation of District's Nacimientto Project Costs. Nacimientto Project Costs shall be allocated by the District among the Participant and all Other Participants as follows:

- (1) The District shall allocate Capital Reserve Costs and Operation and Maintenance Costs to the Participant on the basis of the Unit Percentage Share of Capital Reserve Costs and Operation and Maintenance Costs attributable to the Units used by the District to deliver the Delivery Entitlement to the Participant. The Participant's Unit Percentage Share of Capital Reserve Costs and Operation and Maintenance Costs is specified in Table 1.

The Participant shall pay such amounts allocated to the Participant under this paragraph in the manner provided for in Article 17(A)(1) and (2) below.

- (2) For each Calendar Quarter, Variable Energy Costs shall be determined by the District and shall be allocated to the Participant and to the Other Participants as follows:

- (a) Variable Energy Costs for the Calendar Quarter in question shall be divided by the total acre-feet of Nacimientto Project Water delivered by the District during such Calendar Quarter to the Participant and to all Other Participants pursuant to the Contract and Like-Contracts; and

- (b) The result in subsection (a) shall be multiplied by the number of acre-feet of Nacimientto Project Water delivered by the District to the Participant during such Calendar Quarter, which result shall be allocated to the Participant. The District shall notify the Participant in writing of the amount of Variable Energy Costs allocated to the Participant by a date no later than the forty-fifth (45th) day following the end of each Calendar Quarter for the variable costs attributable to the Calendar Quarter most recently concluded. The Participant shall pay such amounts

allocated to the Participant under this paragraph in the manner provided for in Article 17(A)(3) below.

(3) The District shall allocate Nacimientto Project Construction Costs as follows:

The Nacimientto Project Construction Costs shall have three components:

(a) The costs attributable to environmental mitigation requirements (the “Environmental Mitigation Construction Cost component”). The Environmental Mitigation Construction Cost component shall be allocated pro rata to the Participant and to the Other Participants on the basis of the Delivery Entitlement Share and the Other Delivery Entitlement Shares, respectively. The Delivery Entitlement Share apportioned to the Participant for the Environmental Mitigation Construction Cost component is specified in Table 1.

(b) The costs attributable to the District’s Reserved Capacity (the “Reserved Capacity Construction Cost component”). The Reserved Capacity Construction Cost component, if any, shall be allocated pro rata to the Participant and to the Other Participants on the basis of the Delivery Entitlement Share and the Other Delivery Entitlement Shares, respectively. The Delivery Entitlement Share apportioned to the Participant for the Reserved Capacity Construction Cost component is specified in Table 1.

(c) The costs attributable to all other construction costs (the “All Other Construction Costs component”). The All Other Construction Costs component shall be allocated on a Unit Percentage Share basis. The Participant’s Unit Percentage Share of All Other Construction Costs is specified in Table 1.

The Participant shall pay such amounts allocated to the Participant under this paragraph in the manner provided for in Article 17(A)(1) and (2) below.

(4) Subject to the limitation described in Article 16(B)(3) above related to the debt covered by the Purchase of Reserve Water Delivery Entitlement and Reserved Capacity Fee paid by Participant, the District shall allocate Capital Projects Installment Debt Service among All Participants, pro rata, according to the proportion of Nacimientto Project Construction Costs per Article 16(C)(3) paid by the Participant and the Other Participants, as they may be adjusted for cash contributions under Article 17(B); *provided, however*, that the Capital Projects Installment Debt Service shall further be allocated into a component representing debt service on Tax-Exempt Obligations (the “Tax-Exempt Debt Service”) and a component representing the debt service on Taxable Obligations (the “Taxable Debt Service”). If the Participant is eligible to borrow on a tax-exempt basis under the Tax Code, then the Participant and the Other Participants who are also so eligible shall be allocated their pro rata shares of Tax-Exempt Debt Service; if the Participant is not eligible to borrow on a tax-exempt basis under the Tax Code, then the Participant and any

Other Participants who are also ineligible to so borrow shall be allocated their pro rata shares of Taxable Debt Service.

(5) The District shall allocate all other Nacimiento Project Costs not otherwise provided for above, including Master Water Contract Costs, to the Participant and to all of the Other Participants pro rata on the basis of the Delivery Entitlement Share for the Participant and the Other Delivery Entitlement Shares for the Other Participants. As of the date of execution of the Contract, there is apportioned to the Participant zero and 508/1000 percent (0.508%) of the District's said remaining costs, including the Required Additional Project Costs and Master Water Contract Costs. The Participant shall pay such amounts allocated to the Participant under this paragraph in the manner provided for in Article 17(A)(4) below.

(6) The foregoing allocations shall be calculated by the District each Fiscal Year for the Participant and for each Other Participant and the calculations of said allocations shall be made available to the Participant.

(7) No more frequently than annually, the District shall retain a CPA with the approval of the Commission. The CPA shall be responsible for reviewing and confirming the District's allocation of the Participant's portion of Nacimiento Project Costs and reporting the same to the Participant, the District and each Other Participant.

(8) The obligations of the Participant, if any, for any Approved Additional Project will be established at the time of and by the agreement for each such Approved Additional Project.

ARTICLE 17: CONTRACT PAYMENTS

(ARTICLE 17(B)(1), 17(B)(2), AND 17(C) INTENTIONALLY OMITTED AND ATTACHED HERETO AS EXHIBIT C FOR REFERENCE PURPOSES ONLY)

(A) Time and Amount of Contract Payments. Except as established under Paragraph (C) below as to Capital Projects Installment Debt Service, the Contract Payments to the District shall commence no later than the first Fiscal Year during which the Delivery Entitlement is made available to the Participant hereunder, and in any event, promptly following receipt by the Participant of an invoice from the District. The Contract Payments shall be determined by the District as provided in Article 16 of the Contract and shall be paid by the Participant to the District in accordance with the further provisions of this Article, except and to the extent the Participant shall, in accordance with paragraph (B) below, be entitled to an offsetting credit.

(1) On or before July 1 of each Fiscal Year, the Participant shall pay a sum equal to sixty percent (60%) of the Participant's Allocation of Capital Reserve Costs, and Operation and Maintenance Costs as calculated and allocated under Article 16(C)(1) above; and

(2) On the immediately following January 1 within each Fiscal Year, the Participant shall pay a sum equal to forty percent (40%) of the Participant's Allocation of

Capital Reserve Costs and Operation and Maintenance Costs as calculated and allocated under Article 16(C)(1) above; and

(3) On or before the thirtieth (30th) day following its receipt of an invoice from the District under Article 16(C)(2), the Participant shall pay Variable Energy Costs as calculated and allocated under Article 16(C)(2) above, for the Calendar Quarter most recently concluded; and

(4) On or before July 1 of each Fiscal Year, the Participant shall pay a sum equal to the Participant's Allocation of Capital Projects Installment Debt Service as calculated and allocated under Article 16(C)(4) above.

(5) On or before July 1 of each Fiscal Year, the Participant shall pay a sum equal to the Participant's allocation of remaining Nacimiento Project Costs, including Additional Capital Project Costs and Master Water Contract Costs as calculated and allocated under Article 16(C)(5) above.

(B) Participant Credits against Contract Payments. The following shall constitute credits against the Contract Payments to the District:

(1) [Intentionally omitted and attached hereto as Exhibit C for reference purposes only]

(2) [Intentionally omitted and attached hereto as Exhibit C for reference purposes only]

(3) The Participant shall be entitled to a credit against the Participant's obligations to the District hereunder in the form of a share of the Net Revenues the District shall have received during the Fiscal Year in question. In determining the amount of such credits against the obligations of the Participant hereunder, the District shall apportion the District's net revenues from the foregoing sources; (i) first, against the obligations allocated to the Participant and to the Other Participants for the Reserve Capacity Construction Cost component, if any, and in the same amount as the percentage allocation set forth for the Participant in Article 16(C)(3)(b) herein, and then (ii) against the obligations allocated to the Participant and to the Other Participants for the All Other Construction Costs component and in the same amount as the percentage allocation set forth for the Participant in Article 16(C)(3)(c) herein.

(4) On or before December 1 of each year, the District shall deliver to the Participant a statement as to the actual Operation and Maintenance Costs and Capital Reserve charges incurred or imposed during the Fiscal Year most recently concluded, and shall set forth in such statement the District's determination as to whether the Contract Payments theretofore paid by the Participant were in excess of or less than the Participant's allocated share of the actual costs incurred by the District for said items. If the Participant shall have paid less than the Participant's actual Unit Percentage Share for said items for such Fiscal Year, the Participant shall remit the difference to the District within one hundred eighty (180) days of the date upon which the Participant receives such a statement from the District. If the Participant shall have paid more than the Participant's actual Unit

Percentage Share for such items for such Fiscal Year, the District shall credit the difference against the Participant's future Contract Payments to the District.

(5) If, in any Fiscal Year, the Nacimiento Water Fund of the District receives its allocated portion of the *ad valorem* taxes levied on the real property within the County of San Luis Obispo under the authority of Article XIII A, Section 1(a) of the California Constitution, then the District shall apply said apportioned amount received by the District to the reduction of Reserved Capacity Construction Cost component, if any, and the District shall continue to do so in each Fiscal Year in which the District receives such apportioned amounts up to and until the said Reserved Capacity Construction Cost component is paid. The District shall credit to the Participant the Delivery Entitlement Share of said apportioned tax proceeds received by the Nacimiento Water Fund of the District, less any amounts (i) which the District is obligated to pay under the terms of the Master Water Contract and/or (ii) any amounts which are not received or retained by the District because of the operation of the Community Redevelopment Law (California Health and Safety Code Sections 33000 *et seq.*) or any other applicable law. It is anticipated that on or around the Effective Date, the Nacimiento Project will become fully subscribed and no Reserve Water will continue to exist. Participant acknowledges that at such time as no Reserve Water exists, the District shall have no obligation under this paragraph to apply any portion of the *ad valorem* taxes allocated to the Nacimiento Water Fund of the District to Nacimiento Project Costs.

(C) [Intentionally omitted and attached hereto as Exhibit C for reference purposes only]
Participant's Election Regarding Capitalized Interest.

ARTICLE 18: USE OF TOTAL PARTICIPANT CONTRACT PAYMENTS

During the term of the Contract and the Like-Contracts with Other Participants, the District shall proceed with due diligence to collect Total Participant Contract Payments as and when due, and shall deposit amounts collected into the Participant Revenue Fund promptly upon receipt, and shall apply all other amounts comprising Total Participant Contract Payments in the following order of priority:

- (A) To the payment of Master Water Contract Costs;
- (B) To the payment of Operation and Maintenance Costs;
- (C) To the payment of Variable Energy Costs;
- (D) To the payment of Additional Capital Project Costs; and
- (E) To the replenishment of Capital Reserves for the Nacimiento Project.

**ARTICLE 19:
OBLIGATION TO “TAKE-OR-PAY”**

Neither the Participant’s failure or refusal to accept delivery of water from the Nacimiento Facilities to which the Participant is entitled under the Contract nor the District’s failure to deliver said water shall in any way relieve the Participant of its obligations to make payments to the District as provided for herein. Commencing on the Effective Date, the Participant shall pay all amounts due hereunder, including, without limitation, those due under Article 17 hereof, without reduction or offset of any kind, whether or not the Nacimiento Facilities or any part thereof is then operating or operable or its service is suspended, interfered with, reduced or curtailed or terminated in whole or in part, due to any of the reasons set forth in Articles 6(A), 13, 14 and 15, or otherwise, and such Participant’s Contract Payments shall not be conditional upon the performance or nonperformance by any party to the Contract, or to the Like-Contracts, for any cause whatsoever; provided, however, that any savings from non-operation of the Nacimiento Facilities shall be apportioned among the Participant and the Other Participants in accordance with their respective percentages of the Participant’s and each Other Participant’s Unit Percentage Share.

The Participant’s obligations to make Contract Payments and other payments required to be made hereunder are incurred by the Participant for the benefit of future holders of Municipal Obligations, and shall be absolute and unconditional. Such payments shall be absolutely net, free of any deductions, and are not subject to any reduction, whether by offset, recoupment, counterclaim or others. The Participant shall make all such payments notwithstanding the occurrence of any act or circumstances that may constitute failure of consideration, destruction of or damage to the Nacimiento Facilities, commercial frustration of purpose, any change in the tax or other laws of the United States of America or of the State of California, or any political subdivision or either of these.

**ARTICLE 20:
PARTICIPANT’S PLEDGE AND COVENANTS**

[ARTICLE 20 intentionally omitted and attached hereto as Exhibit C for reference purposes only]

**ARTICLE 21:
WATER ENTERPRISE OPERATION AND MAINTENANCE**

[ARTICLE 21 intentionally omitted and attached hereto as Exhibit C for reference purposes only]

**ARTICLE 22:
COVENANTS OF THE DISTRICT AND THE PARTICIPANT; SPECIAL TAX
COVENANTS**

[ARTICLE 22 intentionally omitted and attached hereto as Exhibit C for reference purposes only]

**ARTICLE 23:
NO OUTSIDE SERVICE**

Neither the Delivery Entitlement nor the Participant's Surplus Water, nor any portion of either, shall be sold or delivered or otherwise disposed of by the Participant outside the boundaries of the District.

**ARTICLE 24:
FAILURE TO LEVY, SET OR COLLECT TAXES, RATES AND CHARGES;
ESTABLISHMENT OF COVERAGE ACCOUNT**

[ARTICLE 24 intentionally omitted and attached hereto as Exhibit C for reference purposes only]

**ARTICLE 25:
PARTICIPANT'S OBLIGATIONS SEVERAL AND NOT JOINT; STEP-UP
PROVISIONS AND REIMBURSEMENT**

(A) Participant Not Responsible for Failures of Other Participants; Exception. Except as provided in paragraph (B) of this Article, the Participant shall be solely responsible and liable for performance under the Contract and shall not be responsible for any failures of any Other Participant to perform such Other Participant's obligations under any other Like-Contract. The obligations to the District to make payments under the Contract and under the other Like-Contracts are expressly recognized by the District as several, and not joint, and no default on the part of one, or more, of the Other Participants shall, in and of itself, create an event of default under the Contract. The Coverage Account of the Participant, if any is established hereunder, shall not be available for any failure of any Other Participant to make payments under any of the other Like-Contracts between the District and the Other Participants, unless otherwise directed or approved in writing by the Participant.

(B) Participant's "Step-Up" Obligations. If for any reason the Participant or any Other Participant shall fail to pay its share of Capital Projects Installment Debt Service hereunder or under its Like-Contract, the amount of the resulting Debt Service Shortfall shall be paid, collectively, by all Non-Delinquent Participants. If there is more than one Delinquent Participant, the amount of the Debt Service Shortfall shall be the sum of the unpaid amounts for each Delinquent Participant. When such a Debt Service Shortfall occurs, the Participant shall be required to increase its Contract Payments for the particular Water Year by an amount equal to its pro rata share of the Debt Service Shortfall; *provided*, however, that each Other Participant who is not a Delinquent Participant shall be required by the Other Participant's Like-Contract to also contribute to the Debt Service Shortfall so that the Participant, and all of the Other Participants who are not Delinquent Participants, shall each contribute to the Debt Service Shortfall in a proportion determined by dividing each said Non-Delinquent Participant's Capital Projects Installment Debt Service share (under Article 16(C)(4) of the Contract and the Like-Contracts and as determined in the calculation of the Purchase of Reserve Water Delivery Entitlement and Reserved Capacity Fee with respect to the Participant and SMR Mutual Water Company) by the aggregate of all the Participant's Installment Debt Service shares of all Non-Delinquent Participants, including the Participant; and *provided* further, that the Participant in no event shall

be required under this paragraph to contribute to the Debt Service Shortfall by an amount in any Water Year exceeding the amount which is twenty-five percent (25%) of the share of Capital Projects Installment Debt Service allocated to the Participant under Article 16(C)(4) hereof and as determined in the calculation of the Purchase of Reserve Water Delivery Entitlement and Reserved Capacity Fee with respect to the Participant and SMR Mutual Water Company.

(C) Repayment to Participant by Delinquent Participant(s). If payments are made by the Participant as a Non-Delinquent Participant during any Water Year under the foregoing paragraph (B), the District shall, beginning on the first Due Date when a Debt Service Shortfall is created by a Delinquent Participant, declare a default as to such Delinquent Participant under the Delinquent Participant's Like-Contract and the District shall be entitled to suspend deliveries of the Delivery Entitlement established for such Delinquent Participant under its Like-Contract; notwithstanding the foregoing, by the terms of its Like-Contract, such Delinquent Participant shall nonetheless continue to be obligated for amounts paid on its behalf by the Non-Delinquent Participants, until the Defaulting Participant has reimbursed each Non-Defaulting Participant in full for the amounts they have previously paid in as their pro rata shares of the Debt Service Shortfall. Reimbursement of amounts advanced by the Participant and the Other Participants as Non-Delinquent Participants (or, in the case of multiple Delinquent Participants, the proportionate share thereof) is immediately due and payable to the District by the responsible Delinquent Participant(s), and, if not so paid, and notwithstanding the provisions of Article 26(C) of the Delinquent Participant's Like-Contract, shall incur interest on the unpaid portion until paid in full at a rate per annum equal to the average rate for the County Treasury Pool, plus two percent (2%) per annum, for the month for which the County Treasury Pool rate was most recently calculated, based on a 360-day year of twelve 30-day months; *provided*, however, that payments to be made as reimbursements by a Delinquent Participant are deemed and understood to be subordinate to the obligations of the Delinquent Participant to pay the amounts allocated to the Delinquent Participant as the Delinquent Participant's share of the District's Capital Projects Installment Debt Service under Article 16(C)(4) of the Delinquent Participant's Like-Contract.

(D) "Step-Up" to Be Exhausted before Recourse to Debt Service Reserve Fund/Surety Bond. Shortfalls in Total Participant Contract Payments shall be remedied under this Article prior to the District's making any withdrawal from any debt service reserve fund established, or under the reserve surety bond posted, for the Municipal Obligations, if any are then outstanding. Drawings on or under the debt service reserve fund or reserve surety bond shall be delayed until and unless insufficient moneys are available from Non-Defaulting Participants hereunder.

District's Covenant to Owners of Municipal Obligations. The District covenants and agrees to enforce the provisions of the Contract with due diligence, including, without limitation, the provisions of this Article for the benefit of the owners, from time to time, of the Municipal Obligations.

ARTICLE 26: EVENTS OF DEFAULT; DISTRICT'S REMEDIES

(A) Events of Default by Participant. The following shall constitute events of default hereunder:

(1) The Participant shall fail to make timely payments in full of all amounts due from the Participant under the terms of the Contract; or

(2) [Intentionally committed and moved to Exhibit C]

(3) The Participant shall fail to perform any other obligation or covenant hereunder and shall fail to remedy such failure to the satisfaction of the District within thirty (30) days following the Participant's receipt of written notice from the District, or for such additional time as is reasonably required, in the sole discretion of the District, to correct the same; or

(4) The Participant shall file any petition or institute any proceedings under any act or acts, State or federal, dealing with or relating to the subject of bankruptcy or insolvency or under any amendments to such act or acts, either as a bankrupt or as an insolvent or as a debtor or in any similar capacity, wherein or whereby the Participant seeks or prays to be adjudicated a bankrupt or is to be discharged from any or all of its debts or obligations, or offers a reorganization of its obligations for the benefit of creditors, or asks for similar relief.

(B) District's Remedies. Upon the occurrence of an event of default hereunder, the District shall be entitled to protect and enforce the rights vested in the District by the Contract by appropriate judicial proceedings as the District may deem most effective or convenient, either in equity or law. The use by the District of any remedy specified herein for the enforcement of the Contract is not exclusive and shall not deprive the District of, or limit the application of, any other remedy provided hereunder or by law or by equity. Without limiting the generality of the foregoing, the District shall be entitled to pursue any of the following remedies:

(1) The District may suspend the delivery to the Participant of water hereunder during the period when the Participant is delinquent in its payments or other obligations to the District hereunder, but only following notice to the Participant and the imposition of such remedy following a formal hearing conducted by the Board of Supervisors, unless such failure to pay is as described in subparagraph (5) below;

(2) The District may compel the Participant, or its governing board, by action in any court of competent jurisdiction to account to the District as the trustee of an express trust;

(3) The District may pursue an action in any court of competent jurisdiction to enjoin any acts or things which may be unlawful or in violation of the rights of the District hereunder; and

(4) The District may proceed in mandamus or other suit, action or proceeding at law or in equity to enforce its rights against the Participant (and its governing board, officers, agents and employees) and to compel the Participant to perform and carry out its duties and obligations under the law and its covenants and obligations as set forth herein.

(5) If the Participant shall fail to make timely payments in full of all amounts due from the Participant under the terms of the Contract, and if, as a result, payments are

made by any Non-Delinquent Participant during any Water Year under Article 25(B) hereof, then the District shall, beginning on the first Due Date, declare a default as to the Participant and the District shall be entitled to suspend deliveries of the Delivery Entitlement without referring the matter to the Board of Supervisors for a hearing; notwithstanding the foregoing, by the terms of the Contract, the Participant shall nonetheless continue to be obligated for amounts paid on its behalf by the Non-Delinquent Participants, until such time as the Participant has reimbursed each Non-Defaulting Participant in full. Said amounts advanced by the Non-Delinquent Participants are immediately due and payable by the Participant, and, if not so paid, and notwithstanding the provisions of paragraph (C) of this Article, shall incur interest on the unpaid amounts until paid in full at a rate per annum equal to the average rate for the County Treasury Pool, plus two percent (2%) per annum, for the month for which the County Treasury Pool rate was most recently calculated, based on a 360-day year of twelve 30-day months; *provided*, however, that payments to be made as reimbursements under this paragraph are deemed and understood to be subordinate to the obligations of the Participant to pay the amounts allocated to the Participant as the Participant's share of the District's Capital Projects Installment Debt Service under Article 16(C)(4) of this Contract.

(C) Rate of Interest. Upon each charge to be paid by the Participant to the District pursuant to the Contract which remains unpaid after the time the same shall have become due and payable, interest shall accrue at an annual rate equal to that earned by the County Treasury Pool as provided in California Government Code at Section 16480 *et seq.*, calculated monthly on the amount of such delinquent payment from time to time after the due date when the same becomes due until paid, and the Participant hereby agrees to pay such interest; *provided*, that no interest shall be charged to or paid by the Participant unless such delinquency continues for more than thirty (30) days. The Participant hereby agrees to pay such interest to the District, whether or not the District shall pursue any of the remedies specified in this Article. In no event shall said default interest be compounded.

ARTICLE 27: CHANGES IN ORGANIZATION

The Participant shall furnish the District with maps showing the boundaries of the Participant and showing the service area or areas of the Participant's water distribution system. Throughout the term of the Contract, the Participant shall promptly notify the District of any changes in said boundaries and in said service area or areas occasioned either by addition or by removal of territory. So long as there are outstanding any Municipal Obligations, the Participant shall take no action to remove any lands from the Participant or its service areas without the prior written consent of the District.

ARTICLE 28: ADDITIONAL CAPITAL PROJECTS

(A) Required Additional Projects. At any time, and from time to time, without the consent of the Participant or any Other Participant, the District shall have the authority to undertake the construction or equipping of any Required Additional Project, *provided* that, before a Required Additional Project may be commenced by the District pursuant to direction or order of a competent

Governmental Authority, the Participant and the Other Participants shall be afforded notice by the District of said direction or order and each shall have the opportunity to oppose the imposition of such requirement before a court of competent jurisdiction. Only if a final judgment is thereafter rendered in favor of such direction or order of the said Governmental Authority, or if no such opposition is filed, shall the directed or ordered project be undertaken by the District. It is the intention of the parties hereto that the District shall, as and when necessary, be deemed to assign its rights to pursue opposition to the creation of any obligations hereunder by a Governmental Authority to the Participant and/or the Other Participants as third party beneficiaries hereof and real parties in interest. The District shall allocate the costs of each Additional Capital Project among All Participants pro rata according to the Delivery Entitlement Share and the Other Delivery Entitlement Shares, respectively, unless the Commission shall determine that some other manner of cost allocation is more equitable in which case the Commission's determination shall be final.

(B) Approved Additional Projects. An Approved Additional Project may be undertaken at any time, and from time to time, by the District in accordance with the terms of the specific agreements between the District and the Participant and the Other Participants, *provided* that, funding for an Approved Additional Project will not be from Capital Reserves but from a new and separate capital fund established by the District as a part of the agreement establishing each Approved Additional Project.

(C) Emergency Projects. Emergency Projects, including emergency repairs to the Nacimientto Project, may, notwithstanding the above, be made by the District without notice to, or consultation with, the Participant or the Nacimientto Project Commission or with any Other Participant. The District shall then allocate the costs of each Emergency Project among All Participants pro rata according to the Delivery Entitlement Share and the Other Delivery Entitlement Shares, respectively, unless the Commission shall determine that some other manner of cost allocation is more equitable, in which case the Commission's determination shall be final.

ARTICLE 29: USE OF RESERVE WATER

The District may use the District's Reserve Water, if any, as follows:

(A) Priorities. The District shall use the District's Reserve Water, if any, in the following order of priority:

(1) For the alleviation of any permanent water shortage described in Article 14(B) hereof;

(2) For the alleviation of any temporary water shortage described in Article 14(A) hereof;

(3) For the satisfaction of the District's obligations to each of the Reserve Water Customers;

(4) For adding to and supplementing the Delivery Entitlements for the Participant and/or the Other Delivery Entitlements for the Other Participants who are Initial Participants as provided for by Article 6(D) herein;

(5) For additional and New Participants (defined in paragraph (C) below) who were not Initial Participants;

(6) For such other purposes as the District deems useful and beneficial to the Nacimientto Project.

(B) District's Sale of Reserve Water/Reserved Capacity by Amending Participant's Contract and/or the Like-Contracts of Other Participants who were Initial Participants. In the event that the Participant, or any Other Participant who was an Initial Participant, desires to purchase additional capacity in the Nacimientto Facilities and additional rights to have a portion of Reserve Water conveyed and delivered to the Participant and to the extent that the amount of Reserve Water and Reserved Capacity is sufficient to do so, the District and the Participant may amend the Contract (or, in the case of an Other Participant, the Like-Contract), *provided* that the District shall not enter into any such amendment which provides terms more favorable than those presently existing in the Contract, and in each Like-Contract, and *provided* that the Participant shall, in addition to the payments required under the Like Contract, pay to the District a fee (the "Purchase of Reserve Water Delivery Entitlement and Reserved Capacity Fee") amounting to a sum which will reasonably compensate the District for the Participant's Unit Percentage Share of the Total Nacimientto Project Construction Costs plus the costs of any Additional Capital Projects which are necessary or convenient for the conveyance and/or delivery of the Delivery Entitlement. The District shall apply the Purchase of Reserve Water Delivery Entitlement and Reserved Capacity Fee as a credit to the obligations of the Participant and the Other Participants based on their respective Unit Percentage Share. However, the District shall not so amend this Contract without having first provided sixty (60) days written notice to each Other Participant of the fact that the Participant has applied to the District for such an amendment to the Contract and providing each such Other Participant an opportunity to likewise apply for an additional Delivery Entitlement of Reserve Water/Reserved Capacity. In the event that Other Participants shall also apply to the District at the time of Participant's application for additional Delivery Entitlements of Reserve Water, then to the extent that there is not sufficient Reserve Water or Reserved Capacity to satisfy all of the applications for additional Delivery Entitlements, the Participant and all Other Participants applying for additional Delivery Entitlements shall be granted additional Delivery Entitlements in proportion to their respective Delivery Entitlements existing at the time of the applications. Notwithstanding the foregoing, the Participant acknowledges that it not entitled to any credit against its respective financial obligations as a result of the amendments to the Existing Nacimientto Project Water Delivery Entitlement Contracts described in the recitals hereto.

(C) District's Contract(s) for All or a Portion of Reserve Water and Reserved Capacity by Execution of Like-Contracts with New Participants who were Not Initial Participants. In the event that an entity desires to become a New Participant, acquiring rights to capacity in the Nacimientto Facilities and rights to have conveyed and delivered to the New Participant a portion of Reserve Water, and to the extent that the amount of Reserve Water and the District's Reserved Capacity is sufficient to do so, then the District, after consulting with the Nacimientto Project Commission, and after receiving the written approval from that portion of All Participants holding,

in the aggregate, at least fifty-five percent (55%) of the total of all delivery entitlements to Nacimiento Project Water existing at that time, may enter into a Like-Contract with such New Participant, *provided* that said New Participant shall, in addition to the payments required under the Like-Contract, pay to the District a Purchase of Reserve Water Delivery Entitlement and Reserved Capacity Fee as described above herein. However, notwithstanding the foregoing sentence, each entity listed on Exhibit B hereto shall have the right to become a New Participant, and the District may enter into a Like-Contract with such New Participant, on any day after the last day of the Design Phase without consultation with the Commission or written approval from any portion of All Participants, *provided*, that said New Participant shall, in addition to the payments required under its Like-Contract, pay to the District a Purchase of Reserve Water Delivery Entitlement and Reserved Capacity Fee as described above herein. The District shall apply the Purchase of Reserve Water Delivery Entitlement and Reserved Capacity Fee received from any New Participant as a proportionate credit to the obligations of the Participant and the Other Participants (excluding the New Participant) based on the Participant's and the Other Participants' Unit Percentage Shares; however, Participant acknowledges that it is not entitled to any credit against its respective financial obligations as a result of the Like-Contract with SMR Mutual Water Company described in the recitals hereto. Notwithstanding the foregoing, or any other provision of the Contract, the District shall not execute a Like-Contract with a New Participant if such execution would result in any of the Tax-Exempt Obligations being treated as an obligation not described in Section 103(a) of the Internal Revenue Code of 1986, as amended, by reason of classification of such Tax-Exempt Obligation as a "private activity bond" within the meaning of Section 141 of said Code. .

(D) District's Sale of Reserve Water to Reserve Water Customers.

(1) The District may enter into an agreement to deliver all or a part of Reserve Water, if any, to Reserve Water Customers under the following conditions:

(a) There is Reserve Water and Reserved Capacity available in any year after application of the priorities set forth above herein;

(b) The agreement cannot be for a period of time in excess of five years; and

(c) The price charged by the District to any Reserve Water Customer for the delivery of said Reserve Water may not be less than the greater of: (i) rates that the District would charge for Surplus Water under Article 12 of the Contract delivered to that Participant geographically nearest the place where the Reserve Water Customer takes delivery of Reserve Water; or, (ii) the charges resulting from the application of the provisions of Article 30(A) hereof.

(2) The District's revenues from an agreement for the temporary delivery of Reserve Water to Reserve Water Customers shall be applied by the District to effect a credit under Article 17(B)(3) hereof ("Credit for Participant's Portion of Any of District's Surplus/Wheeling/District Customer Revenues").

**ARTICLE 30:
USE OF RESERVED CAPACITY**

The District shall use its best efforts to temporarily lease the Reserved Capacity, if any, of the Nacimientto Facilities.

(A) District's Use of Capacity in the Nacimientto Facilities for the Delivery of Reserve Water through the Nacimientto Facilities to a Reserve Water Customer. If at any time during the term of the Contract, the District conveys Reserve Water through any Unit to a Reserve Water Customer, the Reserve Water Customer shall be required to pay the District for such conveyance and delivery service in a manner and at prices which will return to the District the largest net revenue practicable, but in no event shall such conveyance be effected at charges less than those applicable to the conveyance of Delivery Entitlement through the same Unit or Units. In determining the appropriate charges for water conveyed and delivered for a Reserve Water Customer, the District shall take into account the particular Unit or Units through which conveyance of such water occurs, shall compare the Operation and Maintenance Costs and Capital Projects Installment Debt Service apportionable to such Unit or Units with Nacimientto Project Costs, and shall further compare the amount of water conveyed for Reserve Water Customers through such Unit or Units with the amount of Nacimientto Project Water conveyed for the Participant and for the Other Participants through such Unit or Units for the same period of time.

(B) Wheeling of Water. If at any time during the term of the Contract, the District conveys water to any Wheeling Customer, said Wheeling Customer shall be required to pay the District for such conveyance and delivery service in a manner and at prices which will return to the District the largest net revenue practicable, but in no event shall such conveyance be effected at charges less than those applicable to the conveyance of Delivery Entitlement through the same Unit or Units. In determining the appropriate charges for water conveyed and delivered for a Wheeling Customer, the District shall take into account the particular Unit or Units through which conveyance of such water occurs, shall compare the Operation and Maintenance Costs and Capital Projects Installment Debt Service apportionable to such Unit or Units with Nacimientto Project Costs, and shall further compare the amount of water conveyed for Wheeling Customers through such Unit or Units with the amount of Nacimientto Project Water conveyed for the Participant and for the Other Participants through such Unit or Units for the same period of time. The District hereby covenants and agrees not to enter into any contract with a Wheeling Customer for the conveyance of water with a term to exceed one (1) year.

**ARTICLE 31:
UNIFORM CONTRACTS**

Nacimientto Project Water Delivery Entitlement Contracts executed by the District with the Other Participants (or with any New Participant) shall be substantially uniform with respect to basic terms and conditions when compared with the Contract, but shall provide for different dates and quantities of water to be conveyed and delivered, the places of water delivery, each delivery entitlement share and each unit percentage share and the payment amounts for each participant.

**ARTICLE 32:
AMENDMENTS TO CONTRACT**

The Contract shall be subject to amendment at any time by mutual agreement of the parties hereto, except insofar as any proposed amendments are in any way contrary to applicable law, or would have a material adverse effect upon the owners of any of the Municipal Obligations. As a condition to any amendment to the Contract or to the Like-Contracts with the Other Participants, the District shall first have received written confirmation from the rating agency or agencies then providing a rating for the Municipal Obligations, to the effect that the proposed amendments will not adversely affect the rating of the Municipal Obligations and, in the event that the Municipal Obligations, or any portion thereof, shall be covered by municipal bond insurance, the District shall have received prior written consent to such proposed amendments from the provider of such bond insurance. Amendments to the Contract and to the Like-Contracts of the Other Participants shall occur only after the written and unanimous consent of the District, the Participant and all Other Participants, except, that the following Additional Projects may be effected without said unanimous consent and upon the following conditions:

(A) Approved Additional Projects. Subject to the provisions of Article 28 hereof, and upon the request of the Participant or of any Other Participant, the District may enter into an amendment of the Contract, and/or of Like-Contracts, in order to undertake the acquisition and construction of an Approved Additional Project; *provided*, however, the Participant and/or Other Participants desiring such Project shall first demonstrate that said Approved Additional Project will be economically feasible with the financial support of only the Participant and/or the Other Participants participating in said Approved Additional Project.

(B) Required Additional Project/Emergency Project. The undertaking of a Required Additional Project or of any Emergency Project by the District shall not require the consent of the Participant or of any Other Participant nor the amendment of the Contract or of any Like-Contract(s).

(C) Approval of Amendments by Participant. The Participant covenants and agrees to act in good faith to approve or reject any proposed amendments hereto within a reasonable period of time. The failure to either approve or reject any such proposed amendment within sixty (60) days from the date of adoption by the Board of a resolution approving such proposed amendment shall constitute a lack of good faith.

**ARTICLE 33:
ESTABLISHMENT OF NACIMIENTO PROJECT COMMISSION**

(A) Commission Membership. The Commission shall have a maximum number of seven Commission seats. Each seat shall be held by a Commissioner as described herein:

(1) Commission membership shall be determined as follows: four seats shall be held by the four Initial Participants; one seat shall be held by the District representative; and a maximum of two seats shall be held by Participants who are not Initial Participants and who have each executed a Like- Contract for a minimum Delivery Entitlement equal to or greater than five-hundred (500) acre-feet per year. Bella Vista Water Company

acknowledges that it does not qualify for a Commission seat based on the amount of its Delivery Entitlement.

(2) A Participant who is not an Initial Participant shall have a Commissioner on the Commission only if there is a vacant seat on the Commission and the conditions described herein are satisfied.

(3) Once the seventh seat on the Commission has been filled, the Commission membership is full and no Participant who is not an Initial Participant shall appoint a Commissioner to, or have a voting right on, the Commission. Voting rights will be fixed once the seventh seat on the Commission has been filled, until such time as membership changes pursuant to Paragraph 33(E) below or the Delivery Entitlement changes for any of the Participants who are seated on the Commission.

(4) The governing body or board of each Participant eligible for a seat on the Commission shall provide the District with written notice of the identity of the primary person (and one alternate if so desired) who will represent that Participant as a Commissioner on the Commission, and the effective date of the appointment. All Commissioners and their alternates shall annually file a Statement of Economic Interests with the Office of the County Clerk-Recorder. All Participants are encouraged to appoint a representative to the Technical Support Group regardless of whether they have a seat on the Commission.

(B) Commission Meetings. The Commission shall meet at such intervals and at such places as it shall determine. Commission meetings shall be subject to the Ralph M. Brown Act.

(C) Purpose. The purpose of the Commission shall be to review and approve all substantive matters pertaining to the construction and operations of the Nacimiento Facilities, including the annual budget per Article 4(C); provided, however, that the Commission shall have no authority to contract, employ persons, or make expenditures. The Board of Supervisors may approve, alter, or return any said approval of the Commission. Furthermore, in every case that the Board of Supervisors alters or returns to the Commission any item or proposition approved by the Commission, the Board of Supervisors shall set forth in writing its findings that caused the Board of Supervisors to alter or return said item or proposition and shall do so only after holding a public hearing, at which time the Commissioners shall have the right to appear and address the Board of Supervisors.

(D) Voting. The total number of votes that may be cast on any issue or proposition considered by the Commission shall be the sum of the voting shares of the Commissioners. Each Commissioner has a voting share as described herein, and the sum of all Commissioners' voting shares shall equal one hundred (100). A simple majority of the voting shares is needed to pass an issue or proposition, unless specified otherwise in the Rules of Procedure or Commission By-Laws.

(1) The District's Voting Share. The voting share of the District's Commissioner shall be equal to the reciprocal of the total number of filled seats on the Commission, multiplied by one hundred (100).

(2) The Participants' Voting Shares. The aggregate remaining number of votes for the Participants having seats on the Commission is equal to one hundred (100) less the District's Voting Share. The individual voting share of each such Participant's Commissioner shall be the pro rata of the remaining votes in proportion to each such Participant's Delivery Entitlement to the aggregate sums of all Commissioners' Delivery Entitlements.

(E) Vacating a Commission Membership Seat. Any of the Participants eligible to have a Commissioner (hereafter, an "Eligible Participant") may choose to vacate its existing seat on the Commission or may choose not to appoint a Commissioner to the Commission if that Eligible Participant submits their request in writing to the Commission and the Commission accepts and approves the Eligible Participant's request. The written request shall be a letter or a resolution of the governing board of the Eligible Participant, confirming the request to vacate its seat on the Commission. Voting rights for all remaining Commissioners would automatically change in accordance with the requirements specified herein once the Commission has accepted and approved the vacating request.

Any Commission seat which becomes vacant shall be available to the earliest qualifying Participant who is not an Initial Participant in accordance with the requirements described herein, and in the chronological order of the earliest execution of a Like-Contract.

Any Initial Participant which vacates its seat on the Commission has the right to subsequently regain a seat on the Commission in accordance with the conditions described herein for a Participant that is not an Initial Participant.

ARTICLE 34: OPINIONS AND DETERMINATIONS; GOOD FAITH

Where the terms of the Contract provide for action to be based upon 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.

ARTICLE 35: WAIVER OF CONTRACT RIGHTS

Any waiver at any time by either party to the Contract of the party's rights with respect to a default or any other matter arising in connection with the Contract shall not be deemed to be a waiver with respect to any other default or matter.

ARTICLE 36: NOTICES

All notices that are required either expressly or by implication to be given by any party to the other under the Contract shall be signed for the District and for the Participant by such officers as they may, from time to time, authorize to so act. All such notices shall be deemed to have been given and delivered if delivered personally or if enclosed in a properly addressed envelope and

deposited with the United States Postal Service for delivery by registered or certified mail. Unless and until formally notified otherwise, all notices shall be addressed to the parties as follows:

To the Participant: Bella Vista Mobile Home Park c/o
Thomsen Properties
301 E. 17th Street, Suite 208
Costa Mesa, CA 92627

To the District: Department of Public Works
County of San Luis Obispo
County Government Center
San Luis Obispo, CA 93408
Attention: Director of Public Works

ARTICLE 37: ASSIGNMENT

The provisions of the Contract shall apply to and bind the successors and assigns of the respective parties, but no assignment or transfer of the Contract, or any part hereof or interest herein, shall be valid until and unless approved by the District. The District shall not approve any such assignment or transfer to any person or entity that is not one or more of the Initial Participants, or a then-existing Participant that is not an Initial Participant, unless and until the proposed assignment or transfer of the Contract has been offered to and refused in writing by all said Participants. The offer of any such assignment or transfer of the Contract shall be on the same basis to all Participants and if more than one of the said Participants desires to accept the offer, the Contract or portion thereof to be assigned or transferred shall be prorated among them in proportion to their respective unit percentage share in the facilities involved in the assignment or transfer. The foregoing notwithstanding, no assignment or transfer of the Contract or any part hereof or interest herein shall be valid until such time as the District has received assurances from each rating agency then rating the Municipal Obligations, to the effect that such assignment or transfer will not adversely affect the rating on the Municipal Obligations, and, so long as any Municipal Obligations are then being insured by a municipal bond insurance company, until such time as the District has received the written consent from such bond insurer as to such assignment or transfer. The Participant understands and acknowledges that the District may pledge amounts received and to be received hereunder and under the other Like-Contracts to a financial institution and/or Joint Exercise of Powers Authority as further support for the District's obligations under the Municipal Obligations.

ARTICLE 38: INSPECTION OF BOOKS AND RECORDS

The authorized officers of the Participant shall have full and free access at all reasonable times to the account books and official records of the District insofar as the same pertain to the matters and services provided for in the Contract, with the right at any time during regular business hours of the District to make copies thereof at the Participant's expense, and the authorized officers of the District shall have similar rights in respect to the account books and records of the Participant for its Water Enterprise.

**ARTICLE 39:
SEVERABILITY**

Any provision of the Contract that is prohibited, unenforceable or not authorized in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition, unenforceability or nonauthorization without invalidating the remaining provisions hereof affecting the validity, enforceability or legality of such provision in any other jurisdiction.

**ARTICLE 40:
WATER RIGHTS**

The parties hereto acknowledge and agree that the Contract is an agreement for service, and only contractual rights are created by the Contract. The Contract does not create an entitlement to nor does it convey to the Participant any property right or interest in the Master Water Contract. Except as to rights associated with imported water discussed in this Article, no provision of the Contract shall be considered, interpreted or applied in any fashion to derogate or otherwise diminish, reduce or detrimentally affect, in any fashion, any parties' existing or subsequently developed or acquired Water Rights. The Contract shall not be considered, interpreted nor applied in any fashion to result in any relinquishment or adjustment of any such Water Rights. In particular, no provision of the Contract shall be considered, interpreted or applied in any fashion to diminish, reduce or detrimentally affect, in any fashion, any party's rights pursuant to Water Code Section 1005.1 or Section 1005.2. Notwithstanding anything to the contrary set forth herein, the parties to the Contract acknowledge that the water delivered to the Participant pursuant to the Contract constitutes "imported water." The District agrees to support any effort of the Participant to establish that the water delivered to the Participant pursuant to the Contract constitutes "imported water." The parties further acknowledge that any rights to water which may arise from the importation and/or use by the Participant of the water delivered pursuant to the Contract (including, but not limited to the use, storage, capture, recapture and/or reuse of such water) are held exclusively by the Participant and no other party.

**ARTICLE 41:
GOVERNING LAW**

The Contract shall be interpreted, governed and enforced in accordance with the laws of the State of California applicable to contracts made and performed in such State.

**ARTICLE 42:
VALIDATION**

Either the District, the Participant or any Other Participant may file and diligently prosecute to a final decree in a court of competent jurisdiction a proceeding in mandamus or other appropriate proceeding or action for the judicial examination, approval, and confirmation of the proceedings had for the organization of the District and for the participation of the Participant in the Nacimientto Facilities hereunder, or for the validation of the agreement(s) which is the basis for the Municipal Obligations, or any of them, or the proceedings of the governing body of the Participant leading up to and including the making of the Contract and the validity of the provisions thereof and hereof.

**ARTICLE 43:
COUNTERPARTS**

The Contract may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute one and the same document.

EXHIBIT A - TABLE 1

Parametric Information for the Water Delivery Entitlement Contract of the Nacimiento Project

Date Table 1 is effective:	April 19, 2016
Name of Participant: (from Contract front page)	Bella Vista Mobile Home Park
Initial or Other Participant (Article 1 definition)	Other Participant
Contract Amendment Number	3
Delivery Entitlement acre-feet each Water Year [Article 6(A)]	10
Delivery Entitlement Share (Article 1 definition)	0.063%
Nacimiento Project Water acre-feet each Water Year (Article 1 definition)	15750
Total Delivery Entitlement Obligation acre-feet each Water Year (Article 1 definition)	15750
Reserve Water acre-feet each Water Year (Article 1 definition)	0
Maximum instantaneous rate of flow cubic feet per second [Article 6(B)]	0.02
Maximum monthly delivery volume of water acre-feet [Article 6(B)]	1.00

Project Segment	Participant's Unit Percentage Share of Capital Reserve Costs and Operation and Maintenance Costs [Article 16(C)(1)]	Participant's Unit Percentage Share of All Other Construction Costs [Article 16(C)(3)(c)]
Systemwide Operating Cost	0.063%	N/A
Unit No. A	0.063%	0.063%
Unit No. A1	0.063%	0.063%
Unit No. B	0.108%	0.086%
Unit No. C	0.063%	0.063%
Unit No. C1	0.063%	0.063%
Unit No. D	0.108%	0.086%
Unit No. E	0.113%	0.088%
Unit No. F	0.178%	0.121%
Unit No. F1	0.108%	0.086%
Unit No. F2	0.178%	0.121%
Unit No. G	0.178%	0.121%
Unit No. G1	0.181%	0.122%
Unit No. G2	0.181%	0.122%
Unit No. H	0.181%	0.122%
Unit No. H1	0.181%	0.122%
Unit No. T2	N/A	N/A
Unit No. T4	N/A	N/A
Unit No. T6	N/A	N/A
Unit No. T9	N/A	N/A
Unit No. T11	0.181%	0.181%

N/A means Not Applicable

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

**SAN LUIS OBISPO COUNTY FLOOD
CONTROL AND WATER CONSERVATION
DISTRICT**

By _____
Chairperson, Board of Supervisors

**APPROVED AS TO FORM:
RITA L. NEAL
County Counsel:**

By _____

**ATTEST:
COUNTY CLERK**

By _____
Clerk of the Board of Supervisors

BELLA VISTA MOBILE HOME PARK, LLC

By BT Thomas
Authorized Representative

**APPROVED AS TO FORM:
BVMHP, LLC ATTORNEY**

**ATTEST:
CORPORATE SECRETARY**

By _____

By _____

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

**SAN LUIS OBISPO COUNTY FLOOD
CONTROL AND WATER CONSERVATION
DISTRICT**

By _____
Chairperson, Board of Supervisors

**APPROVED AS TO FORM:
RITA L. NEAL
County Counsel:**

By  _____

**ATTEST:
COUNTY CLERK**

By _____
Clerk of the Board of Supervisors

BELLA VISTA MOBILE HOME PARK, LLC

By _____
Authorized Representative

**APPROVED AS TO FORM:
BVMHP, LLC ATTORNEY**

**ATTEST:
CORPORATE SECRETARY**

By _____

By _____

EXHIBIT A

UNIT DESCRIPTIONS

Unit A - Lake Nacimiento Intake and Pump Station to Camp Roberts West Property Line: Shall consist of the raw water intake structure including rights-of-way, intake shaft, tunnel(s), multi-port underwater intake piping and valves with appurtenances, underwater piping and appurtenance anchor and support blocks, intake fish screens, a building, ~~multiport tower~~, pumps, piping, surge control facilities, access road, screens, gates, valves, controls and communication, electrical service, instrumentation, grounds, fencing, corrosion control, and appurtenances; and pipeline from the intake to the Camp Roberts west property line including rights-of-way, road crossings, controls and communication, instrumentation, air release structures, blowoffs, valves, vaults, corrosion control, and appurtenances.

Unit A1 - Camp Roberts West Property Line to and Including the Camp Roberts Tank: Shall consist of the pipeline from the Camp Roberts west property line to the Camp Roberts Tank outlet piping connection to the main pipeline including rights-of-way, road crossings, the Nacimiento River crossing, controls and communication, instrumentation, air release structures, blowoffs, valves, vaults, corrosion control, appurtenances, and the Camp Roberts Tank including rights-of-way, piping and valves, connections to the main pipeline, controls and communication, instrumentation, electrical service, corrosion control and coatings, overflow facilities, access roads, grounds, fencing, and appurtenances.

Unit C – Camp Roberts Tank Outlet to Monterey Rd / Wellsona: Shall consist of the pipeline from the Camp Roberts Tank outlet piping connection to the main pipeline to the intersection of Old Highway 101 and Monterey Road, including rights-of-way, the highway crossing, road crossings, controls and communication, instrumentation, air release structures, blowoffs, valves, vaults, corrosion control, and appurtenances.

Unit C1 – Monterey Rd / Wellsona to Paso Robles Turnout: Shall consist of the pipeline from the intersection of Old Highway 101 and Monterey Road to and including the mainline connection “tee” for the Paso Robles Turnout, including rights-of-way, the Salinas River crossing, railroad crossing, road crossings, controls and communication, instrumentation, air release structures, blowoffs, valves, vaults, corrosion control, and appurtenances.

Unit D – Paso Robles Turnout to Templeton CSD Turnout, excluding the Santa Ysabel Pump Station (Unit B): Shall consist of the pipeline from the mainline connection “tee” for the Paso Robles Turnout to the main pipeline connection with the inlet side of the Santa Ysabel Pump Station, and from the main pipeline connection on the outlet side of the Santa Ysabel Pump Station to and including the mainline connection “tee” for the Templeton CSD turnout, including rights-of-way, surge control, tunneling twice across the Salinas River, access road, road crossings, controls and communication, instrumentation, air release structures, blowoffs, valves, vaults, corrosion control, and appurtenances.

Unit B Santa Ysabel Pump Station: Shall consist of the Santa Ysabel Pump Station from the inlet connection off of the main pipeline to the discharge connection on the main pipeline, including rights-of-way, a building, pumps, piping, connections to the main pipeline, surge control

facilities, access road, valves, controls and communication, electrical service, instrumentation, grounds, fencing, corrosion control, and appurtenances.

Unit E – Templeton CSD Turnout to Atascadero MWC Turnout: Shall consist of the pipeline from the mainline connection “tee” for the Templeton CSD turnout to and including the mainline connection “tee” for the Atascadero MWC turnout, including rights-of-way, road crossings, controls and communication, instrumentation, air release structures, blowoffs, valves, vaults, corrosion control, and appurtenances.

Unit F – Atascadero MWC Turnout to Rocky Canyon Tank Inlet: Shall consist of the pipeline from the mainline connection “tee” for the Atascadero MWC turnout to the Rocky Canyon Tank inlet piping connection off of the main pipeline, including rights-of-way, road crossings, controls and communication, instrumentation, air release structures, blowoffs, valves, vaults, corrosion control, and appurtenances.

Unit F1 – Rocky Canyon Tank: Shall consist of the Rocky Canyon Tank from the tank’s inlet piping connection off of the main pipeline through the tank and to within 25-feet, more or less, of the inlet manifold connection to the Rocky Canyon Pump Station, including rights-of-way, piping and valves, connections to the main pipeline, controls and communication, instrumentation, electrical service, corrosion control and coatings, access roads, grounds, fencing, overflow facilities, and appurtenances.

Unit F2 – Rocky Canyon Pump Station: Shall consist of the Rocky Canyon Pump Station from the Rocky Canyon Tank outlet connection to the pump station inlet pipe through the pump station and to the discharge connection on the main pipeline, including rights-of-way, a building, pumps, piping, connections to the main pipeline, surge control facilities, access road, valves, controls and communication, instrumentation, electrical service, grounds, fencing, corrosion control, and appurtenances.

Unit G – Rocky Canyon Pump Station Discharge to Route 58/Maria Avenue: Shall consist of the pipeline from the discharge connection of the Rocky Canyon Pump Station to the intersection of Maria Avenue and Route 58 in Santa Margarita, including rights-of-way, a Salinas River Crossing, railroad crossings, road crossings, controls and communication, instrumentation, air release structures, blowoffs, valves, vaults, corrosion control, and appurtenances.

Unit G1 – Route 58/Maria Avenue to Cuesta Tunnel Tank Inlet: Shall consist of the pipeline from the intersection of Maria Avenue and Route 58 in Santa Margarita to the inlet piping connection off of the main pipeline of the Cuesta Tunnel Tank, rights-of-way, including railroad and road crossings, controls and communication, instrumentation, air release structures, blowoffs, valves, vaults, corrosion control, and appurtenances.

Unit G2 – Cuesta Tunnel Tank: Shall consist of the Cuesta Tunnel Tank from the inlet piping connection off of the main pipeline through the tank and to the outlet piping connection off of the main pipeline, including rights-of-way, piping and valves, connections to the main pipeline, controls and communication, instrumentation, electrical service, corrosion control and coatings, access roads, grounds, fencing, overflow facilities, and appurtenances.

Unit H – Cuesta Tunnel: Shall consist of the existing Nacimiento Pipeline in the Cuesta Tunnel from the existing north portal inlet connection to the main pipeline through to the south portal outlet connection to the main pipeline, including rights-of-way, controls and communication, instrumentation, air release structures, blowoffs, valves, vaults, corrosion control, and appurtenances.

Unit H1 – Cuesta Tunnel to San Luis Obispo Turnout: Shall consist of the pipeline from the south portal outlet connection to the main pipeline of the Nacimiento Pipeline in Cuesta Tunnel to and including the mainline connection “tee” for the City of San Luis Obispo turnout, including rights-of-way, railroad crossings, road crossings, controls and communication, instrumentation, air release structures, blowoffs, valves, vaults, corrosion control, and appurtenances.

Unit T2 – City of Paso Robles Turnout. Shall consist of a pipeline from the outlet side of the “tee” connection on the main pipeline near Station 1176+50 to and including the turnout flow control facilities connecting the Nacimiento Facilities to the City of Paso Robles water system facilities near the Thunderbird Well Field west of the Salinas River. The turnout shall include rights-of-way, an isolation valve adjacent to the main pipeline, piping, Salinas River crossing, road crossings, controls and communication, instrumentation, electrical service, air release structures, blowoffs, flow meter, isolation valves, flow control valve, vaults and slabs, corrosion control, access roads, grounds, fencing, and appurtenances.

Unit T4 – Templeton Community Services District Turnout: Shall consist of a pipeline from the outlet side of the “tee” connection on the main pipeline near Station 1403+00 to and including the turnout flow control facilities connecting the Nacimiento Facilities to the Templeton Community Services District water system facilities near the intersection of El Pomar Drive, Templeton Road and Vineyard Street west of the Salinas River. The turnout shall include rights-of-way, an isolation valve adjacent to the main pipeline, piping, Salinas River crossing, road crossings, controls and communication, instrumentation, electrical service, air release structures, blowoffs, flow meter, isolation valves, flow control valve, vaults and slabs, corrosion control, access roads, grounds, fencing, and appurtenances.

Unit T6 – Atascadero Mutual Water Company Turnout. Shall consist of a pipeline from the outlet side of the “tee” connection on the main pipeline near Station 1496+00 to and including the turnout flow control facilities connecting the Nacimiento Facilities to the Atascadero Mutual Water Company well field and water system facilities west-southwest of the Salinas River. The turnout shall including rights-of-way, an isolation valve adjacent to the main pipeline, piping, Salinas River crossing, road crossings, controls and communication, instrumentation, electrical service, air release structures, blowoffs, flow meter, isolation valves, flow control valve, vaults and slabs, corrosion control, access roads, grounds, fencing, and appurtenances.

Unit T9 – SMR Mutual Water Company Turnout. Shall consist of a pipeline from the outlet side of the “tee” connection on the main pipeline near Station 2139+40 to and including the turnout flow control facilities connecting the Nacimiento Facilities to the SMR Mutual Water Company well field and water system facilities west-southwest of the Salinas River. The turnout shall including rights-of-way, an isolation valve adjacent to the main pipeline, piping, road crossings, controls and communication, instrumentation, electrical service, air release structures,

blowoffs, flow meter, isolation valves, flow control valve, vaults and slabs, corrosion control, access roads, grounds, fencing, and appurtenances.

Unit T11 –City of San Luis Obispo Turnout: Shall consist of a pipeline from the outlet side of the “tee” connection on the main pipeline near Station 2510+00 to and including the turnout flow control facilities connecting the Nacimiento Facilities to the San Luis Obispo Water Treatment Plant. The turnout shall including rights-of-way, an isolation valve adjacent to the main pipeline, piping, Stenner Creek crossing, road crossings, controls and communication, instrumentation, electrical service, air release structures, blowoffs, flow meter, isolation valves, flow control valve, vaults and slabs, corrosion control, access roads, grounds, fencing, and appurtenances.

EXHIBIT A-MOU

[Intentionally Omitted and Included as Part of Exhibit C for reference purposes only]

EXHIBIT B
ENVIRONMENTAL IMPACT REPORT
ENTITIES

California Army National Guard

County of San Luis Obispo Service Area No. 10A, 22 and 23

Edna Valley Mutual Water Company

Fiero Lane Water Company

Lewis C. Pollard Family Trust

Morro Rock Mutual Water Company

San Miguel Community Services District

Santa Margarita Ranch Mutual Water Company

EXHIBIT C

EXCERPTS FROM EXISTING DELIVERY ENTITLEMENT CONTRACTS REGARDING THE DESIGN AND CONSTRUCTION PHASES

ARTICLE 2: TERM OF CONTRACT; RESCISSION

(A) Implementation of the Design Phase and Construction Bidding. The parties hereto acknowledge that the total Nacimientto Project Construction Costs are estimated to be \$150,000,000 as of the Effective Date; the parties hereto further acknowledge that the actual total costs of construction of the Nacimientto Project will be determined through a competitive bid process applicable to the District at the conclusion of the Design Phase (collectively, the “Construction Bids”). The District covenants and agrees to provide All Participants with a summary report of the Construction Bids, not less than two (2) Business Days following the date upon which the last of such bids is received. In the event that the District finds it necessary or advisable to divide the Construction Phase into two or more subphases, it shall provide a summary report to All Participants of those Construction Bids it deems sufficient to begin the Nacimientto Project (which shall include Construction Bids on no less than thirty percent (30%) of the total estimated Nacimientto Project Construction Costs) and a sound estimate (which shall then be current and shall be based, as appropriate, on construction bids received) of total Nacimientto Project Costs, and shall so state and so estimate in its report to All Participants. The thirtieth (30th) calendar day following the date upon which such report is received by the Participant is referred to as the “Opt-out Date.” It is understood and agreed by the parties hereto that the District will incur certain costs and expenses for the Design Phase, which it intends to pay for, in large part, from the proceeds of sale of the Notes. The Construction Bids can only be developed as a result of planning to be accomplished during the Design Phase, by the end of which, the District anticipates that all of the proceeds of the Notes will have been expended. The Participant expressly understands and agrees that the use of the Notes to finance the costs of the Design Phase is an expenditure for the shared benefit of its Water Enterprise and the Water Enterprise of each Other Participant. The District shall not award any construction contracts for the Nacimientto Project until such time as the District shall have consulted with All Participants as to whether to proceed with the Nacimientto Project, and in no event shall any award of a Construction Bid be made, nor shall any Long-Term Project Debt be issued, prior to the Opt-out Date.

(B) Termination of Participation in Nacimientto Facilities by Participant after Effective Date. Subject to the provisions of subparagraph (A) above, the Participant may withdraw from this Contract (and any Other Participant may withdraw from any Like-Contract) following the Effective Date and on or prior to the Opt-out Date, but only if the total Nacimientto Project Construction Costs shall exceed the figure given in paragraph (B) above. In order to withdraw from participation hereunder, the Participant shall provide written notice to the District and to each Other Participant that it elects to opt out of the Construction Phase.

(C) Obligations of District, of All Participants and of Participant in the Event of Opting Out. The Participant agrees with the District and all Other Participants that the Initial Participants

shall share the costs of the Design Phase by the expedient of remaining obligated for the repayment in full of the principal of and interest on the Notes, whether or not the Participant should subsequently take advantage of the forgoing provisions to opt out of the remaining term of this Contract. Should the Participant elect to withdraw from this Contract by the Opt-out Date, it shall nonetheless repay to the District its pro rata share (in proportion to its Delivery Entitlement Share) of the principal of and interest on the Notes by a date no later than one (1) year following the Opt-out Date. The Participant understands and agrees that the District shall not be obligated to pay any portion of the expenses for the Design Phase or the Municipal Obligations, which shall instead be the pro rata obligations of the Participant and the Other Participants which will benefit from the Nacimiento Project, and that, in the absence of the Participant's having withdrawn by the Opt-out Date, the Participant and the Other Participants then remaining shall pay to the District pro rata (in proportion to their respective Delivery Entitlement Share or Other Delivery Entitlement Shares) the amount necessary to pay or redeem any outstanding Municipal Obligations. The provisions of this Article shall survive the rescission of this Contract.

Rescission Following Construction of the Nacimiento Project. Subject to the provisions of subparagraph (A) above, this Contract may be rescinded by the unanimous written consent of the District, the Participant and all Other Participants.

**ARTICLE 2.5:
ALTERNATE FINANCING OF DESIGN PHASE COSTS**

(A) Financing Design Phase Costs. The Participant is obligated to pay to the District its *pro rata* share of the Design Phase Costs. The parties have determined that the Design Phase Costs may be financed initially with Cash Contributions from the Participant and from some or all the Other Participants and/or from the proceeds of certain Tax-Exempt and/or taxable Notes to be issued by the District or by the SLO County Financing Authority on behalf of the Participant and/or Other Participant(s). To the extent that the Participant elects to make Cash Contributions towards its pro rata share of Design Phase Costs, such Cash Contributions shall be calculated and become due in accordance with this Contract.

(B) Notice of Election. In order to make Cash Contributions under this Article, the Participant shall provide the District with its written election to make Cash Contributions towards Design Phase Costs by a date no later than 30 days following the effective date of this Contract. In the event the Participant does not elect to make a Cash Contribution, or in the event that the Cash Contributions described herein do not completely cover the Participant's *pro rata* share of all Design Phase Costs, the Participant confirms and ratifies the authorization of the District to issue or cause to be issued Notes on behalf of the Participant.

(C) Cash Contribution Amount. If the Participant elects to use the Cash Contribution method described in this Article, the amount of said Cash Contributions is hereby established as follows:

(i) *Current Cash Contribution Amount.* The amount of the Participant's Cash Contribution is set forth in the attached Exhibit A-MOU, which is incorporated herein by this reference, and made a part hereof. Exhibit A-MOU also sets forth the District's current estimate of the total Design Phase Costs and the Participant's and each Other Participant's *pro rata* share

of that estimate. Participant shall pay its Cash Contribution to the District pursuant to the payment schedule set forth on Exhibit A-MOU.

(ii) *Methodology for Calculating Any Additional Cash Contributions.* The Parties understand and agree that the amount of the current Cash Contribution is based upon a District estimate of the cost of the various services and tasks needed to complete the Design Phase, and that the actual Design Phase Costs may actually be higher or lower than these estimates. In the event the Design Phase Costs exceed the District's original estimates, additional Cash Contributions may be necessary to pay for the total Design Phase Costs. The exact amount of any such additional Cash Contributions will depend upon (1) the actual Design Phase Costs incurred to date, (2) any anticipated additional Design Phase Costs need to complete the Design Phase, and (3) whether any Notes have or will be issued to finance Design Phase Costs. Any such additional Cash Contributions shall be evidenced by a revised Exhibit A-MOU to this Contract which will reflect the increases in Design Phase Costs calculated by the District. Any such revised Exhibit A-MOU shall be submitted by the District to the Nacimiento Project Commission ("NPC") for the NPC's approval. No revision to Exhibit A-MOU will be presented to the NPC until after the District has provided written notice of such revision to the Participants. Once approved by the NPC and delivered by the District to the Participant, the amount of any additional Cash Contributions set forth in the revised Exhibit A-MOU shall be binding upon the Participant. Only one revision of Exhibit A-MOU is allowed under this paragraph.

Regardless of whether any additional Cash Contribution(s) are required of Participant under this Article, the Participant is still obligated to pay its *pro rata* share of the total Design Phase Costs. In the event the NPC should fail to approve future revisions to Exhibit A-MOU, any Design Phase Costs not paid through Cash Contribution(s) shall be financed as provided in the Contract. In such event, the Participant understands and agrees that it may not be possible to complete the Design Phase unless the District issues or causes to be issued Notes in the name and on behalf of one or more of the Participants in order to fund the remaining Design Phase Costs not covered by Exhibit A-MOU.

(D) Participant's Access to Information. At Participant's request, the District shall provide the Participant with any and all updated engineering or design information, contract terms and other information relating to the Project which supports the District's calculation of the Cash Contribution.

(E) Payment Schedule. The Participant covenants and agrees that, in the event it elects to make a Cash Contribution, it will make installment payments to the District pursuant to the payment schedule included on Exhibit A-MOU. The payment schedule for any additional Cash Contributions shall be set forth in any further revision to Exhibit A-MOU. The Participant understands that, unless it has opted out under the provisions of Article 2(B) of the Contract, its Cash Contribution(s), if any, may (at the option of the Participant, and only to the extent covered by the terms of a resolution adopted by the governing body of the Participant in compliance with U.S. Treasury Regulation Section 1.150-2) be reimbursed to the Participant from the proceeds of the Notes and/or the Revenue Bonds. The parties understand and agree that any payment schedule for the Notes and/or the Revenue Bonds shall be dictated by financial market conditions on such date of issuance and that payments due from the Participant in connection with its proportionate

share of the Notes and/or the Revenue Bonds may be made more frequently, or less frequently, and in larger or smaller amounts than the Participant's payments hereunder.

**ARTICLE 3:
CONSTRUCTION OF NACIMIENTO FACILITIES**

(A) District's Authority to Enter Contracts, to Engage Consultants and to Finance the Nacimiento Facilities. The Participant understands and agrees that the District will finance the acquisition and construction of the Nacimiento Facilities by means of the issuance and sale of Municipal Obligations and the Participant agrees that the District shall, and is hereby authorized to cause the execution and delivery of the Municipal Obligations on terms and conditions favorable to the District, to the Participant and to the Other Participants, and which terms and conditions will be established by the market conditions at the time of the sale of the Municipal Obligations. In particular, the Participant acknowledges and agrees that:

(1) The District shall contract for the public works comprising the Nacimiento Facilities on such terms as the District, in its sound business judgment may deem in the best interests of the District, the Participant and the Other Participants, but only following consultation with the Nacimiento Project Commission; and

(2) The District may engage Consultants as may be necessary and/or convenient in order to plan, finance, acquire and construct the Nacimiento Facilities and to issue and sell the Municipal Obligations, on such terms and conditions as the District shall determine, *provided*, however, that the District and the Participant hereby agree that all such contracts already in place as of the effective date of this Contract shall be deemed valid and the costs thereof to the District shall be deemed appropriate costs and expenses of the District in the acquisition and construction of the Nacimiento Facilities ; and

(3) The District may authorize and sell at either public or private sale, and cause to be executed and delivered, the Municipal Obligations at any time, or times, following the effective date hereof, to provide for the financing or reimbursement to the District of the costs of the acquisition and construction of the Nacimiento Facilities, to pay capitalized interest on the Municipal Obligations, to establish a reserve fund for the Municipal Obligations and to pay the costs of delivery thereof; and

(4) The Participant shall execute and provide such instruments, certificates, agreements and opinions of counsel as may be necessary in order for the District to deliver the Municipal Obligations, including, without limitation, information for inclusion in the disclosure document for the Municipal Obligations and a continuing disclosure agreement to permit compliance with Rule 15c2-12 of the Securities and Exchange Commission, respecting the Participant's financial condition and operations, and certificates and agreements evidencing compliance with the covenants set forth in Article 22 hereof; and

(5) The Participant will cooperate with the District and its Consultants in connection with the planning, acquisition and construction of the Nacimiento Facilities and the authorization and delivery of the Municipal Obligations.

(B) Commencement of Construction. The District will use its best efforts to cause or accomplish the construction and financing of the Nacimientto Facilities, the obtaining of all necessary authority and rights, and the performance of all things necessary and convenient therefor. The District will commence the acquisition and construction of the Nacimientto Facilities on any date after the Effective Date and when the following conditions have been met:

(6) The District determines such acquisition and commencement of construction is permitted under the Master Water Contract and state, federal and local law; and

(7) The District has received from the District's Consulting Engineer a certification that, based on contracts awarded by the District for the acquisition and construction of the Nacimientto Facilities, and based upon the Consulting Engineer's estimates of the costs of the portions of the Nacimientto Facilities for which contracts have not been awarded, the District has sufficient moneys from (i) the proceeds of the Municipal Obligations, together with (ii) estimated proceeds to be derived from any other authorized but unissued Municipal Obligations, and (iii) moneys on deposit with the District and legally available to complete the Nacimientto Facilities.

ARTICLE 6: DELIVERY ENTITLEMENT

In the event that the Participant shall desire to have the Nacimientto Project constructed in such a manner as to allow the District to deliver the Delivery Entitlement through any delivery structure of the Nacimientto Project at a total combined instantaneous rate of flow exceeding that specified in Table 1, the Participant shall notify the District in writing prior to the time that the District shall have completed the final design of the Nacimientto Project. At the time the District receives said request, the District shall determine the additional costs of the Nacimientto Project which are attributable to the Participant's desired increased rate of flow. The Commission shall review the District's determination of the aforesaid additional costs and report the additional costs to the Participant. The Participant agrees that the Participant shall be solely responsible for and shall pay to the District the additional costs of construction of the Nacimientto Project which are attributable to the increased rate of flow.

ARTICLE 8: PLACE OF DELIVERY

(B) Request for Change in Place of Delivery during First Half of Design Phase. If the Participant shall desire to change its Place of Delivery at any time prior to the time that the Design phase is half completed, the Participant may do so, *provided*, the Participant shall be solely responsible for any and all costs of design, construction or operation attributable to the change in Place of Delivery. No request during the Design Phase for a change in the place of delivery will be granted if such change would cause a material delay in either the Design Phase or the Construction Phase or would require the District to prepare an environmental impact report.

**ARTICLE 17:
CONTRACT PAYMENTS**

If, prior to the date upon which the District causes the Municipal Obligations to be sold, the Participant shall contribute to the District, in cash, a sum as and for the Participant's Capital Share of the District's estimate of the Total Nacimientto Project Construction Costs, or any portion of the Participant's Capital Share of said construction costs, then the amount of Capital Projects Installment Debt Service allocated to the Participant under Article 16(C)(4) above shall be reduced accordingly, but in no event to less than zero; and

If the Participant shall, following the date of delivery of the Municipal Obligations, successfully implement a financing plan within its jurisdiction to fund all or a portion of the Participant's Contract Payments, during the term of the Municipal Obligations, by means of a levy of *ad valorem* property taxes, special assessments or special taxes, then all or a portion of the amount of Capital Projects Installment Debt Service to be allocated to the Participant under Article 16(C)(4) above, shall be credited to the Participant from amounts paid under such levy as though such amounts were paid directly by the Participant hereunder, subject to the prior approval of each rating agency then rating the Municipal Obligations and any bond insurer then providing insurance therefor; provided however, that, to the extent legally permissible, the District shall be made a third-party beneficiary of any pledge of such alternate source of revenues, with the power to enforce collection thereof, in the event that the Participant should fail to do so; and

Participant's Election Regarding Capitalized Interest. The District and the Participant understand and agree that the Participant's share of Capital Projects Installment Debt Service will be lower in the event that the Municipal Obligations attributable to the Participant are marketed and sold without capitalized interest. Accordingly, each Participant shall be entitled, by delivering written notice to the District no later than three (3) business days prior to the pricing of any Municipal Obligations issued, to elect to commence making its portion of Capital Projects Installment Debt Service during the first Bond Year as defined in that certain Indenture of Trust by and between SLO County Financing Authority and BNY Western Trust Company to be entered into in connection with the issuance of the Municipal Obligations, without regard to the date upon which delivery of Nacimientto Project Water is first made to the Participant. If no such election is received from the Participant, the District shall be entitled to include a capitalized interest component in the Municipal Obligations attributable to the Participant, to apportion said capitalized interest to the Participant and to include the costs of same in the Participant's portion of Capital Projects Installment Debt Service.

**ARTICLE 20:
PARTICIPANT'S PLEDGE AND COVENANTS**

The Participant, unless it shall have paid cash as the Participant's portion of the Total Nacimientto Project Constructions Costs as provided in Article 16 hereof, hereby pledges the gross water sales revenues of the Participant's Water Enterprise to the Participant's obligations under the Contract, and covenants and agrees to establish, fix and collect rates and charges from the customers of Participant's Water Enterprise at levels sufficient to produce revenues from the Participant's Water Enterprise which are at least equal to:

(D) The costs of operating and maintaining the Participant's Water Enterprise; plus

(E) The Contract Payments, calculated in accordance with Article 16 hereof, including the amounts allocated to the Participant as the Participant's share of Capital Projects Installment Debt Service under Article 16(C)(4) hereof; plus

(C) The Coverage Factor for the amounts allocated to the Participant as the Participant's share of Capital Projects Installment Debt Service under Article 16(C)(4) hereof, ***provided, however, that there shall be credited towards compliance with the Coverage Factor requirement all Available Capital Reserves of the Participant;*** and

(D) Under certain circumstances, that the Participant understands and agrees that the provisions of Article 25(B) hereof may impose upon the Participant a surcharge following the occurrence of any payment default by the Participant.

Notwithstanding the provisions of paragraph (C) above, the Participant shall be permitted to withdraw and apply Available Capital Reserves for its operational and capital needs from time to time during any Water Year.

ARTICLE 21: WATER ENTERPRISE AND MAINTENANCE

(A) No Sale, Lease or Disposing of Participant's Water Enterprise. The Participant covenants and agrees not to sell, lease or otherwise dispose of its Water Enterprise or any part thereof essential to the proper operation thereof or to the earning or collection of the gross revenues of the Participant's Water Enterprise, nor to enter into any agreement or lease which would impair the operation of the Participant's Water Enterprise, or any part thereof necessary in order to secure adequate revenues for the payment of amounts due under this Contract; *provided, however, that any real or personal property which has become nonfunctional or obsolete or which is not needed for the efficient operation of the Participant's Water Enterprise may be sold or disposed of if such disposition will not have the effect of reducing revenues of the Participant's Water Enterprise below the levels required under this Contract.*

(B) Participant to Maintain Participant's Water Enterprise. The Participant covenants and agrees to maintain and preserve the Participant's Water Enterprise in good repair and working order at all times, to operate the same in an efficient and economical manner and to pay all operation and maintenance costs of the Participant's Water Enterprise as they become due, all in accordance with the best business judgment of the Participant.

(C) Participant's Budgets. The Participant covenants and agrees to adopt and deliver a budget to the District approved by the Participant's governing body setting forth the amounts budgeted to be paid under this Contract no later than the first day of each Fiscal Year.

(D) Participant's Covenants. The Participant covenants and agrees to comply with, keep, observe and perform all agreements, conditions, covenants and terms, express or implied, required to be performed by the Participant contained in all contracts for the use of the Participant's

Water Enterprise and all contracts affecting or involving the Participant's Water Enterprise to the extent that the Participant is a party thereto.

(E) No Superior Liens or Payments. The Participant covenants and agrees not to create or allow any lien on or payment from the revenues of the Participant's Water Enterprise or any part thereof prior to, or superior to, the Participant's obligations to amounts payable under this Contract.

(F) Participant to Insure Water Enterprise. The Participant covenants and agrees to procure and maintain insurance relating to the Participant's Water Enterprise which the Participant shall deem advisable or necessary to protect its interests. Such insurance shall afford protection in such amounts and against such risks as are usually covered in connection with similar water enterprises in the State of California; provided, that the Participant shall not be required to procure or maintain any such insurance unless such insurance is commercially available at reasonable cost; and provided further, that any such insurance may be maintained under a self-insurance program, so long as such self-insurance program is maintained in accordance with standards and in such amounts as are then usually maintained for similar water enterprises in the State of California.

(G) Participant to Pay Obligations; Observe Laws. The Participant covenants and agrees to pay and discharge all taxes, assessments and other governmental charges which may hereafter be lawfully imposed upon the Participant's Water Enterprise or any part thereof when the same shall become due and to duly observe and conform to all valid regulations and requirements of any governmental authority relative to the operation of the Participant's Water Enterprise that are not being contested by the Participant in good faith.

(H) Eminent Domain. The Participant covenants and agrees that if all or any material part of the Participant's Water Enterprise shall be taken by eminent domain proceedings, or if the Participant receives any insurance proceeds resulting from a casualty loss to any material portion of the Participant's Water Enterprise, the proceeds thereof shall be used by the Participant to construct or install replacements for the condemned or destroyed components of the Participant's Water Enterprise or to prepay the Participant's share of Capital Projects Installment Debt Service under Article 16(C)(4) of this Contract.

ARTICLE 22:

COVENANTS OF THE DISTRICT AND THE PARTICIPANT; SPECIAL TAX COVENANTS

(I) No Sale, Lease or Disposing of Participant's Water Enterprise. The Participant covenants and agrees not to sell, lease or otherwise dispose of its Water Enterprise or any part thereof essential to the proper operation thereof or to the earning or collection of the gross revenues of the Participant's Water Enterprise, nor to enter into any agreement or lease which would impair the operation of the Participant's Water Enterprise, or any part thereof necessary in order to secure adequate revenues for the payment of amounts due under the Contract; *provided*, however, that any real or personal property which has become nonfunctional or obsolete or which is not needed for the efficient operation of the Participant's Water Enterprise may be sold or disposed of if such

disposition will not have the effect of reducing revenues of the Participant's Water Enterprise below the levels required under this Contract.

(J) Participant to Maintain Participant's Water Enterprise. The Participant covenants and agrees to maintain and preserve the Participant's Water Enterprise in good repair and working order at all times, to operate the same in an efficient and economical manner and to pay all operation and maintenance costs of the Participant's Water Enterprise as they become due, all in accordance with the best business judgment of the Participant.

(K) Participant's Budgets. The Participant covenants and agrees to adopt and deliver a budget to the District approved by the Participant's governing body setting forth the amounts budgeted to be paid under the Contract no later than the first day of each Fiscal Year.

(L) Participant's Covenants. The Participant covenants and agrees to comply with, keep, observe and perform all agreements, conditions, covenants and terms, express or implied, required to be performed by the Participant contained in all contracts for the use of the Participant's Water Enterprise and all contracts affecting or involving the Participant's Water Enterprise to the extent that the Participant is a party thereto.

(M) No Superior Liens or Payments. The Participant covenants and agrees not to create or allow any lien on or payment from the revenues of the Participant's Water Enterprise or any part thereof prior to, or superior to, the Participant's obligations to amounts payable under the Contract.

(N) Participant to Insure Water Enterprise. The Participant covenants and agrees to procure and maintain insurance relating to the Participant's Water Enterprise which the Participant shall deem advisable or necessary to protect its interests. Such insurance shall afford protection in such amounts and against such risks as are usually covered in connection with similar water enterprises in the State of California; provided, that the Participant shall not be required to procure or maintain any such insurance unless such insurance is commercially available at reasonable cost; and provided further, that any such insurance may be maintained under a self-insurance program, so long as such self-insurance program is maintained in accordance with standards and in such amounts as are then usually maintained for similar water enterprises in the State of California.

(O) Participant to Pay Obligations; Observe Laws. The Participant covenants and agrees to pay and discharge all taxes, assessments and other governmental charges which may hereafter be lawfully imposed upon the Participant's Water Enterprise or any part thereof when the same shall become due and to duly observe and conform to all valid regulations and requirements of any governmental authority relative to the operation of the Participant's Water Enterprise that are not being contested by the Participant in good faith.

(P) Eminent Domain. The Participant covenants and agrees that if all or any material part of the Participant's Water Enterprise shall be taken by eminent domain proceedings, or if the Participant receives any insurance proceeds resulting from a casualty loss to any material portion of the Participant's Water Enterprise, the proceeds thereof shall be used by the Participant to construct or install replacements for the condemned or destroyed components of the Participant's

Water Enterprise or to prepay the Participant's share of Capital Projects Installment Debt Service under Article 16(C)(4) of this Contract.

(Q) Punctual Payment; Compliance with Documents. The District shall punctually pay or cause to be paid the interest and principal to become due with respect to all of the Municipal Obligations, but solely from amounts paid to the District under the Contract and the Like-Contracts, and the Participant shall punctually pay or cause to be paid the Capital Projects Installment Debt Service, in strict conformity with the terms of the Municipal Obligations, the Contract and the Legal Documents and will faithfully observe and perform all of the conditions, covenants and requirements of the Contract and the Legal Documents including any and all supplements thereto.

(R) Extension of Payment of Municipal Obligations. Neither the District nor the Participant shall directly or indirectly extend or assent to the extension of the maturity of any of the Municipal Obligations or the time of payment of any claims for interest by the purchaser or owner of such Municipal Obligations or by any other arrangement, and in case the maturity of any of the Municipal Obligations or the time of payment of any such claims for interest shall be extended, such Municipal Obligations or claims for interest shall not be entitled, in case of any default under the Legal Documents, to the benefits of the Contract, except subject to the prior payment in full of the principal of all of the Municipal Obligations then outstanding and of all claims for interest thereon which shall not have been so extended. Nothing in this Article shall be deemed to limit the right of the District to issue obligations or cause obligations to be issued for the purpose of refunding any outstanding Municipal Obligations, and such issuance shall not be deemed to constitute an extension of maturity of the affected Municipal Obligations.

(S) Against Encumbrances. Neither the District nor the Participant shall create, or permit the creation of, any pledge, lien, charge or other encumbrance upon the revenues and other assets pledged under the Contract while any of the Municipal Obligations are outstanding, except the pledge created by the Legal Documents and the Contract, any Additional Debt and any pledge, lien, charge or other encumbrance which is subordinate to the obligations under the Contract. Subject to this limitation, the District expressly reserves the right to enter into one or more indentures or trust agreements for any of its corporate purposes, and reserves the right to issue other obligations or cause them to be issued for such purposes.

(T) Covenants to Maintain Tax-Exempt Status of Tax-Exempt Obligations. In the event that any Tax-Exempt Obligations attributable in whole or in part, to the Participant are issued and outstanding, the Participant covenants and agrees as follows:

(1) Definitions. When used in this Section, the following terms have the following meanings:

“Bond Counsel” means Fulbright & Jaworski L.L.P.

“Bond Year” means the period of one year established in the Legal Documents, during which the Tax-Exempt Obligations are outstanding, for purposes of the Code; provided, that either the first Bond Year or the final Bond Year may be a period shorter than twelve calendar months.

“Code” means the Internal Revenue Code of 1986 as in effect on the date of issuance of the Tax-Exempt Obligations or (except as otherwise referenced herein) as it may be amended to apply to obligations issued on the date of issuance of the Tax-Exempt Obligations, together with applicable proposed, temporary and final regulations promulgated, and applicable official public guidance published, under the Code.

“Computation Date” has the meaning set forth in section 1.148-1(b) of the Tax Regulations.

“Gross Proceeds” means any proceeds as defined in section 1.148-1(b) of the Tax Regulations, and any replacement proceeds as defined in section 1.148-1(c) of the Tax Regulations, of the Tax-Exempt Obligations.

“Investment” has the meaning set forth in section 1.148-1(b) of the Tax Regulations.

“Nonpurpose Investment” means any investment property, as defined in section 148(b) of the Code, in which Gross Proceeds of Tax-Exempt Obligations are invested and that is not acquired to carry out the governmental purposes of such Tax-Exempt Obligations.

“Rebate Amount” has the meaning set forth in section 1.148-1(b) of the Tax Regulations.

“Yield” of

(1) any Investment has the meaning set forth in section 1.148-5 of the Tax Regulations; and

(2) the Tax-Exempt Obligations has the meaning set forth in section 1.148-4 of the Tax Regulations.

“Tax Regulations” means temporary and permanent regulations promulgated under or with respect to section 103 of the Code.

(2) Not to Cause Interest to Become Taxable. Neither the District nor the Participant shall use, permit the use of, or omit to use Gross Proceeds or any other amounts (or any property, the acquisition, construction or improvement of which is to be financed directly or indirectly with Gross Proceeds) in a manner that if made or omitted, respectively, would cause the interest on any of the Tax-Exempt Obligations to become includable in the gross income, as defined in section 61 of the Code, of the owner thereof for federal income tax purposes. Without limiting the generality of the foregoing, unless and until the District and the Participant receive a written opinion of Bond Counsel to the effect that failure to comply with such covenant will not adversely affect the exclusion from gross income for federal income tax purposes of the interest on any Tax-Exempt Obligation, the District and the Participant shall comply with each of the specific covenants in this Section.

(3) No Private Use or Private Payments. Except as would not cause any Tax-Exempt Obligation to become a “private activity bond” within the meaning of section 141 of the Code and the Tax Regulations and rulings thereunder, the District and the Participant shall at all times prior to the last maturity date of the Tax-Exempt Obligations:

(a) require that one or more state or local governmental agencies exclusively own, operate and possess all property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with Gross Proceeds of the Tax-Exempt Obligations, and not use or permit the use of such Gross Proceeds (including all contractual arrangements with terms different than those applicable to the general public) or any property acquired, constructed or improved with such Gross Proceeds in any activity carried on by any person or entity (including the United States or any agency, department and instrumentality thereof) other than a state or local government, unless such use is solely as a member of the general public; and

(b) not permit the direct or indirect imposition of any charge or other payment on or by any person or entity who is treated as using Gross Proceeds of the Tax-Exempt Obligations or any property, the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with such Gross Proceeds, other than taxes of general application within the boundaries of the Participant or interest earned on investments acquired with such Gross Proceeds pending application for their intended purposes.

(4) No Private Loan. Except as would not cause any Tax-Exempt Obligation to become a “private activity bond” within the meaning of section 141 of the Code and the Tax Regulations and rulings thereunder, neither the District nor the Participant shall use or permit the use of the Gross Proceeds of the Tax-Exempt Obligations to make or finance loans to any person or entity other than a state or local government. For purposes of the foregoing covenant, such Gross Proceeds are considered to be “loaned” to a person or entity if: (1) property acquired, constructed or improved with such Gross Proceeds is sold or leased to such person or entity in a transaction that creates a debt for federal income tax purposes; (2) capacity in or service from such property is committed to such person or entity under a take-or-pay, output or similar contract or arrangement; or (3) indirect benefits, or burdens and benefits of ownership, of such Gross Proceeds or any property acquired, constructed or improved with such Gross Proceeds are otherwise transferred in a transaction that is the economic equivalent of a loan.

(5) Not to Invest at Higher Yield. Except as would not cause the Tax-Exempt Obligations to become “arbitrage bonds” within the meaning of section 148 of the Code and the Tax Regulations and rulings thereunder, neither the District nor the Participant shall at any time prior to the final maturity of the Tax-Exempt Obligations directly or indirectly invest or permit the investment of Gross Proceeds in any Investment, if as a result of such investment the Yield on Investments acquired with Gross Proceeds, whether then held or previously disposed of, materially exceeds the Yield of the Tax-Exempt Obligations within the meaning of said section 148. For purposes of this paragraph, Yield on

Investments shall be determined in accordance with the provisions of section 1.148-5 of the Tax Regulations (which, under certain circumstances, requires Yield to be determined on less than all such Investments).

(6) Not Federally Guaranteed. Except to the extent permitted by section 149(b) of the Code and the Tax Regulations and rulings thereunder, neither the District nor the Participant shall take or omit to take, or permit, any action that would cause any Tax-Exempt Obligations to be treated as “federally guaranteed” within the meaning of section 149(b) of the Code and the Tax Regulations and rulings thereunder.

(7) Information Report. The District shall timely file or cause to be filed any information required by section 149(e) of the Code with respect to the Tax-Exempt Obligations with the Secretary of the Treasury on Form 8038-G or such other form and in such place as the Secretary may prescribe.

(8) Rebate. Except to the extent otherwise provided in section 148(f) of the Code and the Tax Regulations and rulings thereunder:

(a) The District shall account for all Gross Proceeds (including all receipts, expenditures and investments thereof) on its books of account separately and apart from all other funds (and receipts, expenditures and investments thereof) and shall retain all records of accounting for at least six years after the day on which the last outstanding Tax-Exempt Obligation is retired. However, to the extent permitted by law, the District may commingle Gross Proceeds of Tax-Exempt Obligations with other money of the District, provided that the District separately accounts for each receipt and expenditure of Gross Proceeds and the obligations acquired therewith.

(b) Not less frequently than each Computation Date, the District shall calculate or caused to be calculated the Rebate Amount in accordance with rules set forth in section 148(f) of the Code and the Tax Regulations and rulings thereunder, which calculation the District shall maintain with its official transcript of proceedings relating to the issuance of the Tax-Exempt Obligations until six years after the final Computation Date.

(c) In order to assure the excludability of the interest on Tax-Exempt Obligations from the gross income of the owners thereof for federal income tax purposes, the District shall make rebate payments at the times and in the amounts as are or may be required by section 148(f) of the Code and the Tax Regulations and rulings thereunder, which payments shall be accompanied by Form 8038-T or such other forms and information as is or may be required by section 148(f) of the Code and the Tax Regulations and rulings thereunder; *provided, however,* that the District and the Participant agree that liability of the District to make any such payments shall be limited to amounts received by it for such purpose pursuant to the Contract and the Like-Contracts.

(d) The District shall cause the exercise of reasonable diligence to assure that no errors are made in the calculations and payments required by paragraphs (2) and (3), and if an error is made, to discover and promptly correct such error within a reasonable amount of time thereafter (and in all events within one hundred eighty (180) days after discovery of the error), including payment to the United States of any additional Rebate Amount owed to it, interest thereon, and any penalty imposed under section 1.148-3(h) of the Tax Regulations.

(9) Not to Divert Arbitrage Profits. Except to the extent permitted by section 148 of the Code and the Tax Regulations and rulings thereunder, the District shall not enter into any transaction that reduces the amount required to be paid to the United States pursuant to section 148(f) of the Code because such transaction results in a smaller profit or a larger loss than would have resulted if the transaction had been at arm's length and the Yield of the Tax-Exempt Obligations had been irrelevant to each party.

(10) Tax-Exempt Obligations Not Hedge Bonds. The District represents that the Tax-Exempt Obligations will not be structured so as to comprise "hedge bonds" within the meaning of section 149(g) of the Code.

(11) Elections. The Participant hereby directs and authorizes any authorized representative of the District to make elections permitted or required pursuant to the provisions of the Code or the Tax Regulations, as such authorized representative of the District (after consultation with Bond Counsel) deems necessary or appropriate in connection with the Tax-Exempt Obligations.

**ARTICLE 24:
FAILURE TO LEVY, SET OR COLLECT TAXES, RATES AND CHARGES;
ESTABLISHMENT OF COVERAGE ACCOUNT**

(U) Participant's Failure to Establish Taxes, Rates and Charges; Establishing Coverage Account. If the Participant for any reason shall fail or refuse to establish or levy taxes or rates and charges sufficient to satisfy the requirements of Article 20 hereof, or if the Participant shall be precluded from establishing rates and charges at the levels required by said Article 20, then the Participant shall promptly notify the District of such fact in writing, and shall establish a Coverage Account either with the District or with a Depository designated by the Participant to the District in writing. The Participant shall deposit to the Coverage Account, from the first lawfully available funds therefor, an amount equal to one year's Coverage Factor for the amounts allocated to the Participant as the Participant's Capital Projects Installment Debt Service share under Article 16(C)(4) hereof. The Coverage Account shall be invested in accordance with applicable provisions of the Government Code, subject to any limitations established pursuant to Section 148 of the Internal Revenue Code of 1986, as amended, applicable to surplus moneys of the Participant and shall be made and remain available to the Participant and to the District as a source of funds to remedy any failure of the Participant to make its Contract Payments hereunder. The Coverage Account shall be pledged to the District for the purposes described herein, and the Participant covenants and agrees to execute such instruments as may be necessary in order to effect a pledge of amounts on deposit in the Coverage Account, acknowledging and agreeing as well to follow the advice of special tax counsel to the District in connection with the pledge and investment of the

Coverage Account, as may be necessary or advisable in order to maintain the tax status of the Tax-Exempt Obligations.

(V) Release of Coverage Account. If at any time following the establishment of the Coverage Account hereunder, the Participant shall again be able to and does collect rates and charges as required under Article 20 hereof, the Coverage Account may be released to the credit and name of the Participant for any lawful purpose thereof, upon delivery to the District of satisfactory evidence that (1) the Participant has successfully levied rates and charges for the Participant's Water Enterprise at the appropriate levels for at least one full Fiscal or Water Year since the Coverage Account was first created, and (2) the Participant is then current on all payments due under the Contract; whereupon, the District shall either release the Coverage Account to the Participant or shall direct the Depository to do so, free from the lien described herein; subject, however to any contrary requirements of rating agencies or credit providers providing security for any of the outstanding Municipal Obligations.

**ARTICLE 26:
EVENTS OF DEFAULT; DISTRICT REMEDIES**

(A)(2) The Participant shall fail to establish or collect, or cause to be collected, all rates and charges, and other sums, necessary to enable Participant to make the payments required hereunder, as provided in Article 20 hereof, and, following thirty (30) days written notice from the District to the Participant, the Participant shall fail to remedy such failure to the satisfaction of the District; or

FORMER EXHIBIT A

ESTIMATED DESIGN PHASE COSTS AND CASH CONTRIBUTIONS

The current estimated total Design Phase Costs of the Project are \$18,890,000, within which the District calculates the following numbers as the Cash Contributions of various Participants:

<u>Participant</u>	<u>Total Estimated Cash Contribution</u>
City of San Luis Obispo	\$ 6,630,202
City of Paso Robles	7,846,339
Templeton CSD	490,384
Atascadero MWC	<u>3,923,075</u>
Total	\$18,890,000

Payment Schedule

<u>Installment No.</u>	<u>Participant</u>	<u>Due Date</u>	<u>Amount</u>
1	SLO City	April 1, 2005	\$816,964
	Paso Robles	April 1, 2005	\$966,815
	Templeton	April 1, 2005	\$60,425
	AMWC	April 1, 2005	\$483,396
2	SLO City	July 1, 2005	\$616,514
	Paso Robles	July 1, 2005	\$729,597
	Templeton	July 1, 2005	\$45,599
	AMWC	July 1, 2005	\$364,790
3	SLO City	October 1, 2005	\$681,447
	Paso Robles	October 1, 2005	\$806,441
	Templeton	October 1, 2005	\$50,401
	AMWC	October 1, 2005	\$403,211
4	SLO City	January 1, 2006	\$659,510
	Paso Robles	January 1, 2006	\$780,480
	Templeton	January 1, 2006	\$48,779
	AMWC	January 1, 2006	\$390,231

Payment Schedule Continued

<u>Installment No.</u>	<u>Participant</u>	<u>Due Date</u>	<u>Amount</u>
5	SLO City	April 1, 2006	\$922,753
	Paso Robles	April 1, 2006	\$1,092,008
	Templeton	April 1, 2006	\$68,249
	AMWC	April 1, 2006	\$545,990
6	SLO City	July 1, 2006	\$1,473,526
	Paso Robles	July 1, 2006	\$1,743,806
	Templeton	July 1, 2006	\$108,985
	AMWC	July 1, 2006	\$871,882
7	SLO City	October 1, 2006	\$1,459,487
	Paso Robles	October 1, 2006	\$1,727,192
	Templeton	October 1, 2006	\$107,947
	AMWC	October 1, 2006	\$863,575
Total			\$18,890,000