

**Pure Water Delivery and Supply Project Agreement Between
Monterey Regional Water Pollution Control Agency and
Marina Coast Water District**



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THIS PURE WATER DELIVERY AND SUPPLY PROJECT [hereinafter referred to as “Agreement”] is made this 8th day of April, 2016 (“Effective Date”), by and between Monterey Regional Water Pollution Control Agency (“PCA”) and Marina Coast Water District (“MCWD”), hereinafter “Parties.”

The PCA was formed as a California Joint Powers Agency by a Joint Exercise of Powers Agreement for the Monterey Regional Water Pollution Control Agency, effective June 29, 1979. The MCWD is a County Water District and political subdivision of the State of California, organized under Division 12, sections 30000 and following, of the California Water Code.

WITNESSETH

WHEREAS, the 1997 Fort Ord Base Reuse Plan (BRP) identifies the availability of water as a resource constraint and the BRP estimates that an additional 2,400 AFY of water is needed to augment the existing groundwater supply to achieve the permitted development level as reflected in the BRP (Volume 3, figure PFIP 2-7); and,

WHEREAS, the Fort Ord Reuse Authority (“FORA”) transferred ownership of all of the then existing Fort Ord water and sewer facilities to the Marina Coast Water District (“MCWD”) under the 1998 Water/Wastewater Facilities Agreement; title was transferred in 2001; and,

WHEREAS, under Section 3.2.2 of the 1998 Water/Wastewater Facilities Agreement, FORA has the responsibility to determine, in consultation with MCWD, what additional water and sewer facilities are necessary for MCWD’s Ord Community service area in order to meet the BRP requirements, and that, once FORA determines that additional water supply and/or sewer conveyance capacity is needed, under Section 3.2.1, it is MCWD’s responsibility to plan, design, and construct such additional water and sewer facilities. Section 7.1.2 requires FORA to insure that MCWD recovers all of its costs for the new facilities and their operation; and,

WHEREAS, in 2002, MCWD, in cooperation with FORA, initiated the Regional Urban Water Augmentation Project (RUWAP) to explore water supply alternatives to provide the additional 2,400 AFY of water supply needed under the BRP; and

WHEREAS, as a result of an extensive environmental review, FORA and MCWD agreed to adopt a modified Hybrid Alternative, which would provide 1,427 AFY of recycled water to the Ord Community without the need for seasonal storage, and this in turn resulted in the FORA Board adopting Resolution 07-10 (May 2007), which allocated that 1,427 AFY of RUWAP recycled water to its member agencies having land use jurisdiction; and

WHEREAS, in June 2009, PCA and MCWD entered into a 50-year RUWAP Memorandum of Understanding, in which, subject to certain conditions specified therein, (a) PCA committed 650 AFY of summer recycled water to MCWD for the Ord Community; (b) MCWD affirmed its separate commitment of 300 AFY of summer recycled water to the Ord Community; and (c) PCA and MCWD committed to supply 477 AFY of recycled water during other months to the Ord Community - for a total of 1,427 AFY; and

WHEREAS, MCWD has been and continues to work collaboratively with FORA and with the PCA to carry out MCWD’s obligation to provide the 1,427 AFY of recycled water for the Ord Community; and

WHEREAS, on May 31, 2013, PCA commenced environmental review of its Pure Water Monterey Groundwater Replenishment Project ("Pure Water Monterey Project"). The Pure Water Monterey Project is a water supply project that would serve northern Monterey County by providing: (1) purified recycled water for recharge of a groundwater basin that serves as drinking water supply; and (2) recycled water to augment the existing Castroville Seawater Intrusion Project's agricultural irrigation supply. The Pure Water Monterey Project includes a pipeline to transport purified recycled water from a new Advanced Water Treatment Plant ("AWT") at PCA's Regional Treatment Plant to new Injection Well Facilities overlying the Seaside Groundwater Basin ("Product Water Conveyance Pipeline"). The Environmental Impact Report ("EIR") for the Pure Water Monterey Project evaluated two alternative alignments for the Product Water Conveyance Pipeline, a Coastal Alignment and an alignment that follows the right-of-way for the existing and future RUWAP pipeline ("RUWAP Alignment"). The Pure Water Monterey Project EIR identified the environmental effects of constructing the Product Water Conveyance Pipeline along the RUWAP Alignment, and operating the Product Water Conveyance Pipeline for the Pure Water Monterey Project; however the EIR recognized that shared use of a single Product Water Conveyance Pipeline for both the Pure Water Monterey Project and to supply recycled water to MCWD for the RUWAP would necessitate further review under the California Environmental Quality Act ("CEQA"). Shared use of a single Product Water Conveyance Pipeline would necessitate expansion of the Advanced Water Treatment Plant in order to purify the recycled water destined for the RUWAP because all water flowing in the shared pipeline must be purified; by contrast if water to serve the RUWAP were conveyed in its own separate pipeline only tertiary treatment would be needed; and

WHEREAS, on September 8, 2015, MWCD and PCA tentatively agreed to work together on the Pure Water Monterey Project; and

WHEREAS, on October 8, 2015, the PCA Board unanimously voted to certify the EIR for the Pure Water Monterey Project and to approve the Pure Water Monterey Project. The PCA Board selected the RUWAP Alignment for the Product Water Conveyance Pipeline.

WHEREAS, on October 9, 2015, the FORA Board unanimously voted to adopt a resolution to endorse the Pure Water Monterey Project as an acceptable option as the recycled component of the RUWAP and, as part of the Pure Water Monterey Project implementation, the FORA Board will review and consider project component costs and scheduling through annual consideration of the FORA CIP and Ord Community Budgets.

NOW, THEREFORE, for and in reliance of the foregoing, the Parties hereby agree as follows:

DEFINITIONS

For the purposes of this Agreement, the following definitions are provided:

- A. The term "Annexation Agreements" refers to the Annexation Agreement between MCWD and PCA dated April 25, 1989, and the Annexation Agreement between MCWD and WRA dated March 26, 1996. The individual Annexation Agreements are referenced herein by their respective dates.
- B. The term "AWT" or "AWT Facilities" or "Advanced Water Treatment Facilities" means the Advanced Water Treatment facilities as shown in Exhibit B at the PCA Regional Treatment Plant

for the Pure Water Monterey Project and includes the AWT-PCA, AWT Phase 1, and the AWT Phase 2. The AWT Facilities includes that segment of new pipeline shown on Exhibit B and located within the existing property lines of the Regional Treatment Plant property.

- C. The term “AWT Capacity Entitlement” shall mean the entitlement to the plant treatment capacity of the AWT which a Party has the right to use under this Agreement.
- D. The term “AWT-PCA” shall mean construction and operation of an advanced water treatment plant sized to produce 3,700 AFY of purified recycled water to deliver to the Seaside Groundwater Basin for the Pure Water Monterey Project as approved by the PCA Board in its Resolution Number 2015-24 on October 8, 2015 as part of the “Pure Water Monterey Project”.
- E. The term “AWT Phase 1” shall mean construction and operation of an expansion to the AWT-PCA to produce an additional 600 AFY of purified recycled water to deliver to the FORA land use jurisdiction members in addition to the 3,700 AFY of purified recycled water from the AWT-PCA to deliver to the Seaside Groundwater Basin, for a total production of purified recycled water of from the AWT Phase 1 of 4,300 AFY.
- F. The term “AWT Phase 2” shall mean construction and operation of an expansion to the AWT-PCA to produce an additional 827 AFY for a total of 1,427 AFY of purified recycled water to deliver to the FORA land use jurisdiction members in addition to the 3,700 AFY of purified recycled water from the AWT-PCA to deliver to the Seaside Groundwater Basin, for a total production of purified recycled water from the AWT Phase 2 of 5,127 AFY.
- G. The term “Drought Reserve” shall refer to storage of up to 1,000 acre-feet of water for potential use during a drought. During wet or normal water years, about 50% of the years, an additional 200 AFY may be conveyed through the Pipeline Facilities and injected in the winter months to develop the Drought Reserve, thereby increasing PCA’s use of the Pipeline Facilities to 3,700 AFY.
- H. The term “Existing Pipeline Facilities” shall be the existing recycled water pipeline (and appurtenances) constructed by MCWD and rights-of-ways, which will become part of the Product Water Conveyance Facilities as shown in Exhibit C.
- I. The term “Injection Well Facilities” shall mean collectively the Injection Well Facilities, turnouts, diversions and lateral pipelines connected to and beyond the Product Water Conveyance Facilities as shown in Exhibit C.
- J. The term “New Pipeline Facilities” shall mean the new recycled water pipeline sections (and appurtenances), booster plant, and rights-of-ways to convey purified recycled water as shown in Exhibit C which will become a part of the Product Water Conveyance Facilities. The beginning and ending points of the “New Pipeline Facilities” are shown in Exhibits A and C, respectively.
- K. The term “Parties” or “Both Parties” shall mean MCWD and PCA and their respective Boards.
- L. The term “Pipeline Facilities Entitlement” shall mean the entitlement to the capacity of the Pipeline Facilities which a Party has the right to use under this Agreement.
- M. The term “Product Water Conveyance Facilities”, “Pipeline Facilities”, and “RUWAP Conveyance Facilities” shall mean collectively the New Pipeline Facilities and the Existing Pipeline Facilities as shown in Exhibits C.

- N. The term “Pure Water Monterey Project” shall mean the full project that the PCA Board approved in its Resolution Number 2015-24 on October 8, 2015 including construction and operation of all source water facilities, Product Water Conveyance Facilities, AWT-PCA and other improvements to the Regional Treatment Plant, and Cal Am Distribution System Improvements described in such resolution and in the EIR for the Pure Water Monterey Project.
- O. The term “Pure Water Delivery and Supply Project Facilities” or “Project Facilities” shall mean collectively the AWT and the Product Water Conveyance Pipeline Facilities, as generally shown in Exhibit A. The term “Project Facilities components” shall refer severally to the AWT Facilities and the Pipeline Facilities. The Pure Water Delivery and Supply Project Facilities, as defined by this Agreement is a subset of certain components of the Pure Water Monterey Project and RUWAP Recycled Water Project including expansion of the AWT to implement this Agreement.
- P. The terms "reclaimed water", "reclaimed wastewater", and "recycled water" shall mean purified recycled water.
- Q. The term “RUWAP Distribution Facilities” shall mean those facilities connected to the Product Water Conveyance Facilities, which will be used to distribute MCWD’s recycled water to MCWD’s customers. The RUWAP Distribution Facilities are not a Project Facilities component.
- R. The term “RUWAP Recycled Project” shall mean the urban recycled water portion of the Regional Urban Water Augmentation Project (RUWAP) approved by the MCWD and FORA Boards. In 2002, MCWD, in cooperation with FORA, initiated the Regional Urban Water Augmentation Project (RUWAP) to explore water supply alternatives to provide an additional 2,400 AFY of water supply needed under the Base Reuse Plan. As a result of an extensive environmental review, FORA and MCWD agreed to adopt a modified Hybrid Alternative, which would provide 1,427 AFY of recycled water to the Ord Community without the need for seasonal storage, and this in turn resulted in the FORA Board adopting Resolution 07-10 (May 2007), which allocated that 1,427 AFY to its member agencies having land use jurisdiction. As a result of the Pure Water Monterey Project, the RUWAP Recycled Project includes MCWD’s Pipeline Facilities Entitlement, the RUWAP Distribution Facilities, and MCWD’s AWT Capacity Entitlement under this Agreement.
- S. The term “Source Water Facilities” shall mean the diversion facilities as approved in the “Pure Water Monterey Project” by the PCA Board in its Resolution Number 2015-24 on October 8, 2015.
- T. The term “summer months” shall mean the months of May, June, July, August, and September.

I. DESIGN, ENVIRONMENTAL, RIGHT-OF-WAY, AND CONSTRUCTION

1.01 California Environmental Quality Act Compliance and Other Conditions

- (a) Conditions Precedent and Drop Dead Dates: Nothing in this Agreement, except Section 1.01 (b), shall be deemed to constitute a binding obligation on either Party unless and until all of the following have occurred first:
 - i. New Pipeline Facilities: MCWD must complete any necessary CEQA review for any change in the location of the New Pipeline Facilities as compared to the location of the

pipeline facilities as shown the EIR for the Pure Water Monterey Project by October 31, 2016. Further, upon completion of any such CEQA review, before this Agreement can take effect, MCWD and PCA must approve the change in location of the New Pipeline Facilities. In conducting the CEQA review, MCWD reserves all of its rights, powers and discretion with regard to any such change in location in pipeline facilities. This includes the authority to adopt mitigation measures and/or an alternative project design, configuration, capacity or location in order to reduce any identified significant environmental impacts; the authority to deny the change in location of pipeline facilities based on any significant environmental impact that cannot be mitigated (in which case this Agreement shall not take effect); and the authority to approve the change in location of pipeline facilities notwithstanding any significant environmental impact that cannot be mitigated, if MCWD determines that these impacts are outweighed by the project's social, economic or other benefits. PCA similarly reserves all of its rights, powers and discretion under CEQA with regard to any decision by PCA on whether and how to approve any change in location in pipeline facilities.

- ii. AWT: PCA must complete any necessary CEQA review for AWT Phase 1 and AWT Phase 2 by October 31, 2016. In conducting the CEQA review, PCA reserves all of its rights, powers and discretion with regard to the expansion of the AWT. This includes the authority to adopt mitigation measures and/or an alternative project design, configuration, capacity or location in order to reduce any identified significant environmental impacts; the authority to deny the expansion of the AWT based on any significant environmental impact that cannot be mitigated (in which case this Agreement shall not take effect); and the authority to approve the expansion of the AWT notwithstanding any significant environmental impact that cannot be mitigated, if PCA determines that these impacts are outweighed by the project's social, economic or other benefits. MCWD similarly reserves all of its rights, powers and discretion under CEQA with regard to any decision by MCWD on whether and how to approve any expansion of the AWT.
- iii. There must be no CEQA lawsuits challenging any of the Parties' approvals with respect to any change in the location of the New Pipeline Facilities or with respect to the AWT Phase 1 or AWT Phase 2; if any such lawsuits are filed, all such lawsuits must be favorably resolved to the satisfaction of both PCA and MCWD.
- iv. All necessary regulatory approvals must be obtained for the Pure Water Monterey Project, AWT, and the New Pipeline Facilities including regulatory approvals required for any change in the location of the New Pipeline Facilities as compared to the location evaluated in the EIR for the Pure Water Monterey Project by October 31, 2016.
- v. Funding must be secured by December 31, 2016 for the Pure Water Monterey Project and the RUWAP Distribution Facilities, including for any change in the location of the New Pipeline Facilities as compared to the location evaluated in the EIR for the Pure Water Monterey Project, for AWT Phase 1, and for the CEQA work for AWT Phase 2; provided, however, that this funding is not required for the completed design and construction of AWT Phase 2 for the provisions of this Agreement to take effect with regard to implementation of Phase 1.
- vi. All source water must be approved for the Pure Water Monterey Project, except for Lake El Estero and Tembladero Slough by October 31, 2016.
- vii. All approvals must be obtained from the California Public Utilities Commission for the

water purchase agreement under which Cal Am agrees to buy 3,500 acre-feet of water per year from the Pure Water Monterey Project by October 31, 2016.

(b) Key Dates and Conditions for Future Negotiations.

- i. If the Division of Financial Services of the State Water Resource Control Board fails to approve PCA's SRF loan Initial Funding Agreement by October 31, 2016, then MCWD and PCA agree to negotiate in good faith alternatives for providing recycled water (tertiary or purified) for potential customers.
- ii. If the Division of Financial Services of the State Water Resource Control Board approves PCA's initial funding agreement, then if the Division of Financial Services of the State Water Resource Control Board fails to approve MCWD's State Revolving Fund (SRF) loan Initial Funding Agreement and/or MCWD passes a Board resolution to discontinue work on the project by October 31, 2016, then MCWD shall transfer all work product (e.g. right-of-way, design, survey, environmental, bid documents, etc.) to PCA so PCA can continue progressing with the project. If the Division of Financial Services of the State Water Resource Control Board approves PCA's State Revolving Fund (SRF) Loan Final Funding Agreement but denies MCWD's State Revolving Fund (SRF) Loan Final Funding Agreement and MCWD does not identify alternate financing by December 31, 2016, MCWD shall transfer all work product to PCA for financing and constructing the New Pipeline Facilities.
 - a. PCA will pay MCWD for all project expenditures on any work products transferred (e.g. right-of-way, design, survey, environmental, and bid document development).
 - b. In the event that PCA assumes responsibility for the financing and construction of the product water conveyance facilities, MCWD would continue to maintain ownership of the Product Water Conveyance Facilities per 2.06 of this agreement, and would assume ownership upon satisfactory demonstration of no additional financial impact to PCA for providing the financing to construct the Product Water Conveyance Facilities.
- iii. If the Division of Financial Services awards PCA an interest rate that is lower than the interest rate awarded to MCWD and MCWD does not receive grant or other funds that could be applied to the New Pipeline Facilities that would reduce PCA's share of the New Pipeline Facilities cost by approximately the same amount as the difference in cost from MCWD's higher interest rate, then MCWD and PCA agree to negotiate in good faith alternatives for financing and constructing the New Pipeline Facilities.

1.02 MCWD's Obligations.

MCWD will fulfill the following obligations relating to the New Pipeline Facilities:

- (a) MCWD will be responsible for acquiring all rights-of-way needed for the New Pipeline Facilities.
- (b) MCWD will conduct any necessary CEQA review for the New Pipeline Facilities.
- (c) MCWD will complete the design and contract documents for the construction of the New Pipeline Facilities.
- (d) MCWD will finance, construct, and install the New Pipeline Facilities in substantial conformity

with designs and plans approved by the Parties in writing. MCWD will put the New Pipeline Facilities out to bid and administer the construction contract.

1.03. PCA's Obligations.

PCA will fulfill the following obligations relating to the AWT Facilities:

- (a) PCA will conduct any necessary CEQA review for the AWT including Phase 1 and Phase 2.
- (b) PCA will finance, construct, and install the AWT Phase 1, in substantial conformity with designs and plans approved by the Parties in writing. PCA will put the AWT Phase 1 out to bid, and administer the construction contract(s).
- (c) PCA will complete the design and contract documents for the AWT Phase 1.
- (d) PCA will provide, and MCWD shall have, an AWT Capacity Entitlement of 600 AFY of purified recycled water from the AWT Phase 1 facilities.
- (e) PCA will provide, and MCWD shall have, an AWT Capacity Entitlement of an additional 827 AFY of purified recycled water from the AWT Phase 2 for a total AWT Capacity Entitlement in the AWT facilities of 1,427 AFY.
- (f) Up until MCWD exercises its option for the AWT Phase 2 facilities, MCWD shall have the continuing right to 827 AFY of tertiary water as set forth in the Annexation Agreements and the 2009 RUWAP MOU (1,427 AFY less the 600 AFY of recycled water provided in the AWT Phase 1 facility). It is not intended or implied that this water would be used in the same pipeline as the advanced treated water.

1.04. Change Orders.

- (a) Change orders must be approved in writing.
- (b) Any change order or related set of change orders that increases the Pure Water Delivery and Supply Project Facilities cost by \$100,000 or more shall require the written consent of both parties within 30 days of presentation.
- (c) Any change order or related set of change orders that increases the Pure Water Delivery and Supply Project Facilities cost by less than \$100,000 or that lowers the Pure Water Delivery and Supply Project Facilities cost may be approved by the party designated herein to administer the contract, without the consent of the other party, except that a copy of any proposed or executed change order shall promptly be provided to the other party as soon as it is available. The contract administrator party shall not split up change order work so that approval of the combined change order work by the other party is not required.
- (d) Each party's contract administrator shall be authorized to give consent to change orders for that party. Neither party's consent to a change order will be unreasonably withheld or delayed.
- (e) This Change Orders section shall apply separately to the AWT and Product Water Conveyance Facilities. This section shall no longer apply to a component of the Pure Water Delivery and Supply Project Facilities on the date that the parties agree in writing that that such component has been completed and is ready to be used.

1.05. Project Schedule Cooperation between agencies.

- (a) Subject to the terms and conditions of this Agreement, PCA and MCWD shall work cooperatively and with diligence to obtain all permits, approvals, and financing to construct the Pure Water Delivery and Supply Project Facilities.
- (b) Both parties will develop an implementation schedule. Representatives of the parties will meet on a monthly basis, or more often if necessary, in order to ensure that the Pure Water Delivery and Supply Project Facilities are proceeding according to the schedule and in conformity with this contract and the approved plans and designs. Each party will make every reasonable effort to fulfill its obligations in a timely manner to meet the projects milestones and deadlines.

1.06. Right to inspect.

- (a) Each party shall have the right to inspect the Pure Water Delivery and Supply Project Facilities, while under construction and at any time thereafter during the term of this contract, upon the giving of reasonable advance notice to the party administering the construction contract. Such inspections may take place at any time during the day or night; however, night time inspections will not take place without at least one week's notice, except in case of emergency or by agreement between the parties.
- (b) Each party shall have the sole right to direct the construction work that such party is responsible to implement and the work of each party's own employees. Each party's right to inspect is for the purpose of observation only and not for the purpose of supervision of the work observed.

1.07. Ocean Outfall.

Nothing in this Agreement changes past agreements between the Parties to meet and confer in good faith to evaluate the environmental, technical, managerial, and financial feasibility of a project to use the Regional Treatment Plant outfall to transport and discharge brine byproduct from a future water desalination facility.

**II. PURE WATER DELIVERY AND SUPPLY PROJECT FACILITIES
DESCRIPTION, OWNERSHIP, OPERATIONS, AND MAINTENANCE**

2.01. Location and Description of the Pure Water Delivery and Supply Project Facilities.

The Pure Water Delivery and Supply Project Facilities are shown generally in Exhibit A, attached hereto and made a part hereof and consist of the following sections:

- AWT (Exhibit B)
- New Pipeline Facilities (Exhibit C)
- Existing Pipeline Facilities (Exhibit C)

2.02. AWT Phase I

The AWT Phase I shall be sized to produce a minimum of 600 AFY of purified recycled water with the ability to produce a maximum day demand of 1.37 MGD for MCWD and in addition to produce a minimum of 3,700 AFY of purified recycled water with the ability to produce a maximum day demand of 4.0 MGD for the Pure Water Monterey Project.

2.03. Product Water Conveyance Facilities

- (a) The New and Existing Pipeline Facilities will have a minimum total conveyance capacity of

5,127 AFY.

- (b) PCA is prohibited from providing water to any customer within any MCWD service area through the use of any Pure Water Monterey Project Facility, either directly or through a third party, unless approved and authorized in writing by the MCWD Board of Directors. PCA agrees that it shall not authorize any third party to use any Pure Water Monterey Project Facility to serve water to any customer within any MCWD service area unless approved and authorized in writing by the MCWD Board of Directors.

2.04. Reserved

2.05. Future Expansion of Facilities (AWT Phase 2)

- (a) Subject to Section 1.01 (a) conditions, PCA will provide upon a written request from MCWD an additional AWT Capacity Entitlement for MCWD of up to and including 827 AFY of purified recycled water under AWT Phase 2 for a total AWT Capacity Entitlement of 1,427 AFY. PCA will not unreasonably delay implementing the request.
- (b) PCA will reserve physical space at the plant site and facilities for expanding the AWT should subsection (a) be triggered from time to time in the future.
- (c) Should MCWD request expanding the AWT beyond the AWT Phase 1 while there is sufficient time and funding capacity to include the further expansion in the Clean Water State Revolving Fund loan for the Pure Water Monterey Project, the costs for the AWT Phase 2 will be subject to the cost sharing section of this Agreement.
- (d) Subject to Section 2.05(b) above, PCA may expand the AWT and may construct additional reclamation facilities, at its sole cost and expense and without receiving the consent of MCWD, unless the Product Water Conveyance Facilities are disrupted or delivery of AWT water to MCWD is affected, then consent is required by MCWD in writing. Any increases in capacity and any additional reclamation facilities so constructed shall be used at PCA's discretion.

2.06. Ownership, Operation, and Maintenance of the Pure Water Delivery and Supply Project Facilities

- (a) PCA will own, operate, and maintain the AWT.
- (b) MCWD will own, operate and maintain the Product Water Conveyance Facilities. In addition, MCWD shall own a Pipeline Facilities Capacity Entitlement equal to 27.833% of the capacity of the Product Water Conveyance Facilities with a maximum annual use of 1,427 AFY during the initial term and any extended term of this Agreement. If and when the AWT Phase 2 is commercially operational and as shown on the table accompanying Section 3.02(b), the Parties recognize and agree that, during the summer months, MCWD's use of the Pipeline Facilities' capacity may exceed 27.833% of the instantaneous capacity and that MCWD is hereby authorized to exceed 27.833% during the summer months.
- (c) PCA shall own a Pipeline Facilities Capacity Entitlement equal to 72.167% of the capacity of the Product Water Conveyance Facilities with a maximum annual use of 3,700 AFY during initial term and any extended term of this Agreement. Parties recognize and agree that, during the months of November through February, PCA's use of the Pipeline Facilities' capacity may exceed 72.167% of the instantaneous capacity and that PCA is hereby authorized to exceed 72.167% during those specific months.

- (d) For the term of this Agreement, PCA shall maintain the AWT in good condition and repair and MCWD shall maintain the Product Water Conveyance Facilities in good condition and repair.
- (e) Both parties agree to coordinate operations and to share/integrate SCADA and other operational tools as necessary to facilitate efficient and effective operations of the Pure Water Delivery and Supply Project Facilities.

2.07. Decision-making authority.

In order to provide for the smooth and efficient operation of the Pure Water Delivery and Supply Project Facilities, MCWD and PCA will have the full authority to make and implement decisions with regard to activities and expenditures for the operations, and maintenance of their respective Project Facilities component without prior approval of the other party. All such activities shall be within the scope of services for operations and maintenance. All such expenditures shall be funded with the respective parties operational and maintenance budgets and/or the replacement reserves.

2.08. Outside Contracts.

When either Party deems it more appropriate for an outside contractor to make repairs or perform maintenance, bids may be solicited for contracts to perform this work.

2.09. Permits and approvals.

Each Party shall be responsible for obtaining and complying with all permits and approvals for the Project Facilities component that such Party owns that are necessary to perform its work under this Agreement.

2.10. Safety and loss prevention program.

MCWD and PCA will jointly develop, maintain, and implement a safety and loss prevention program for the Pure Water Delivery and Supply Project Facilities, and will provide appropriate training for its employees working on the facilities. This program will conform to all requirements set forth in CAL OSHA's Process Safety Management Program and US EPA's Risk Management Program, and will be revised and updated as new regulations are promulgated. All costs associated with the program will be included in the annual budget process.

2.11. Access to facilities.

Both MCWD and PCA personnel shall be provided access rights to all Pure Water Delivery and Supply Project Facilities with adequate notice and staff availability/chaperone.

2.12. Pure Water Coordinating Committee.

- (a) Within sixty days of the Effective Date of this Agreement, the parties shall establish and maintain a Pure Water Coordinating Committee which membership shall consist of at least one representative from each Party. A representative from each Party shall be the person who will be or who is responsible for the daily operations of a Pure Water Delivery and Supply Project Facilities component. The committee shall have access to and shall share all pertinent information in order to discuss and make recommendations for sustaining or improving the operations (including water quality), maintenance, and capital replacement efforts of the project.
- (b) Any financial changes approved by the Pure Water Coordinating Committee at a Committee meeting that require a budget modification will be submitted to both Boards of Directors for approval of the necessary budget modifications.

2.13. Unanticipated events/Emergency situations

- (a) Non-emergency circumstances or events may arise which were not anticipated in either the scopes of services or the budgets for the Pure Water Delivery and Supply Project Facilities. In this case, plans for addressing such circumstances or events, including justification and estimated amount of expenditures, will be submitted to the Pure Water Coordinating Committee for its review and recommendations. Before proceeding with those plans, each party must first give its written approval to incur any additional costs associated therewith consistent with the procurement policy of each agency.
- (b) If the event or circumstance constitutes an emergency situation which threatens health and safety, damage to property, or injury to persons, the Party having operational control of the affected Pure Water Delivery and Supply Project Facilities component will act as promptly and as efficiently as possible to mitigate the situation without waiting for approval by the Pure Water Coordinating Committee. The Pure Water Coordinating Committee will be advised as soon as possible thereafter of the mitigating actions taken and of any further action that may be necessary.

III. DELIVERY OF PURIFIED RECYCLED WATER

3.01. Existing Allocations

- (a) Subject to the terms and conditions described in this Agreement, PCA agrees to treat and provide an annual amount of purified recycled water from PCA's and MCWD's entitlements to assure delivery of the agreed water commitments to the RUWAP Recycled Project approved by the FORA Board of Directors and allocated to FORA land use jurisdiction members. Up to 1,762 AFY of source water would be made available from PCA to provide a net 1,427 AFY of purified recycled water taking into account the assumption of a 19% loss resulting from the advanced water treatment processes with the following limitations unless the FORA Board of Directors agrees to an allocation of less than 1,427 AFY of net purified recycled water:
 - i. As stated in the 1996 Annexation Agreement, up to a maximum of 300 AFY of source water will be treated for MCWD's use between the months of April and September.
 - ii. As stated in the 2009 RUWAP MOU, up to a maximum of 650 AFY of source water will be made available from PCA entitlements between the months of May and August for recycled water use.
 - iii. As per the 2009 RUWAP MOU, Section 3.1, the Parties agreed to meet and confer in good faith to evaluate the environmental, technical, managerial, and financial feasibility of a groundwater recovery replenishment project to inject and store recycled water.
 - iv. As stated in Section IV 1(d) of the Amended and Restated Water Recycling Agreement between PCA and Monterey County Water Resources Agency which was approved in November 2015, PCA is allocated 650 AF of water by Water Resources Agency during the months of May through August.
- (b) The parties agree to commit to a process to determine the amount of MCWD's Fort Ord Water Rights. The process shall include MCWD, PCA, FORA, U.S. Army, and MCWRA meeting and discussing the various agreements, obtaining legal opinions as necessary, and drafting documentation to clarify each agency's opinion, agreement, or disagreement and next steps on this issue by January 31, 2017.

3.02 Demand Schedule.

(a) According to Section 3.01 and subject to Section 2.03 of this Agreement, PCA will provide MCWD with purified recycled water according to the following typical nonbinding Schedule for AWT Phase 1 (~600 AFY of product water):

Approximate Demand Schedule (Phase 1):

Month	Demand (AF)			Needed Supply (AF)
	Others	Golf Course	Total	
January	7	16	23	28
February	5	11	16	19
March	8	19	27	33
April	16	40	56	70
May	26	62	88	108
June	26	63	89	110
July	27	65	92	113
August	22	54	76	94
September	20	49	69	85
October	12	29	41	51
November	5	12	17	21
December	2	5	7	9
Total	175	425	600	741

(b) According to Section 3.01 and subject to Section 2.03 of this Agreement, PCA will provide MCWD with purified recycled water according to the following typical nonbinding Schedule for AWT Phase 2 project (ultimate build out of the AWT to the amount approved by the FORA Board of Directors pursuant to Resolution No. 07-10):

Approximate Demand Schedule (Phase 2):

Month	Demand (AF)			Needed Supply (AF)
	Others	Golf Course	Total	
January	38	16	54	66
February	26	11	37	46
March	45	19	64	79
April	94	40	134	166
May	146	62	208	257
June	149	63	212	261
July	153	65	218	269
August	127	54	181	224
September	116	49	165	203
October	68	29	97	120
November	28	12	40	50
December	12	5	17	21
Total	1002	425	1427	1762

3.03 Water Quality.

All water produced and delivered to MCWD shall meet all applicable standards of quality prescribed by the State of California (including, but not limited to, the regulations promulgated by

the State Health Department and set forth in the California Code of Regulations, Title 22), or by separate agreement of the parties, so that the water may be used for the purposes specified herein. The parties clarify their intent with regard to the required water quality and further agree that the AWT Facilities have been designed to produce purified recycled water for the injection and landscape irrigation and other authorized purposes. The Parties agree that the purified recycled water to be used for landscape irrigation and other authorized purposes shall be of the same water quality as the water used for injection.

3.04. Warranties.

PCA warrants that all water committed to MCWD pursuant to this Agreement shall be transferred to MCWD free and clear of all claims by any person or entity, except as otherwise specified.

3.05. Duty to monitor water quality: cessation in deliveries.

PCA will monitor the quality of water produced, in accordance with the Indirect Potable Reuse guidelines per the California Department of Drinking Water Title 22 Article 5.2 of the CCR.

3.06. Regulations to protect water quality.

PCA will, to the extent feasible, enact reasonable and appropriate regulations governing the kinds of wastes and other materials that may be discharged into the sewerage system, in order to protect the quality of water ultimately produced by the AWT.

3.07. Daily Operation.

The AWT will be in operation and will supply water to MCWD on a daily basis except for temporary periods of shut-down authorized by this Agreement or made necessary by circumstances beyond the control of PCA or MCWD.

3.08. Incidental Uses.

PCA may use such amounts of purified recycled water from the Pure Water Delivery and Supply Project Facilities as may be needed for the normal operation and maintenance of PCA's facilities, including, but not limited to, the backwash of injection wells.

3.09. Notice of temporary cessation of water deliveries.

PCA will give immediate notice to MCWD, by telephone and/or electronic communication to MCWD's General Manager, or to the person designated by the General Manager to receive such notices, with a prompt follow-up notice in writing, as soon as PCA becomes aware of the need to cease deliveries. In addition, whenever a cessation of deliveries occurs, PCA shall use every reasonable effort to restore service as soon as possible.

3.10. Interruptions of service.

- (a) No work of construction, remodeling, renovation, replacement, repairs, addition, or expansion authorized under this Agreement and performed on the AWT or Injection Well Facilities shall, either before, during, or after such work, interfere with, interrupt, or reduce the delivery of advanced treated water to MCWD under this Agreement, except that minor interferences, interruptions, or reductions shall be allowed when necessary, unavoidable, or beyond the control of PCA.
- (b) PCA shall schedule its planned maintenance activities on the AWT and the Injection Well Facilities to minimize interruption of distribution of purified recycled water. Unscheduled work to perform repairs or maintenance will be performed in the manner deemed by PCA to have the least impact on the supply of advanced treated water. In case of any interruption of service, PCA shall give notice in the same manner as required by this Agreement.

- (c) MCWD shall schedule its planned capital replacement, maintenance activities, and lateral tie-in's to the Product Water Conveyance Facilities to minimize interruption of distribution of purified recycled water. Unscheduled work to perform repairs or maintenance will be performed in the manner deemed by MCWD to have the least impact on the distribution of purified recycled water. In case of any interruption of service on the Product Water Conveyance Facilities, MCWD shall give notice in the same manner as required by this Agreement.

IV. ESTIMATED COSTS, COST SHARING, FINANCING, AND BUDGETING

4.01. Estimated Costs of the Project

- (a) The PCA submitted an SRF loan package in the amount of \$113,000,000 of which \$41,190,000 is for the Advanced Water Treatment Facilities. It is anticipated that project costs will be below this amount. MCWD submitted an SRF loan package in the amount of \$35,000,000 which includes \$22,600,000 for the RUWAP New Pipeline Facilities. It is also anticipated that project costs will be below this amount.
- (b) The estimated construction costs and proportional share of the New Pipeline Facilities and AWT Phase 1 are presented below. The cost allocations for the Pipeline Facilities are based upon a MCWD maximum use of 1,427 AFY per year and a PCA maximum use of 3,700 AFY. If any maximum use amount is exceeded, then the Parties agree to recalculate the allocations for the Pipeline Facilities, to true up those capital costs back to the date of this Agreement, and to agree on a true up amount and payment schedule. The estimated annual debt service cost share is located in Exhibit E:

ESTIMATED CAPITAL COSTS	Total Amount	PCA Share	MCWD Share
New Pipeline Facilities	\$ 22,600,000	\$ 16,309,742 72.167%	\$ 6,290,258 27.833%
AWT Phase 1	\$ 41,184,636	\$ 35,438,144 86.047%	\$ 5,746,492 13.953%
Existing Pipeline Facilities	\$ 1,389,000	\$ 1,002,400 72.167%	\$ 386,600 27.833%
TOTAL	\$ 65,173,636	\$ 52,185,008 80.071%	\$ 12,988,628 19.929%

- (c) Except for the \$1,389,000 in Section 4.02 (a) (iii) for the Existing Pipeline Facilities, the Parties agree that all dollar amounts in this Agreement, including exhibits, are estimates and that this Agreement shall be amended from time to time to reflect the actual dollar amounts when known.
- (d) Both Parties commit grant funds to the Project Facilities by the ratio of the costs of the Project Facilities to the total costs to each party for Project Facilities, Injection Facilities, RUWAP Distribution Facilities, and Source Water Facilities. Both Parties agrees to apply those grant funds towards the total capital costs of a Project Facilities component, to be allocated to each parties share of capital costs as defined in Section 4.02 (a). The following is an example:

**PRODUCT CONVEYANCE FACILITIES AND RUWAP
DISTRIBUTION FACILITIES**

Total Project Cost	\$35 Million
Transmission Line	\$23 Million
PCA 71%	\$16.33 Million
MCWD 29%	\$ 6.67 Million
Distribution (ALL MCWD)	\$12 Million
Capital Cost Split (Grant Distribution %)	PCA \$16.33 Million (46.7%) MCWD \$18.67 Million (53.3%)
Assume \$17M in Grants	PCA \$7,939,000 MCWD \$9,061,000

AWT, DIVERSION, INJECTION FACILITIES

AWTF	\$40,000,000
PCA 72.17%	\$28,866,783
MCWD 27.83%	\$11,133,216
Diversion	\$947,765 + 5,649,339 ≈ \$6,600,000
PCA 100%	
Injection	\$10,668,000
PCA 100%	
Capital Distribution (Grant Distribution %)	
MCWD -AWTF	\$11,133,216 (19.44%)
PCA AWTf+DIV+IND	\$46,134,783 (80.56%)
TOTAL	\$57,267,999
Assume \$15M in Grants	PCA \$12,084,000 MCWD \$2,916,000

Total Project Costs	\$92,267,999
Total Capital Cost Split	
PCA	\$62,464,783
MCWD	\$29,803,216
Total Assured Grants	\$32,000,000
Grant Amounts	
PCA	\$20,023,000
MCWD	\$11,977,000

4.02. Cost Sharing: Capital and Replacement Costs

(a) Both parties will pay their share of all capital and replacement costs for the Project Facilities based on its percentage share of AWT Capacity Entitlement and/or Pipeline Facilities Capacity Entitlement as follows:

- i. AWT Facilities: % of a party's AWT Capacity Entitlement in AFY to the total AWT Capacity Entitlement in AFY from both parties. For AWT Phase 1, PCA = 86.047% and MCWD = 13.953%. For AWT Phase 2, PCA = 72.167% and MCWD = 27.833%.
- ii. New Pipeline Facilities: PCA = 72.167% and MCWD = 27.833%.

- iii. Existing Pipeline Facilities: PCA = 72.167% and MCWD = 27.833%. The parties agree that the total value of MCWD's Existing Pipeline Facilities for purposes of this Agreement is \$1,390,000. The parties agree that the annual payment to MCWD shall be equal to this total value amortized over a 30 year period.

4.03. Cost Sharing: Operations and Maintenance Costs

- (a) Both parties will pay their share of all operations and maintenance costs for the Pure Water Delivery and Supply Project Facilities based on actual use of the facilities based on the following:
 - i. AWT Facilities: % of AFY produced vs total from both parties
 - ii. Product Water Conveyance Facilities: % AFY through pipeline vs total from both parties
 - iii. Operations and Maintenance costs include, but are not limited to, the following: Power, chemicals, a Party's own or contracted labor and services, parts, materials, supplies, insurance, engineering, financial, and legal services, and such other cost categories agreed to by the Parties.

4.04. Project Funding: Capital Costs

- (a) PCA applied for a Clean Water SRF loan to pay for the entire capital costs of AWT which shall include all of the design, contract documents, rights-of-way acquisition, and all work to construct the AWT.
- (b) MCWD applied for a Clean Water SRF loan to pay for the entire capital costs of the New Pipeline Facilities which shall include all of the design, contract document, rights-of-way acquisition, and CEQA work necessary, and all work to construct the New Pipeline Facilities.

4.05. Project Funding: Replacement and Renewal Reserves

- (a) Each Agency shall establish a Replacement and Renewal Reserve Fund for the purpose of funding capital outlay projects on the Pure Water Delivery and Supply Project Facilities; assist in meeting any fiscal sustainability plan requirements for the Clean Water State Revolving Fund loans; and maintaining a proportional share of the State Revolving Fund loan's debt reserve requirement.
- (b) Each agency shall allocate sufficient funds in their annual budget to contribute to each Replacement and Renewal Reserve Fund in accordance with the capital cost sharing section of this Agreement. PCA will retain the replacement funds for those facilities in which they own and operate. MCWD will retain the replacement funds for those facilities in which they own and operate. Unless otherwise stated in Clean Water State Revolving Fund agreements, the following depreciation schedule related to operational equipment shall be used as a basis to establish annual funding of replacement reserves:

Equipment Type	Useful Life (Years)
Replacement Electrical	30
Replacement Instrumentation	15
Replacement Pumps & Motors	20
Motorized sluice gates	30
Replacement Wells & Ozonators	20

- (c) Two years prior to the completion of the thirty-year loan cycle, MCWD and PCA will develop a long-term Capital Improvement Plan, which includes establishing an appropriate level of Renewal and Replacement reserves. Any funds that are held in Reserves in excess of the Capital Improvement Plan will be refunded within ninety (90) days of the Plan's establishment.

4.06. Project Funding: Operations and Maintenance Costs

Each party shall place in their annual operating budget sufficient funds to pay for operations and maintenance according to the operations and maintenance cost sharing section of this Agreement.

Each party shall follow the recommended operation and maintenance schedules as suggested by the manufacturers throughout the initial term of this agreement.

4.07. Annual Budget Process.

Each year, in accordance with its normal budgeting schedule, both parties will adopt budgets sufficient to cover the capital, renewal, operation, and maintenance costs of their proportional share of the Pure Water Delivery and Supply Project Facilities.

4.08 Financial Obligations

Both Parties agree to pledge sufficient funds to meet their respective financial obligations under this Agreement by Board action.

V. PAYMENTS AND ACCOUNTING

5.01 Payment Schedule and Procedures.

(a) MCWD will make payments to PCA each year as follows:

- i. Thirty (30) days before the date the PCA's annual payment on the Clean Water State Revolving Fund loan for the Pure Water Monterey Project is due, MCWD will pay an amount equal to MCWD's proportional share of capital costs (debt service) as provided in Exhibit E.
- ii. By March 1 of each year, MCWD shall pay PCA the proportional share of the amortized replacement/renewal costs as identified in Exhibit E.
- iii. On a monthly basis, PCA will bill MCWD for Operation and Maintenance costs on an acre foot rate basis and actual demand.

(a) PCA will make payments to MCWD each year as follows:

- i. Thirty (30) days before the date the MCWD's annual payment on the Clean Water State Revolving Fund loan for the New Pipeline Facilities is due, PCA will pay an amount equal to PCA's proportional share of capital costs (debt service) as provided in Exhibit E.
- ii. By March 1 of each year, PCA shall pay MCWD the proportional share of the amortized replacement/renewal costs of the New Pipeline Facilities as identified in Exhibit E.
- iii. By June 30 of each year, PCA will pay an amount equal to PCA's proportional share of capital costs (debt service) for the construction of the Existing Pipeline Facilities funded by MCWD as provided in Exhibit E.

- iv. By June 30 of each year, PCA will pay MCWD the proportional share of the amortized replacement/renewal costs of the Existing Pipeline Facilities as identified in Exhibit E.
 - v. On a monthly basis, MCWD will bill PCA for the Operation and Maintenance costs for the Product Water Conveyance Facilities on an acre foot rate basis and actual demand.
- (b) At least thirty (30) days before capital or replacement payments are due, a request for payment shall be sent indicating the amount due, the date payment is due, and the nature of the payment.
- (c) Payment requests for operation and maintenance costs will be billed monthly. The resulting payments will be due within thirty days of billing.
- (d) Notwithstanding anything to the contrary contained herein, obligations to make payments shall be prioritized as follows, and the obligations in each category shall be subordinate to the obligations in each prior category, shall be on a parity with all other obligations in such category, and shall be senior to the obligations in each subsequent category:
- i. Operation and maintenance
 - ii. Debt service on obligations incurred to finance the Pure Water Delivery and Supply Project Facilities and payments to any provider of credit enhancement for such obligations
 - iii. Replacement/renewal costs
- (e) All requests for payment shall be promptly reviewed, approved for payment where such requests or portion thereof that are in conformity with this Agreement, and promptly submitted for payment. Disputed payment shall be resolved according to the Dispute Resolution Process in this Agreement.

5.02. Application of loan payments by PCA.

- (a) All payments made by MCWD to PCA for the repayment of the Clean Water SRF loan shall be used for such repayment. Upon termination of any loan agreement, any unused funds retained by PCA shall be returned to MCWD within 60 days from the date of the approved PCA audit for the fiscal year in which the agreement was terminated.
- (b) All payments made by PCA to MCWD for the repayment of the Clean Water SRF loan shall be used for such repayment. Upon termination of any loan agreement, any unused funds retained by MCWD shall be returned to PCA within 60 days from the date of the approved MCWD audit for the fiscal year in which the agreement was terminated.

5.03. Remedies for Delinquent Payments.

- (a) If either party should fail to make any payment required under this Agreement for a period of ninety (90) days or more after the due date, then upon fifteen (15) days' written notice, the party that is owed may act to proportionally reduce the activities for which payment is due; provided that no such reduction shall take effect if Dispute Resolution has been invoked and the full amount of the payment has been paid under protest.
- (b) In addition, if either party should fail to make any payment required under this Agreement for a period of ninety (90) days or more after the due date and Dispute Resolution has not been invoked, the party that is owed shall have the right to seek any appropriate judicial relief, at law

or in equity, for such default. Such relief may include, but need not be limited to, damages and injunctive relief.

5.04 Allocations: Operations and Maintenance Rates

- (a) Operations and Maintenance Rates: Based on electronic timesheets and indirectly through each Agency's Cost Allocation Plan, all costs associated with the new AWT Facilities will be allocated directly to PCA's Pure Water Monterey Fund and all costs associated with the Product Water Conveyance Facilities will be allocated directly to MCWD's RUWAP Conveyance Facilities Fund. Indirect costs and direct costs will be used in the development of PCA's and MCWD's Operation and Maintenance Rates. Each Agency's Operation and Maintenance rate will be subject to review and/or development of a third party consultant of the respective Agency's selection. PCA's Operation and Maintenance component of the rate will be consistent with rates provided to entities who utilize Advanced Treated Water.
- (b) PCA and MCWD retain the right to transition from any cost allocation plan identified in 5.04 of this Agreement to a cost allocation model that is compliant with the Office of Management and Budget (OMB) Circular A-87 – Cost Principles for State, Local, and Indian Tribe Governments or a subsequent revision. Any cost allocation subject to this provision shall be accompanied by a Certificate of Cost Allocation Plan and be in compliance with Title 2 CFR, Part 200. All indirect costs charged to the Pure Water Monterey Fund and the RUWAP Conveyance Facilities Fund will be applied consistently with the results of this plan to ensure equity between costs centers and conformance with OMB standards.

5.05. Accounting system.

Both parties will maintain an accounting system that is in conformity with generally accepted accounting principles (GAAP) and will allow for the segregation and tracking of all Replacement/Renewal reserves associated with the Project Facilities. Indirect costs shall not be applied to Replacement/Renewal Reserve contributions.

5.06. Financial reports.

Both parties will provide an annual report of the proportional share of reserve funds retained for the purpose of renewing the Pure Water Delivery and Supply Project Facilities. This report will be provided by September 30 of each year; and include deposits made to the Repair/Renewal Reserve, proportional interest earned, and the proportional share of any replacement/renewal costs.

5.07. Annual audit.

The accounting for the Pure Water Delivery and Supply Project Facilities will be subject to both parties Annual Audit. The Replacement/Renewal Reserve funds will be classified as Restricted on both parties Comprehensive Annual Financial Statement (CAFR). This Restricted classification will remain in effect through the term of this agreement, unless there are any new Governmental Accounting Standards Board (GASB) pronouncements or auditor comments that require a change in classification. A copy of each parties CAFR will be provided to the other by January following the close of the prior fiscal year.

5.08. Right to inspect and audit records.

Both parties shall have the right to inspect the other's records pertaining to debt service payments associated with the Pure Water Delivery and Supply Project Facilities and contributions for Renewal/Replacement Reserves, upon reasonable advance notice. Both parties shall also have the right to audit the other's records pertaining to the Project Facilities and contributions for Renewal/Replacement Reserves, or to have them audited by an auditor selected by the other party at that party's sole cost and expense. Such audit may be performed at any time during regular business

hours, upon the giving of reasonable advance notice.

5.09. Reimbursement for overcharge or undercharge.

If any there is audit shows that the incorrect application of replacement/renewal reserves, each agency will have 90 days to comply with the audit findings. If an undercharge or an overcharge has occurred in monthly demand billings, each agency will have 90 days to refund or pay the identified difference.

5.10. Claims for Stranded Costs

The parties agree to commit to a process to determine the amount of each parties' claims for stranded costs. The process shall include MCWD and PCA meeting and discussing the documentation to clarify each agency's opinion, agreement, or disagreement and next steps on this issue by March 31, 2017.

VI. INDEMNIFICATION.

6.01. Indemnification.

- (a) PCA shall indemnify, defend, and hold harmless MCWD , its officers, agents, and employees, from and against any and all claims, liabilities, and losses whatsoever against MCWD (including damages to property and injuries to or death of persons, court costs, and reasonable attorneys' fees) occurring or resulting to any and all persons, firms or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims, liabilities, and losses occurring or resulting to any person, firm, or corporation for damage, injury, or death arising out of or connected with the PCA's performance or non-performance of its obligations pursuant to this Agreement caused in whole or in part by any negligent act or omission or willful misconduct of PCA, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, except to the extent caused by the negligence or willful misconduct of MCWD.

- (b) MCWD shall indemnify, defend, and hold harmless PCA, its officers, agents, and employees, from and against any and all claims, liabilities, and losses whatsoever against PCA (including damages to property and injuries to or death of persons, court costs, and reasonable attorneys' fees) occurring or resulting to any and all persons, firms or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims, liabilities, and losses occurring or resulting to any person, firm, or corporation for damage, injury, or death arising out of or connected with the MCWD's performance or non-performance of its obligations pursuant to this Agreement caused in whole or in part by any negligent act or omission or willful misconduct of MCWD, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, except to the extent caused by the negligence or willful misconduct of PCA.

6.02. Procedure for Indemnification.

- (a) If any legal or administrative proceedings are instituted, or any claim or demand is asserted, by any third party which may give rise to any damage, liability loss or cost or expense with respect to which either party has agreed to indemnify the other party in this contract, then the indemnified party shall give the indemnifying party written notice of the institution of such proceedings, or the assertion of such claim or demand, promptly after the indemnified party first becomes aware thereof. However, any failure by the indemnified party to give such notice on such prompt basis shall not affect any of its rights to indemnification hereunder unless such failure materially and

adversely affects the ability of the indemnifying party to defend such proceeding.

- (b) The indemnifying party shall have the right, at its option and at its own expense, to utilize counsel of its choice in connection with such proceeding, claim or demand, subject to the approval of the indemnified party, which approval shall not be unreasonably withheld or delayed. The indemnifying party shall also have the right to defend against, negotiate with respect to, settle or otherwise deal with such proceeding, claim or demand. However, no settlement of such proceeding, claim or demand shall be made without the prior written consent of the indemnified party, which consent shall not be unreasonably withheld or delayed. The indemnified party may participate in any such proceeding with counsel of its choice at its own expense.
- (c) In the event, or to the extent, the indemnifying party elects not to, or fails to, defend such proceeding, claim or demand and the indemnified party defends against, settles or otherwise deals with any such proceeding, claim or demand, any settlement thereof may be made without the consent of the indemnifying party if it is given written notice of the material terms and conditions of such settlement at least ten days before a binding agreement with respect to such settlement is executed. However, nothing herein is intended to bar either party from submitting any dispute arising from this section to Dispute Resolution.
- (d) Each of the parties agrees to cooperate fully with each other in connection with the defense, negotiation or settlement or any such proceeding, claim or demand.

6.03. Payment of indemnified claims.

The indemnifying party shall forthwith pay all of the sums owing to or on behalf of the indemnified party, upon the happening of any of the following events:

- (a) Upon the rendition of a final judgment or award with respect to any proceeding described in Section 6.02, above, by a court, arbitration board or administrative agency of competent jurisdiction and upon the expiration of the time in which an appeal therefrom may be made; or
- (b) Upon the making of a settlement of such proceeding, claim or demand; or
- (c) Upon the parties' making of a mutually binding agreement with respect to each separate matter indemnified thereunder.

6.04. Contribution in the event of shared liability.

In the event any proceeding, claim or demand described in Section 6.01 is brought, in which allegations of fault are made against both the parties, the extent of indemnification shall be determined in accordance with the agreement of the parties, or, if there is no agreement, then in accordance with the findings of the court as to the relative contribution by each of the parties to the damage suffered by the party seeking indemnity with respect to such proceedings. If the court fails to make any such findings, then the matter shall be submitted to Dispute Resolution.

6.05. Exclusion from O&M costs.

Amounts payable by either party as indemnification shall not be included in the operations and maintenance costs of the Project.

VII. INSURANCE

7.01. General insurance requirements.

Without limiting either parties duty to indemnify, both parties shall maintain in effect throughout the

term of this Agreement a policy or policies of insurance meeting the requirements hereinafter set forth. All such insurance required by this article shall meet the following requirements:

- (a) Each policy shall be with a company authorized by law to transact insurance business in the State of California, and shall be written on an occurrence form unless such insurance is only available at a reasonable cost if written on a claims made form.
- (b) Each policy shall provide that both parties shall be given notice in writing at least thirty days in advance of any change, cancellation or non-renewal thereof.
- (c) Except with respect to workers compensation insurance, each policy shall provide an endorsement naming both parties and its officers, agents and employees as additional insureds, or additional insureds, as applicable, and shall further provide that such insurance is primary to any other insurance maintained by either party.
- (d) Unless otherwise agreed by MCWD and PCA, if a party awards a contract for construction work for the Pure Water Delivery and Supply Project Facilities, that party shall require the general contractor to provide commercial general liability and motor vehicle liability insurance coverage at least equal to the coverages required under this Agreement and shall name both MCWD and PCA as an additional named insureds and shall further provide that such insurance is primary to any issuance maintained by MCWD or PCA.

7.02. Commercial general liability insurance.

- (a) MCWD and PCA shall maintain (and be named insured under) commercial general liability insurance covering all operations under this Agreement, with such coverages as the parties may agree upon from time to time. Each party shall be named as an additional insured on the other party's commercial general liability coverage.
- (b) Each party shall pay the annual cost of such insurance for the term of this Agreement. Such insurance costs shall be treated as an annual operation and maintenance cost for the AWT Facilities and the Product Water Conveyance Facilities. In addition, should this Agreement be terminated by the parties, the obligation to pay for such insurance regarding the Project shall be accordingly reduced.

7.03. Motor vehicle insurance.

Both parties shall maintain insurance covering all motor vehicles (including owned and non-owned) used in providing services under this Agreement, with a combined single limit of not less than \$2,000,000.

7.04. Property insurance.

- (a) PCA shall maintain insurance covering the AWT Facilities against loss or damage due to fire and other perils to the extent that such insurance is reasonably commercially available and within available funds for the Pure Water Monterey Project. MCWD shall maintain insurance covering the Product Water Conveyance Facilities against loss or damage due to fire and other perils to the extent that such insurance is reasonably commercially available and within available funds for the Project.
- (b) Subject to Subsection (a) above, the amount of the insurance shall not be less than the then-current replacement cost of the applicable Pure Water Delivery and Supply Project Facilities, without depreciation. Insurance coverage for the Pure Water Delivery and Supply Project Facilities under this section shall be reviewed and approved by both parties, which shall not

unreasonably withhold or delay its approval. Both parties shall provide each other with a copy of the insurance policy and shall give the other party thirty (30) days' advance notice of any cancellation or proposed change in the insurance required by this section, and any such change shall be subject to review and approval by the other party.

7.05. Workers' compensation insurance.

Each party shall maintain a workers' compensation plan covering all of its employees as required by Labor Code Sec 3700, either (a) through workers' compensation insurance issued by an insurance company, with coverage meeting the statutory limits and with a minimum of \$100,000 per accident for employer's liability, or (b) through a plan of self-insurance certified by the State Director of Industrial Relations, with equivalent coverage. If either party elects to be self-insured, the certificate of insurance otherwise required by this Agreement shall be replaced with a consent to self-insure issued by the State Director of Industrial Relations.

7.06. Certificate of insurance.

Each party shall file certificates of insurance with the other party, showing that it has in effect the insurance required by this contract. Each party shall file a new or amended certificate promptly after any change is made in any insurance policy which would alter the information on the certificate then on file.

7.07. Self-insurance up to and including the first \$1 million of liability.

Each party may elect to be self-insured or to participate in the self-insurance pool for up to and including the first \$1 million of liability under any insurance required to be provided by it under this Agreement, provided the other party first gives its written consent, which will not be unreasonably withheld or delayed. The parties shall enter into a separate written memorandum of understanding specifying the proportionate amount or share of such self-insurance costs to be allowed and allocated as annual operation and maintenance costs for the Pure Water Delivery and Supply Project Facilities.

7.08. Insurance costs.

Except as otherwise specifically provided for in this Agreement, the parties agree to determine as part of the annual budget process what annual insurance costs are to be allowed and allocated as annual operation and maintenance costs for the Pure Water Delivery and Supply Project Facilities.

7.09. Periodic increases in coverage requirements.

Not more frequently than every five (5) years, if in the opinion of an insurance broker or consultant retained jointly by the parties, the amount of any insurance coverage required by this Agreement is not adequate, the party responsible for providing that insurance coverage shall increase the amount of the insurance coverage as required by the insurance broker or consultant.

7.10. Duty to apply insurance proceeds.

If either party recovers any insurance proceeds on account of loss or damage to any Project Facilities component, such proceeds shall be applied to repair or replace the damaged portion of that Project Facilities component, and not otherwise. If either party is self-insured and any loss or damage occurs that would have been covered by insurance otherwise required to be maintained by such party under this Agreement, then such party shall provide the funds that would have been recovered had the party been insured and shall apply the funds to repair or replace the damaged portion of the Project Facilities component.

7.11. Losses Caused by Third Parties.

If any Project Facilities component is damaged or destroyed or any other personal injury, death, property damage or economic loss is incurred relating to any Project Facilities component

(collectively, "damage or loss") during the term of this Agreement, and excluding the amount of any such damage or loss covered in Section VI, Indemnification, then the responsible third party or parties shall be responsible for paying for any such damage or loss. If the funds or other consideration paid by either party pursuant to Section VI and by the third parties are insufficient to cover the total cost of the damage or loss, then the balance necessary to cover the total cost of the damage or loss shall be paid from the applicable reserve and, then to the extent the funds in the replacement reserve are inadequate, the balance will be allocated between the parties based upon the then Capital Cost allocation for the applicable Project Facilities component.

VIII. TERM OF AGREEMENT

8.01. Term of Agreement.

This Agreement shall become effective on the date hereinabove entered and terminate on December 31, 2055 unless extended in accordance with Section 8.02.

8.02. Automatic extension.

This Agreement shall be automatically renewed for an additional 10-year period (an "extended term") unless a party is in default under this Agreement or unless one party provides the other party with written notice to terminate this Agreement upon expiration of the initial term or of any extended term. Any such notice must be provided to the other party at least three (3) full years prior to the expiration of any extended term. Unless such notice is provided, the parties agree that there shall not be a limit on the number of extended terms.

8.03. Conditions of agreement during term.

All the terms of this Agreement shall remain in effect during any term, except as otherwise provided in this Agreement or as may be amended in writing which is signed by both parties.

8.04. Rights on Termination.

(a) Unless otherwise agreed upon in writing by the parties, upon any termination of this Agreement, MCWD shall have the continuing right to tertiary water as set forth in the Annexation Agreements and the 2009 RUWAP MOU. Except as provided in the Annexation Agreements and the 2009 RUWAP MOU, PCA shall provide facilities for treating the water beyond secondary treatment level at its sole cost and expense or through a cooperative agreement with MCWD or any other entity. Upon any termination of this Agreement, MCWD shall have the continuing right to receive the same quantity of tertiary treated water as MCWD was or would have been entitled to receive during any term of this Agreement so long as MCWD provides facilities at its sole cost and expense or through a cooperative agreement with PCA or any other entity for the delivery of such tertiary treated water and purified recycled water.

(b) MCWD's and PCA's respective rights to tertiary treated water in accordance with this Agreement shall also survive termination.

IX. DISPUTE RESOLUTION

9.01. Dispute resolution procedure.

If any dispute arises between the parties as to the proper interpretation or application of this Agreement and/or the proper operation of the facilities, the parties shall resolve the dispute in accordance with this Article.

9.02. Duty to meet and confer.

If any dispute under this Agreement arises, the parties shall first meet and confer, in an attempt to resolve the matter between themselves. Each party shall make all reasonable efforts to provide to the other party all the information that the party has in its possession that is relevant to the dispute, so that both parties will have ample information with which to reach a decision.

9.03. Mediation and Binding Arbitration.

(a) If the dispute is not resolved within sixty (60) days after the first meeting under Section 9.02, then either party may notify the other party that the notifying party elects to submit the dispute to mediation. If the other party agrees to submit the dispute to mediation, then the parties will jointly select a mediator. The terms of mediation shall be set by agreement of the parties and the mediator.

(b) If the dispute is not resolved by meeting and conferring, and mediation does not occur or is unsuccessful, the parties may agree to submit the matter to binding arbitration. In that event, the parties will jointly select a single arbitrator. If the parties are unable to agree on a single arbitrator, then the parties shall request the Presiding Judge of the Monterey County Superior Court to appoint an arbitrator who has proven experience in the subject matter of the dispute. Any person selected as an arbitrator shall be a qualified professional with expertise in the area that is the subject of the dispute, unless the parties otherwise agree. The cost of the arbitrator shall be shared equally between the parties. Unless otherwise agreed by the parties, the arbitration shall be conducted in accordance with the rules of the American Arbitration Association ("Rules"); provided that the arbitration does not have to be handled through the American Arbitration Association. The parties agree that they will faithfully observe the Rules and will abide by and perform any award rendered by the arbitrator, and that a judgment of the court having jurisdiction may be entered on the award. Notwithstanding the Rules, discovery will be permitted and the provisions of the California Code of Civil Procedure Section 1283.05 are incorporated herein unless the parties agree otherwise. The parties hereby consent to the jurisdiction of the courts of Monterey County for the confirmation, correction or vacation of any arbitration award. The arbitrator may grant any remedy or relief deemed by the arbitrator just and equitable under the circumstances, whether or not such relief could be awarded in a court of law. The arbitrator will have no power to award punitive damages or other damages not measured by the party's actual damages against any party. This limitation of the arbitrator's powers under this Agreement shall not operate as an exclusion of the issue of punitive damages from this Agreement to arbitrate sufficient to vest jurisdiction in a court with respect to that issue. The arbitrator's award will be deemed final, conclusive and binding to the fullest extent allowed by California law, and may be entered as a final judgment in court.

X. GENERAL PROVISIONS

10.01. Compliance with laws.

Both parties will comply with all permit and licensing requirements applicable to the project, and will operate the project in accordance with all requirements of law and governmental regulations.

10.02. Attorney's fees.

If either party commences an action against the other party arising out of or in connection with this Agreement, the prevailing party shall be entitled to have and recover from the losing party reasonable attorneys' fees and costs.

10.03. Amendments.

No amendment or modification shall be made to this Agreement, except in writing, approved by the respective Boards and duly signed by both parties.

10.04. Contract administrators.

(a) MCWD hereby designates its General Manager as its contract administrator for this Agreement. All matters concerning this Agreement which are within the responsibility of MCWD shall be under the direction of or shall be submitted to the General Manager or such other MCWD employee in the MCWD as the General Manager may appoint. MCWD may, in its sole discretion, change its designation of the contract administrator and shall promptly give written notice to PCA of any such change.

(b) PCA hereby designates its General Manager as its contract administrator for this Agreement. All matters concerning this Agreement which are within the responsibility of PCA shall be under the direction of or shall be submitted to the General Manager or such other PCA employee in the PCA as the General Manager may appoint. PCA may, in its sole discretion, change its designation of the contract administrator and shall promptly give written notice to MCWD of any such change.

10.05. Assignment.

Any assignment of this Agreement shall be void without the written consent of the non-assigning party, except that PCA shall have the right to assign all of its rights and obligations under this Agreement to a local governmental agency created by PCA for the sole purpose of assuming and performing all rights and obligations of PCA under the Pure Water Monterey Project and except that MCWD shall have the right to assign all of its rights and obligations under this Agreement to a local governmental agency created by MCWD for the sole purpose of assuming and performing all rights and obligations of MCWD under this Agreement; provided that in either case the local governmental agency assignee shall have adequate financial assets to insure its performance of all assigned obligations.

10.06. No Modification of MCWD Contract Entitlement.

Nothing in this Agreement is intended to, nor shall it be interpreted to, expand, limit or otherwise modify MCWD's existing contractual rights, entitlements, and obligations pursuant to either of the Annexation Agreements or the 2009 RUWAP MOU.

10.07. Negotiated Agreement.

This Agreement has been arrived at through negotiation between the parties. Neither party is to be deemed the party which prepared this Agreement within the meaning of Civil Code Sec. 1654.

10.08. Time is of essence.

Time is of the essence of this Agreement.

10.09. Headings.

The article and paragraph headings are for convenience only and shall not be used to limit or interpret the terms of this Agreement.

10.10. Entire Agreement.

This written Agreement, together with all exhibits attached hereto and incorporated by reference, is the complete and exclusive statement of the mutual understanding of the parties, except to the extent that this Agreement expressly refers to or requires the preparation of additional agreements. Any such additional agreement shall be in writing.

10.11. Notices.

All notices and demands required under this Agreement shall be deemed given by one party when delivered personally to the principal office of the other party; when faxed to the other party, to the fax number provided by the receiving party; or five days after the document is placed in the US mail, certified mail and return receipt requested, addressed to the other party as follows:

To PCA:

General Manager
MRWPCA
5 Harris Court, Building D
Monterey, CA 93940
Fax: (831) 372-6178

To MCWD:

General Manager
MCWD
11 Reservation Road
Marina, CA 93933
Fax: (831) 883-5995

10.12. Execution of documents.

(a) The parties will execute all documents necessary to complete their performance under this Agreement.

10.13. Exhibits.

(a) The following exhibits are attached to this Agreement:

Exhibit A: Pure Water Delivery and Supply Facilities

Exhibit B: AWT Facilities

Exhibit C: Product Water Conveyance Facilities

Exhibit D: Reserved

Exhibit E: Summary of Estimated Costs- Phase 1 only

Exhibit F: Financial and Construction Responsibilities of the Project Components

Exhibit G: Important Project Agreement Dates

10.14. Severability.

If any one or more of the terms, provisions, covenants or conditions of this Agreement are to any extent declared invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, the finding or order or decree of which becomes final, the Parties agree to amend the terms in a reasonable manner to achieve the intention of the Parties without invalidity. If the terms cannot be amended thusly, the invalidity of one or several terms will not affect the validity of the Agreement as a whole, unless the invalid terms are of such essential importance to this Agreement that it can be reasonably assumed that the Parties would not have contracted this Agreement without the invalid terms. In such case, the Party affected may terminate this Agreement by written notice to the other Party without prejudice to the affected Party's rights in law or equity.

10.15. Waiver.

(a) No waiver of any right or obligation of any of the parties shall be effective unless in writing, specifying such waiver, executed by the party against whom such waiver is sought to be

enforced. A waiver by any of the parties of any of its rights under this Agreement on any occasion shall not be a bar to the exercise of the same right on any subsequent occasion or of any other right at any time.

10.16. Written Authorization.

(a) For any action by any party which requires written authorization from the other party, the written authorization shall be signed by authorizing party's General Manager, or the General Manager's written designee.

XII. EXECUTION

In witness whereof, the parties execute this Agreement as follows:

PCA
Dated: 4/8/2016
Alina De la Rosa
Board Chair, Board of Directors

MCWD
Dated: 4.7.16
[Signature]
President, Board of Directors

Approved as to form:
Dated: 4/8/2016
[Signature]
Counsel, PCA

Dated: April 7, 2016
Fogor K. Masuda
Legal Counsel, MCWD

Exhibit A: Pure Water Delivery and Supply Facilities

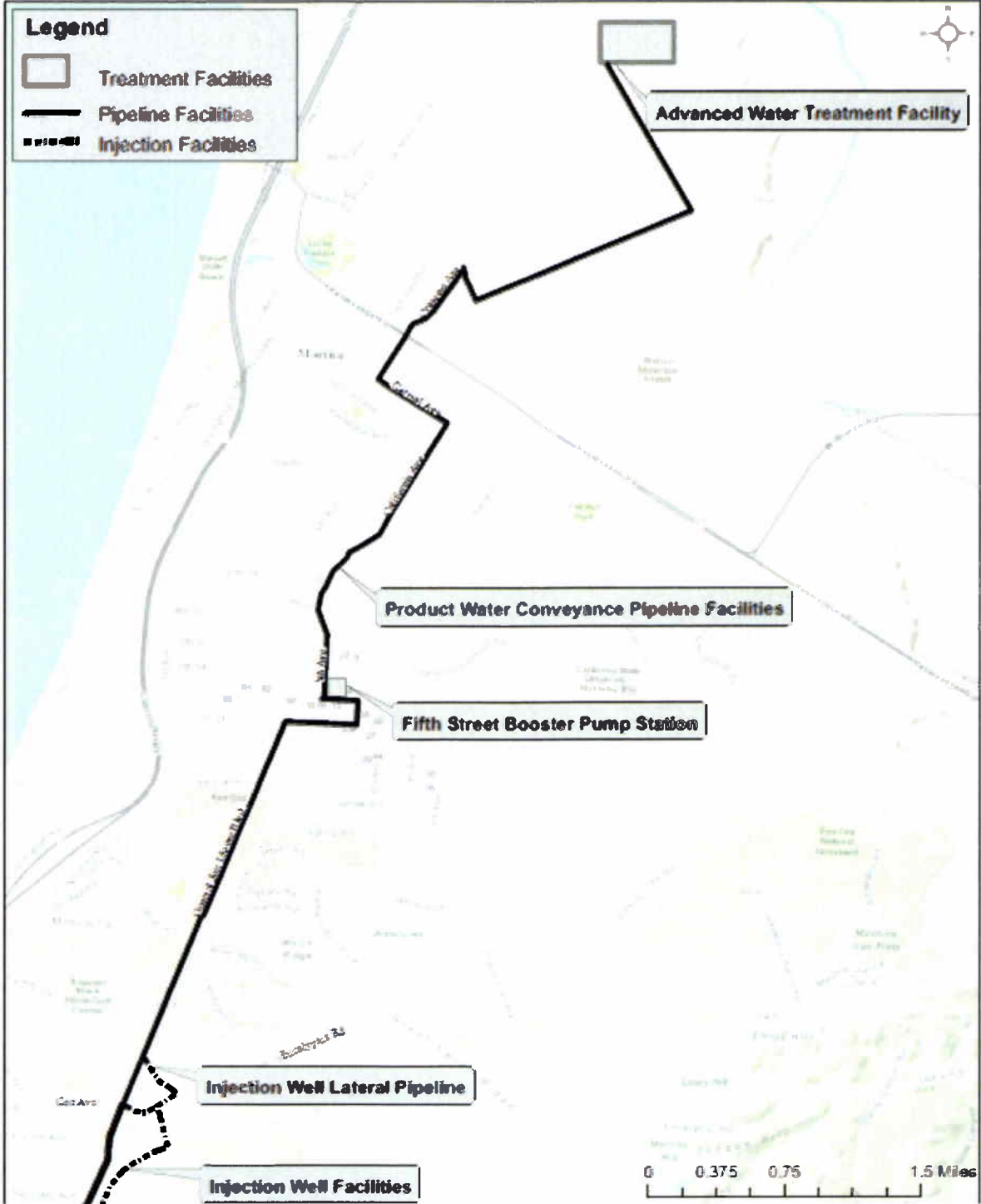
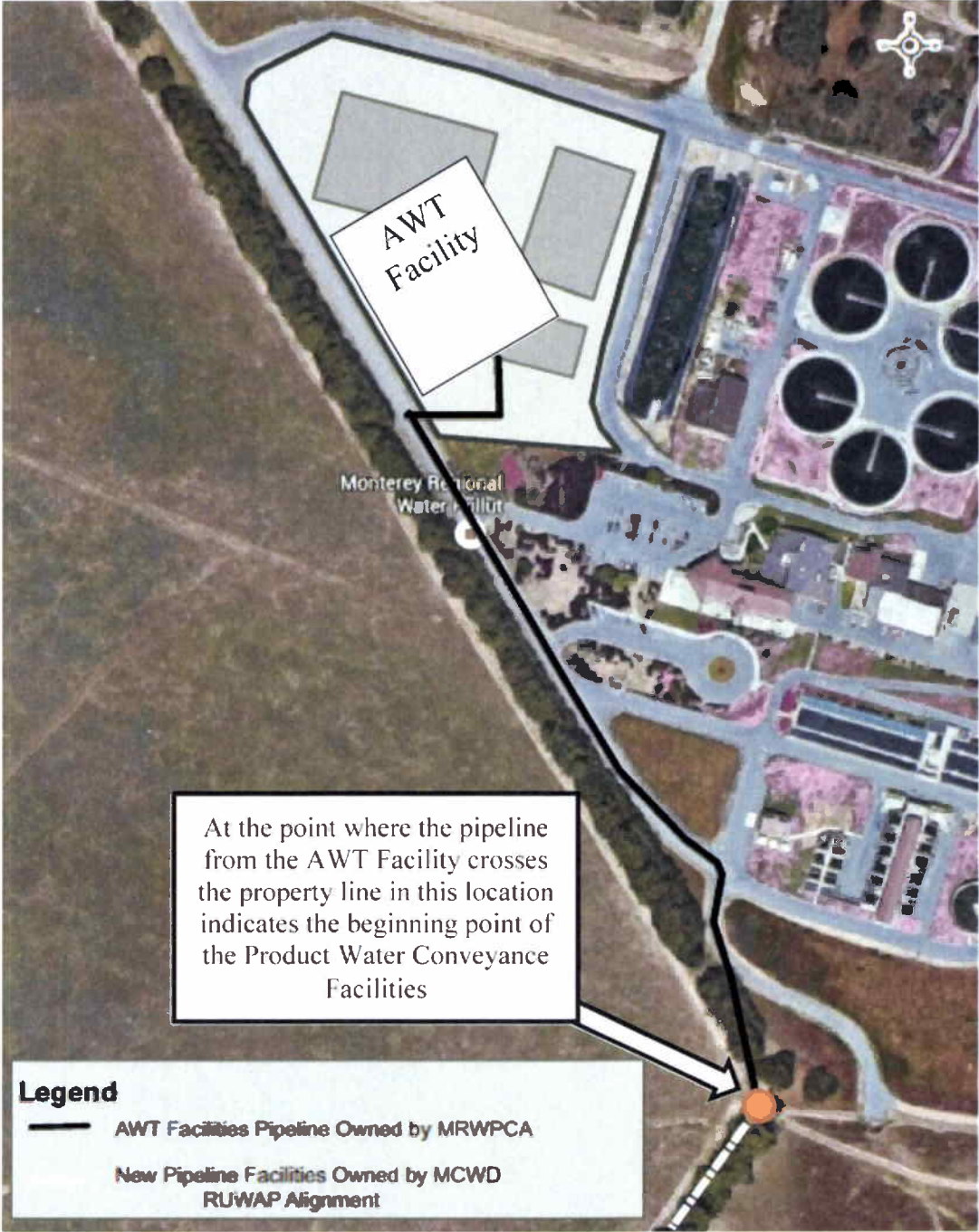


Exhibit B: AWT Facilities



● Beginning of Product Water Conveyance Facilities

Exhibit C (page 1 of 2): Product Water Conveyance Facilities

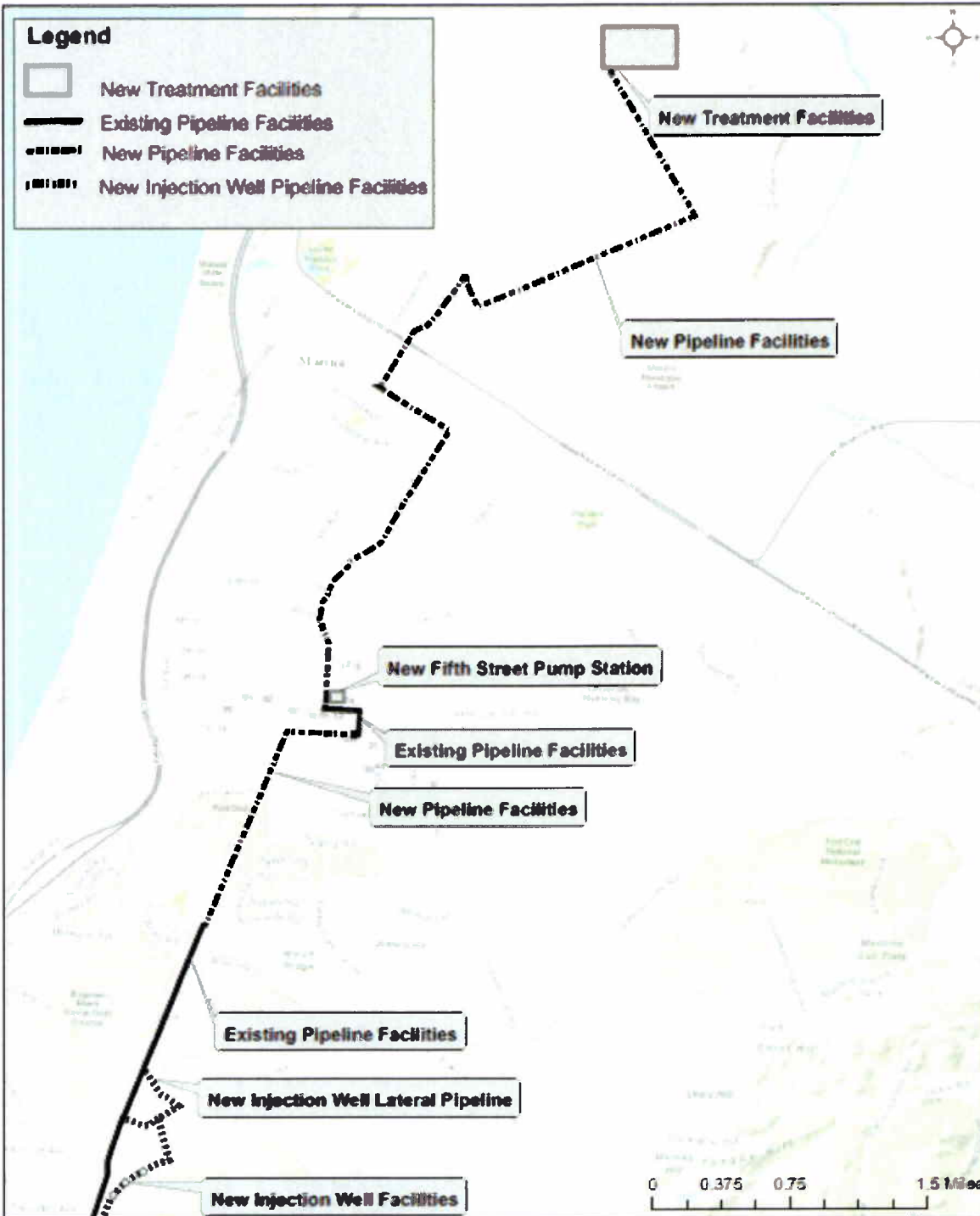
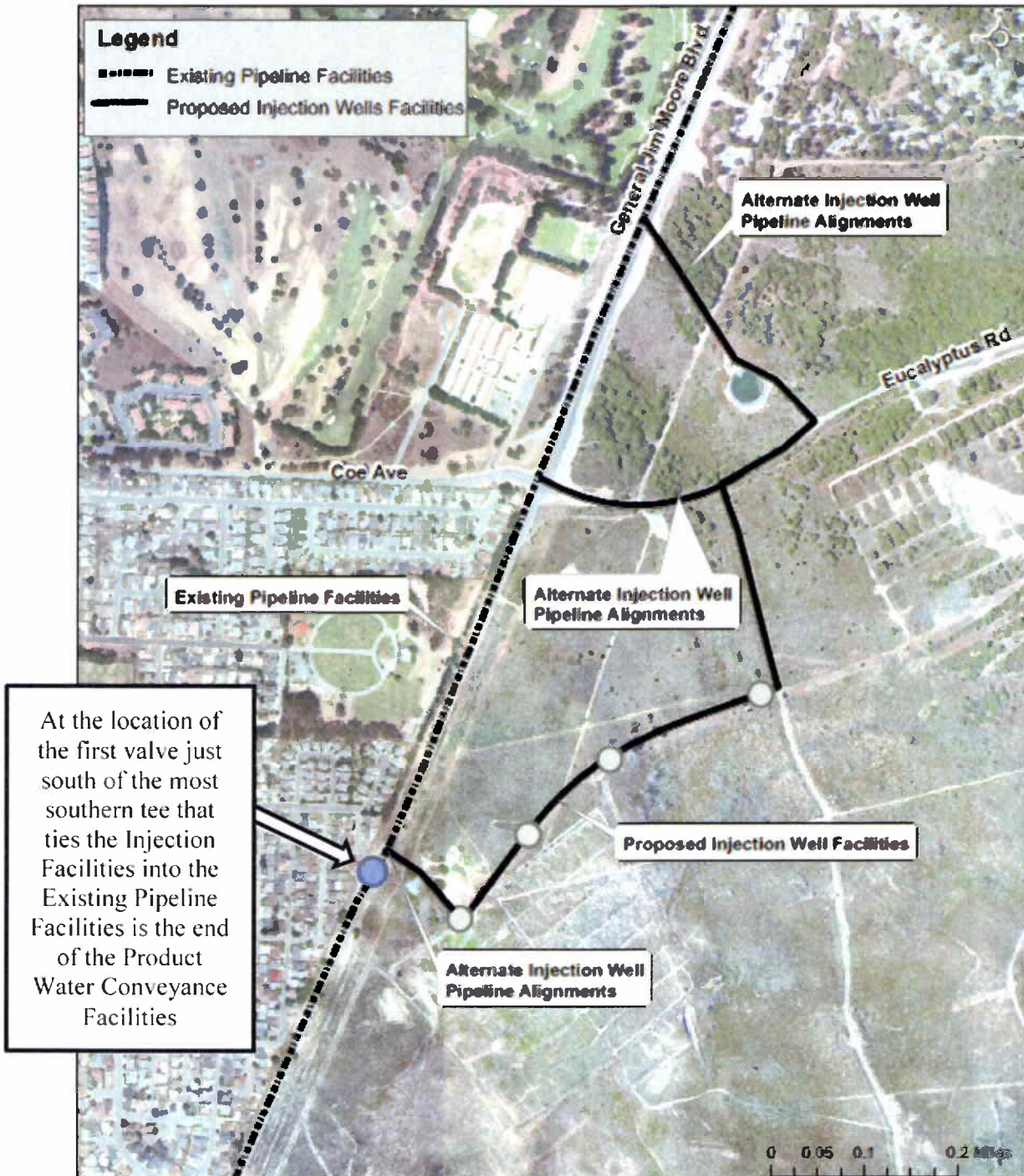


Exhibit C (page 2 of 2): Product Water Conveyance Facilities



● End of Product Water Conveyance Facilities

Exhibit D: Reserved

Exhibit E: Summary of Estimated Costs-Phase 1 Only

(Note: This table does not include potential grant funds or other capital contributions that may be received and applied to the project that would reduce the overall costs for PCA and/or MCWD).

Est. Capital Costs	PCA Share	MCWD Share	PCA Share	MCWD Share	Total Amount
New Pipeline Facilities	72.167%	27.833%	\$ 16,309,742	\$ 6,290,258	\$ 22,600,000
AWT Phase 1	86.047%	13.953%	\$ 35,438,144	\$ 5,746,492	\$ 41,184,636
Existing Pipeline Facilities	72.167%	27.833%	\$ 1,002,400	\$ 386,600	\$ 1,389,000
TOTAL	80.938%	19.062%	\$ 52,750,285	\$ 12,423,351	\$ 65,173,636

Est. Annual Debt Service Costs	PCA Share	MCWD Share	PCA Share	MCWD Share	Annual Amount
New Pipeline Facilities	72.167%	27.833%	\$ 631,972	\$ 243,736	\$ 875,707
AWT Phase 1	86.047%	13.953%	\$ 1,373,161	\$ 222,666	\$ 1,595,827
Existing Pipeline Facilities	72.167%	27.833%	\$ 54,502	\$ 21,020	\$ 75,522
TOTAL	80.863%	19.137%	\$ 2,059,635	\$ 487,421	\$ 2,547,056

Est. Annual OM Costs	PCA Share	MCWD Share	PCA Share	MCWD Share	Annual Amount
New Pipeline Facilities	86.047%	13.953%	\$ 146,054	\$ 23,684	\$ 169,738
AWT Phase 1	86.047%	13.953%	\$ 2,480,409	\$ 402,212	\$ 2,882,621
Existing Pipeline Facilities	86.047%	13.953%	\$ 4,595	\$ 745	\$ 5,340
TOTAL	86.047%	13.953%	\$ 2,631,058	\$ 426,641	\$ 3,057,699

Est. Annual Renewal Costs	PCA Share	MCWD Share	PCA Share	MCWD Share	Annual Amount
New Pipeline Facilities	72.167%	27.833%	\$ 56,110	\$ 21,640	\$ 77,750
AWT Phase 1	86.047%	13.953%	\$ 620,818	\$ 100,669	\$ 721,487
Existing Pipeline Facilities	72.167%	27.833%	\$ 2,005	\$ 773	\$ 2,778
TOTAL	84.653%	15.347%	\$ 678,933	\$ 123,082	\$ 802,015

Est Total Annual Costs		PCA Share	MCWD Share	Annual Amount
New Pipeline Facilities		\$ 834,136	\$ 289,059	\$ 1,123,195
AWT Phase 1		\$ 4,474,388	\$ 725,547	\$ 5,199,935
Existing Pipeline Facilities		\$ 61,102	\$ 22,538	\$ 83,640
TOTAL		\$ 5,369,626	\$ 1,037,145	\$ 6,406,770

Est. Total Demands and Cost/AF	PCA Share	MCWD Share	PCA Share	MCWD Share	Annual Amount
Phase 1 Demand	86.047%	13.953%	3,700	600	4,300
Total Cost/AF			\$ 1,451	\$ 1,729	\$ 1,490

Note: New Pipeline Facilities includes the piping and pump station facilities.

Exhibit F: Financial and Construction Responsibilities of Project Components

Project Item	Who will perform the work and pay the initial invoices		How will costs be reconciled between MCWD and PCA
	MCWD	PCA	
New Pipeline Facilities CEQA	X		PCA to reimburse MCWD based on Capital Cost Share %
New Pipeline Facilities Design	X		PCA to reimburse MCWD based on Capital Cost Share %
New Pipeline Facilities Permits	X		PCA to reimburse MCWD based on Capital Cost Share %
New Pipeline Facilities Capital	X		PCA to reimburse MCWD based on Capital Cost Share %
New Pipeline Facilities O&M	X		PCA to reimburse MCWD based on OM Cost Share %
New Pipeline Facilities Renewal	X		PCA to reimburse MCWD based on Renewal Cost Share %
Existing Pipeline Facilities O&M	X		PCA to reimburse MCWD based on OM Cost Share %
Existing Pipeline Facilities Renewal	X		PCA to reimburse MCWD based on Renewal Cost Share %
RUWAP Distribution Facilities CEQA, Design, Permits, Capital, O&M, and Renewal	X		Not applicable.
AWT-PHASE 1 CEQA		X	MCWD to reimburse PCA based on Capital Cost Share %
AWT-PHASE 1 Design		X	MCWD to reimburse PCA based on Capital Cost Share %
AWT-PHASE 1 Permits		X	MCWD to reimburse PCA based on Capital Cost Share %
AWT- PHASE 1 Capital		X	MCWD to reimburse PCA based on Capital Cost Share %
AWT-PHASE 1 O&M		X	MCWD to reimburse PCA based on OM Cost Share %
AWT-PHASE 1 Renewal		X	MCWD to reimburse PCA based on Renewal Cost Share %
AWT-PHASE 2 CEQA		X	MCWD to reimburse PCA based on Capital Cost Share %
AWT-PHASE 2 Design		X	MCWD to reimburse PCA based on Capital Cost Share %
AWT-PHASE 2 Permits		X	MCWD to reimburse PCA based on Capital Cost Share %
AWT-PHASE 2 Capital		X	MCWD to reimburse PCA based on Capital Cost Share %
AWT-PHASE 2 O&M		X	MCWD to reimburse PCA based on OM Cost Share %
AWT-PHASE 2 Renewal		X	MCWD to reimburse PCA based on Renewal Cost Share %
Injection Facilities CEQA, Design, Permits, Capital, O&M, and Renewal		X	Not applicable.

Exhibit G: Important Project Agreement Dates

Section 1.01 (a)	Milestone	Party	Key Date	Drop Dead Date
i	CEQA Approval-New Pipeline Facilities	MCWD		October 31, 2016
ii	CEQA Approval-AWT Phase 1 and AWT Phase 2	PCA		October 31, 2016
iii	No CEQA Lawsuits	BOTH		N/A
iv	Regulatory Approvals	PCA		October 31, 2016
v	SRF Funding Agreement	BOTH	October 31, 2016 Initial funding agreement	December 31, 2016 Final funding agreement
vi	Source waters approval	PCA		October 31, 2016
vii	CPUC approval	PCA		October 31, 2016

**MONTEREY REGIONAL WATER
POLLUTION CONTROL AGENCY**

*** * * AGENDA TRANSMITTAL FORM * * ***

MEETING DATE:	NOVEMBER 28, 2016
AGENDA ITEM:	6 – K
AGENDA TITLE:	CONSIDER APPROVING AN AMENDMENT FOR AN EXTENSION TO THE ADVANCED TREATED WATER DELIVERY AND SUPPLY PROJECT AGREEMENT BETWEEN MRWPCA AND MCWD
Consent (X) Action () Informational ()	
Recycled Water Committee recommended approval at November 17, 2016 meeting	
CONTACT:	PAUL A. SCIUTO, GENERAL MANAGER
Phone:	(831) 372-3367

DEPARTMENT SUMMARY AND REQUESTED BOARD ACTION:

On December 14 2015, the Board of Directors approved The Advanced Treated Water Delivery and Supply Project Agreement between Monterey Regional Water Pollution Control Agency (MRWPCA) and the Marina Coast Water District (MCWD).

This agreement defined the terms by which MCWD and MRWPCA would cooperate to build and share the Advanced Water Purification and conveyance facilities, notably the construction of the conveyance pipeline from the purification facility to the injection wellfield.

THE ISSUE:

There are a number of conditions that need to be met for that agreement to remain in effect. Those include but are not limited to:

- MCWD and MRWPCA must receive SRF funding to construct the pipeline.
- MCWD must have water purchase agreements in place for a revenue stream.
- MRWPCA must receive CPUC approval of the Pure Water Project.

The above-bulleted “Conditions Precedent” is intended to allow either agency to withdraw from the agreement if the funding by which they would finance their respective projects does not materialize.

While MRWPCA has secured the Water Purchase Agreement via the CPUC approval, neither MCWD nor MRWPCA has secured the funding from the SRF loan. In the case of MRWPCA, we expect funding no later than March and in the case of MCWD, they expect funding by

**MONTEREY REGIONAL WATER
POLLUTION CONTROL AGENCY**

*** * * AGENDA TRANSMITTAL FORM * * ***

May, 2017. Since the current wording in the agreement anticipated funding by the end of 2016, the time allowed for SRF funding needs to be extended by six (6) months.

Not addressed in this action is the fact that through the design process for the various projects, other amendments to the original agreement are in order and the staff for the two agencies is working on those amendments for future WRC and Board action.

FISCAL IMPACT

There is no fiscal impact associated with this item.

FINANCIAL IMPACT:	() Yes (X) No
FUNDING SOURCE:	N/A
PRIOR BOARD ACTIONS:	Approved of The Advanced Treated Water Delivery and Supply Project Agreement between MRWPCA and MCWD
ALTERNATIVES:	N/A
MANAGER RECOMMENDATION:	N/A
RECOMMENDED MOTION:	That the Board Approve an Amendment for an Extension to the Advanced Treated Water Delivery and Supply Project Agreement Between MRWPCA and MCWD for Six (6) Months, Until June 2017



APPROVED
January 30, 2017

MINUTES
of the Regular Meeting
Monterey Regional Water Pollution Control Agency
Board of Directors
November 28, 2016

1. CALL TO ORDER

The Regular Meeting of the Board of Directors of the Monterey Regional Water Pollution Control Agency was Called to Order by Acting Chair Rubio at 6:02 p.m., on Monday, November 28, 2016 in the Board Room at 5 Harris Court, Building D, Monterey, California.

2. ROLL CALL

BOARD MEMBERS PRESENT:

Rudy Fischer, Vice Chair <i>[arrived at 6 :35 pm]</i>	Pacific Grove
Linda Grier	Boronda County Sanitation District
Ron Stefani	Castroville Community Services District
John M. Phillips	County of Monterey
Dennis Allion	Del Rey Oaks
Thomas P. Moore	Marina Coast Water District
Libby Downey	Monterey
James R. Cochran	Moss Landing County Sanitation District - Ex-Officio
Dave Pendergrass	Sand City
Ralph Rubio	Seaside
Vacant – Ex-Officio	United States Army

BOARD MEMBERS ABSENT:

Gloria De La Rosa, Chair	Salinas
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MRWPCA STAFF PRESENT:

Paul A. Sciuto	General Manager
Stephen Hogg	Assistant General Manager
Tori Hannah	Chief Financial Officer

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MRWPCA Regular Board Meeting
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Bob Holden	Principal Engineer
Jennifer Gonzalez	Engineering Manager
Rob Wellington	Legal Counsel
Bill Ragsdale-Cronin	Plant Maintenance Supervisor
Chayito Ibarra	Executive Assistant

OTHERS PRESENT:

Legal Counsel Wellington stated that because Chair De La Rosa and Vice Chair Fischer were not present, a motion would have to be made to appoint an Acting Chair until they arrived.

ACTION TAKEN: It was moved by Member Phillips, seconded by Member Allion, to appoint Member Rubio as Acting Chair and carried by the following vote:

Ayes: Grier, Stefani, Phillips, Allion, Moore, Downey, Pendergrass, Rubio

Noes: None

Absent: De La Rosa, Fischer

3. PLEDGE OF ALLEGIANCE

Member Phillips led the Pledge of Allegiance.

4. PUBLIC COMMENTS

Alex Miller addressed the Board on the need for the Agency to have a Community Advocate Board and a Community Relations Officer to provide outreach to Agency customers.

5. SPECIAL ACKNOWLEDGEMENTS

A. "Water Resources Utility of the Future Today" Certificate of Recognition Awarded to MRWPCA – Steve Hogg, Assistant General Manager

6. CONSENT AGENDA

Mr. Moore requested to pull Item F, Consider approval of a reimbursement agreement with FORA for costs associated with construction support for Pure Water Monterey Project – Injection Wells Facilities, from the consent agenda.

ACTION TAKEN: It was moved by Member Phillips, seconded by Member Moore, to approve Consent Agenda Items A through E and Items G through P, and carried by the following vote:

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MRWPCA Regular Board Meeting

November 28, 2016

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Ayes: Grier, Stefani, Phillips, Allion, Moore, Downey, Pendergrass, Rubio

Noes: None

Absent: De La Rosa, Fischer

- A. Approve Board Minutes for Regular Board Meeting of October 31, 2016
- B. Receive Schedule of Cash and Investments as of October 31, 2016
- C. Receive Check Register for October 2016
- D. Receive Waste Discharge Report and NPDES Monitoring Report for October 2016; and Plant Flows and Effluent Quality for Connected Agencies, Plus Flow Charts for RTP, Salinas, Monterey Peninsula, Marina, Fort Ord, and Castroville for October 2016
- E. Consider Approval of Proposed Board Meeting Dates for 2017
- F. Consider Approval of a Reimbursement Agreement with FORA for Costs Associated with Construction Support for Pure Water Monterey Project – Injection Wells Facilities
- G. Consider Approval of an Increase to the Contract with Kennedy/Jenks Consultants for Phase 1 Support Bid Services for the Injection Wells Facilities
- H. Consider Approval of an Increase to the Contract with E2 Consulting Engineers for Bid Services for the Blanco Drain and Reclamation Ditch Diversion Facilities
- I. Consider Approval of an Amendment to the Existing Contract with Wigen Water Technologies for the Advanced Water Treatment Facility Membrane Filtration Reverse Osmosis Equipment (MF/RO)
- J. Consider Awarding Contract to E2 Consulting Engineers for Phase 2 of the Brine Mixing Structure Design Review
- K. Consider Approving an Amendment for an Extension to the Advanced Treated Water Delivery and Supply Project Agreement Between MRWPCA and MCWD**
- L. Consider Approval of Construction Contract for SVRP 57-Inch Filter Effluent Pipe Rehabilitation Project, Coating Inspection and Testing Services Contract, and Reallocation of Money within Fiscal Year 2016/17 Budget
- M. Consider Approval of Resolution No. 2016-25, Fixing Base Compensation of Legal Counsel for Purposes of Public Employees' Retirement System
- N. Consider Approval of Resolution No. 2016-26, Authorizing the General Manager to Sign and File, a Financial Assistance Application for a Financing Agreement from the SWRCB for the Planning, Design, and Construction of the Farmworker Housing Connection Project
- O. Consider Approval of Reclassification of Administrative Support Specialist

Position Supporting Human Resources

- P. Consider Approval of a Contract with Engine System Integration for Cogeneration Engineering Support

ITEMS PULLED FROM CONSENT AGENDA:

- F. Consider Approval of a Reimbursement Agreement with FORA for Costs Associated with Construction Support for Pure Water Monterey Project – Injection Wells Facilities**

Mr. Sciuto gave the Board a brief description of this item and the costs associated with it. The Board had a lengthy discussion and agreed that while the costs were high, the construction support expenses were required to keep the project moving forward.

ACTION TAKEN: It was moved by Member Allion, seconded by Member Phillips, to approve Consent Agenda Item F, and carried by the following vote:

Ayes: Grier, Stefani, Phillips, Allion, Downey, Pendergrass, Rubio

Noes: Moore

Absent: De La Rosa, Fischer

7. COMMITTEE REPORTS

- A. RECYCLED WATER COMMITTEE (RWC) – NOVEMBER 17, 2016**

1. Receive RWC Draft Minutes of November 17, 2016

ACTION TAKEN: It was moved by Member Pendergrass, seconded by Member Phillips, to receive the RWC Draft Minutes of November 17, 2016 and carried by the following vote:

Ayes: Grier, Stefani, Phillips, Allion, Moore, Downey, Pendergrass, Rubio

Noes: None

Absent: De La Rosa, Fischer

- B. BUDGET/PERSONNEL COMMITTEE (BPC) – NOVEMBER 18, 2016**

1. Receive BPC Draft Minutes of November 18, 2016

ACTION TAKEN: It was moved by Member Allion, seconded by Member Moore, to receive the BPC Draft Minutes of November 18, 2016 and carried by the following vote:

Ayes: Grier, Stefani, Phillips, Allion, Moore, Downey, Pendergrass, Rubio

Noes: None

Absent: De La Rosa, Fischer

8. ACTION ITEMS

A. Receive Fiscal Year 2015/16 Draft Financial Statements and Independent Auditors Report

Ms. Hannah stated that a copy of the Agency's financial statements for fiscal year ending June 30, 2016 were provided for review. She stated that the audit was performed by Lance, Soll & Lunghard (LSL), LLP. Ms. Hannah reported that the Agency had received an unmodified or "clean" opinion.

Member Fischer arrived at 6:35 pm

Ms. Hannah noted that Bryan Gruber of LSL was on the phone and was available to answer any questions.

ACTION TAKEN: It was moved by Member Allion, seconded by Member Moore, to receive the Fiscal Year 2015/16 Draft Financial Statements and Independent Auditors Report, and carried by the following vote:

Ayes: Fischer, Grier, Stefani, Phillips, Allion, Moore, Downey, Pendergrass, Rubio

Noes: None

Absent: De La Rosa

B. Consider Approval of PG&E Invoice Adjustment for ZWE Energy Payments

Ms. Gonzalez presented this item and stated that after a lengthy discussion, the BPC recommended approval of this item. She provided a summary to the Board of the timeline having to do with the issue with PG&E and the connection of the ZWE generation facility to the RTP electrical system.

ACTION TAKEN: It was moved by Member Allion, seconded by Member Rubio, to approve reimbursement to PG&E in the amount of \$25,694.25 and amend the budget, to reflect adjustments to monthly payments to MRWPCA for energy export, and carried by the following vote:

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Ayes: Fischer, Grier, Stefani, Phillips, Allion, Moore, Downey, Pendergrass, Rubio

Noes: None

Absent: De La Rosa

C. Consider Approval of Resolution No. 2016-27, Authorizing the Purchase of Various Pure Water Monterey Equipment Components without Formal Competitive Bidding

Mr. Holden provided a summary of this item to the Board. He stated that the design for the various components for Pure Water Monterey was being prepared for bidding. Staff is recommending that certain components be sole sourced due to the required integration with existing Agency systems, available local support and knowledge/training of staff on this equipment.

ACTION TAKEN: It was moved by Member Allion, seconded by Member Moore, to approve Resolution No. 2016-27, Authorizing the purchase of various Pure Water Monterey equipment components without formal competitive bidding, at a price not to exceed \$673,200, including tax and shipping, pursuant to the exemption provisions of Paragraph 4 of Resolution No. 87-19, and carried by the following vote:

Ayes: Fischer, Grier, Stefani, Phillips, Allion, Moore, Downey, Pendergrass, Rubio

Noes: None

Absent: De La Rosa

D. Consider Approval of a Contract to Complete the Annual Salinas Valley Reclamation Project (SVRP) Chlorine System Maintenance

Mr. Hogg presented this item and stated that the annual maintenance of the chlorination system has been completed each year since the SVRP went in service in 1998. He noted that the annual maintenance is required by Federal Process Safety Management Regulations and ensures that equipment and integral parts are repaired or replaced as needed to prevent potential equipment failure during the upcoming growing season.

Mr. Hogg stated that staff recommends that the Board award a contract to KCK Company in the amount of \$44,723.29 for SVRP Chlorination System Annual Maintenance Services.

ACTION TAKEN: It was moved by Member Rubio, seconded by Member Phillips, to approve a contract with KCK Company in the amount of \$44,723.29 for SVRP

Chlorination System Annual Maintenance services, and carried by the following vote:

Ayes: Fischer, Grier, Stefani, Phillips, Allion, Moore, Downey, Pendergrass, Rubio

Noes: None

Absent: De La Rosa

E. Consider Approval of Issuance of Notice to Proceed for Phase 3 and 4 to Kennedy/Jenks Consultants for 100% Design and Bid Services for the Advanced Water Purification Facilities

Mr. Holden stated that at the October 31, 2016 Board meeting, the Board approved issuance of Notice to Proceed for Phase 3 and 4, contingent upon approval of 75% payment from MPWMD for Phase 2, 3 and 4 in the amount of \$1,750,898. At the November 14, 2016 MPWMD Board meeting, the Board authorized \$871,785 of District Funds for Kennedy Jenks, AWPf 100% design. Because approval of these funds will only enable partial continued progress of the AWPf design, MRWPCA has determined that funds to cover the total costs for Phase 3 & 4 in the amount of \$1,137,260 will be allocated as follows:

- a. MPWMD – \$871,785
- b. MRWPCA – Permitting Budget Transfer – \$25,537
- c. MRWPCA – Existing Design Budget – \$239,938

Mr. Holden stated that Agency staff anticipates receiving the SRF funding in February 2017, at which time staff will re-allocate any funds from reserves and/or CIP projects used for the AWPf design.

ACTION TAKEN: It was moved by Member Rubio, seconded by Member Allion, to approve issuance of Notice to Proceed for Phase 3 – 100% Design for AWPf for a not to exceed amount of \$961,997, and Notice to Proceed for Phase 4 – Bid Services for a not to exceed amount of \$175,263 and approve a budget adjustment to fund this work, and carried by the following vote:

Ayes: Fischer, Grier, Stefani, Phillips, Allion, Moore, Downey, Pendergrass, Rubio

Noes: None

Absent: De La Rosa

9. INFORMATIONAL ITEMS

A. Reclamation Highlights/Charts, Water Quality & Ops, Tours

Mr. Hogg provided a summary of these items to the Board.

B. Pure Water Monterey Update

Mr. Sciuto provided an update on the Pure Water Monterey Project and provided some of the highlights.

10. STAFF REPORTS

A. General Manager/Assistant General Manager/Legal Counsel

Mr. Sciuto provided an update to the Board on presentations he has made in the community and meetings he has attended.

11. BOARD MEMBER COMMENTS/REPORTS (None)

Chair De La Rosa recessed Open Session and commenced Closed Session at 7:12 p.m.

12. RECESS TO CLOSED SESSION

A. Conference with Real Property Negotiators

Pursuant to Government Code 54956.8

Property: Ocean Outfall
Agency Negotiator: Paul A. Sciuto, General Manager
Negotiating Parties: California American Water
Under Negotiation: All Terms and Conditions

Chair De La Rosa adjourned Closed Session at 7:30 p.m., and commenced Open Session.

13. ANNOUNCEMENTS FROM CLOSED SESSION

Legal Counsel Wellington reported that in the Closed Session the Board considered Agenda Item 12-A (Conference with Real Property Negotiators) and stated that no reportable action was taken.

14. ADJOURNMENT

At 7:31 p.m. with no further business, Chair De La Rosa adjourned the meeting to the next regularly scheduled Board Meeting to be held in the Board Room at 5 Harris Court, Building D, in Monterey, California on Monday, January 30, 2017 at 6:00 p.m.



Paul A. Sciuto, General Manager
Secretary to the Board



Gloria De La Rosa, Chair
MRWPCA Board of Directors

April 17, 2017

Resolution No. 2017-26
Resolution of the Board of Directors
Marina Coast Water District
Approving Amendment No. 1 to the Pure Water Delivery and
Supply Agreement between the Monterey Regional Water Pollution
Control Agency and Marina Coast Water District

RESOLVED by the Board of Directors (“Directors”) of the Marina Coast Water District (“District”), at a regular meeting duly called and held on April 17, 2017 at 211 Hillcrest Avenue, Marina, California as follows:

WHEREAS, the 1997 Fort Ord Base Reuse Plan (BRP) identifies the availability of water as a resource constraint and the BRP estimates that an additional 2,400 AFY of water is needed to augment the existing groundwater supply to achieve the permitted development level as reflected in the BRP (Volume 3, figure PFIP 2-7); and,

WHEREAS, the Fort Ord Reuse Authority (“FORA”) agreed under the 1998 Water/Wastewater Facilities Agreement that ownership of all of the then existing Fort Ord water and sewer facilities should be transferred to the Marina Coast Water District (“MCWD”) subject to their conveyance from the Army to FORA; title to the Fort Ord water and sewer facilities and rights to water and sewage treatment capacity, except for those rights reserved by the Army, was transferred to MCWD in October 2001; and,

WHEREAS, under Section 3.2.2 of the 1998 Water/Wastewater Facilities Agreement, FORA has the responsibility to determine, in consultation with MCWD, what additional water and sewer facilities are necessary for MCWD’s Ord Community service area in order to meet the BRP requirements, and that, once FORA determines that additional water supply and/or sewer conveyance capacity is needed, under Section 3.2.1, it is MCWD’s responsibility to plan, design, and construct such additional water and sewer facilities. Section 7.1.2 requires FORA to insure that MCWD recovers all of its costs for the new facilities and their operation; and,

WHEREAS, in 2002, MCWD, in cooperation with FORA, initiated the Regional Urban Water Augmentation Project (RUWAP) to explore water supply alternatives to provide the additional 2,400 AFY of water supply needed under the BRP; and,

WHEREAS, as a result of an extensive environmental review, FORA and MCWD agreed to adopt a modified Hybrid Alternative, which would provide 1,427 AFY of recycled water to the Ord Community without the need for seasonal storage, and this in turn resulted in the FORA Board adopting Resolution 07-10 (May 2007), which allocated that 1,427 AFY of RUWAP recycled water to its member agencies having land use jurisdiction; and,

WHEREAS, in June 2009, the Monterey Regional Water Pollution Control Agency (MRWPCA) and MCWD entered into a 50-year RUWAP Memorandum of Understanding, in which, subject to certain conditions specified therein, (a) MRWPCA committed 650 AFY of summer recycled water to MCWD for the Ord Community; (b) MCWD affirmed its separate commitment of 300 AFY of summer recycled water to the Ord Community; and (c) MRWPCA

and MCWD committed to supply 477 AFY of recycled water during other months to the Ord Community - for a total of 1,427 AFY; and,

WHEREAS, MCWD has been and continues to work collaboratively with FORA and with the MRWPCA to carry out MCWD's obligation to provide the 1,427 AFY of recycled water for the Ord Community; and,

WHEREAS, on March 30, 2013, MRWPCA commenced environmental review of its Pure Water Monterey Groundwater Replenishment Project ("Pure Water Monterey Project"). The Pure Water Monterey Project is a water supply project that would serve northern Monterey County by providing: (1) purified recycled water for recharge of a groundwater basin that serves as drinking water supply; and (2) recycled water to augment the existing Castroville Seawater Intrusion Project's agricultural irrigation supply. The Pure Water Monterey Project includes a new pipeline to transport purified recycled water from a new Advanced Water Treatment Plant ("AWT") at MRWPCA's Regional Treatment Plant to new Injection Well Facilities overlying the Seaside Groundwater Basin ("Product Water Conveyance Pipeline"). The Environmental Impact Report ("EIR") for the Pure Water Monterey Project evaluated two alternative alignments for the Product Water Conveyance Pipeline, a Coastal Alignment and an alignment that follows the right-of-way for the existing and future RUWAP pipeline ("RUWAP Alignment"). The Pure Water Monterey Project EIR identified the environmental effects of constructing the Product Water Conveyance Pipeline along the RUWAP Alignment, and operating the Product Water Conveyance Pipeline for the Pure Water Monterey Project; however the EIR recognized that shared use of a single Product Water Conveyance Pipeline for both the Pure Water Monterey Project to supply recycled water to MCWD for the RUWAP would result in project cost savings but would necessitate further review under the California Environmental Quality Act ("CEQA"). Shared use of a single Product Water Conveyance Pipeline would necessitate expansion of the Advanced Water Treatment Plant in order to purify the recycled water destined for the RUWAP because all water flowing in the shared pipeline must be purified; by contrast if water to serve the RUWAP were conveyed in its own separate pipeline only tertiary treatment would be needed ("AWT Expansion"); and,

WHEREAS, on September 8, 2015, MCWD and MRWPCA tentatively agreed to work together on the Pure Water Monterey Project; and,

WHEREAS, on October 8, 2015, the MRWPCA Board unanimously voted to certify the EIR for the Pure Water Monterey Project and to approve the Pure Water Monterey Project. The MRWPCA Board selected the RUWAP Alignment for the Product Water Conveyance Pipeline; and,

WHEREAS, on October 9, 2015, the FORA Board unanimously voted to adopt a resolution to endorse the Pure Water Monterey Project as an acceptable option as the recycled component of the Fort Ord Regional Urban Water Augmentation Program; and,

WHEREAS, on November 17, 2015, the MCWD Board unanimously voted to submit a Clean Water State Revolving Fund Financial Assistance Application to the State Water Resources Control Board for the Regional Urban Water Augmentation Project; and,

WHEREAS, on April 8, 2016, MCWD and MRWPCA entered into the Pure Water Delivery and Supply Project Agreement pursuant to which the Pure Water Monterey's Product Water Conveyance Pipeline will be designed, constructed, owned, and operated by MCWD in accordance with the 1998 MCWD-FORA Water/Wastewater Facilities Agreement. Under this

2016 Agreement, MCWD will have the right to utilize for the Ord Community up to and including a net 600 AFY during Phase 1 and a net 1,427 AFY during Phase 2 to implement FORA Board Resolution 07-10; and,

WHEREAS, due to delays in project funding for MRWPCA through the State Revolving Fund and other delays in the approval of items necessary for MRWPCA to move forward on the Pure Water Monterey Project, certain dates within Section 1.01 (a) "Conditions Precedent" and Section 1.01 (b) "Key Dates and Conditions for Future Negotiations" of the Pure Water Delivery and Supply Project Agreement Between Monterey Regional Water Pollution Control Agency and Marina Coast Water District need to be extended; and,

WHEREAS, an amendment to this Agreement was originally approved by the Board in November 21, 2016, but was never approved by PCA as it was extremely uncertain at that time what was happening with the State funding and it was decided to wait to see how the funding would progress before finalizing the amendment. In that November meeting, the Board approved to amend the condition precedent dates by extending them out three months due to the delay in SRF funding (from December 2016 to March 2017); and,

WHEREAS, MCWD is expecting an initial funding agreement from the State by August or September 2017, and the State needs the amendment to these dates in the agreement to finalize MCWD's application for SRF funding.

NOW, THEREFORE BE IT RESOLVED, that the Board of Directors of the Marina Coast Water District approves the following amendments to the Pure Water Delivery and Supply Project Agreement between the Monterey Regional Water Pollution Control Agency and Marina Coast Water District to be included in an Amendment No. 1:

Replace in its entirety Sections 1.01(a)(ii), 1.01(a)(v), 1.01(b)(i), 1.01(b)(ii), 1.01(b)(ii)(a), and 1.01(b)(ii)(b) of the Pure Water Delivery and Supply Project Agreement Between Monterey Regional Water Pollution Control Agency and Marina Coast Water District as follows:

1.01(a)(ii). AWT: PCA must complete any necessary CEQA review for AWT Phase 1 and AWT Phase 2 by ~~no later than October 31, 2017~~ ~~December 31, 2016~~. In conducting the CEQA review, PCA reserves all of its rights, powers and discretion with regard to the expansion of the AWT. This includes the authority to adopt mitigation measures and/or an alternative project design, configuration, capacity or location in order to reduce any identified significant environmental impacts; the authority to deny the expansion of the AWT based on any significant environmental impact that cannot be mitigated (in which case this Agreement shall not take effect); and the authority to approve the expansion of the AWT notwithstanding any significant environmental impact that cannot be mitigated, if PCA determines that these impacts are outweighed by the project's social, economic or other benefits. MCWD similarly reserves all of its rights, powers and discretion under CEQA with regard to any decision by MCWD on whether and how to approve any expansion of the AWT.

1.01(a)(v). Funding must be secured by ~~no later than October 31, 2017~~ ~~December 31, 2016~~ for the Pure Water Monterey Project and the RUWAP Distribution Facilities, including for any change in the location of the New Pipeline Facilities as compared to the location evaluated in the EIR for the Pure Water Monterey Project, for AWT Phase 1, and for the CEQA work for AWT Phase 2; provided, however, that this funding is not required for the

completed design and construction of AWT Phase 2 for the provisions of this Agreement to take effect with regard to implementation of Phase 1.

1.01(b)(i). If the Division of Financial Services of the State Water Resource Control Board fails to approve PCA's SRF loan Initial Funding Agreement by **no later than October 31, 2017, ~~December 31, 2016~~** then MCWD and PCA agree to negotiate in good faith alternatives for providing recycled water (tertiary or purified) for potential customers.

1.01(b)(ii). If the Division of Financial Services of the State Water Resource Control Board approves PCA's initial funding agreement, then if the Division of Financial Services of the State Water Resource Control Board fails to approve MCWD's State Revolving Fund (SRF) loan Initial Funding Agreement **and MCWD does not have an alternative funding plan for the construction of the pipeline,** and/or MCWD passes a Board resolution to discontinue work on the project by **no later than October 31, 2017 ~~December 31, 2016,~~** then MCWD shall transfer all work product (e.g. right-of-way, design, survey, environmental, bid documents, etc.) to PCA so PCA can continue progressing with the project. ~~If the Division of Financial Services of the State Water Resource Control Board approves PCA's State Revolving Fund (SRF) Loan Final Funding Agreement but denies MCWD's State Revolving Fund (SRF) Loan Final Funding Agreement and MCWD does not identify alternate financing by no later than October 31, 2017 ~~December 31, 2016,~~ MCWD shall transfer all work product to PCA for financing and constructing the New Pipeline Facilities.~~

1.01(b)(ii)(a). PCA will pay MCWD for all project expenditures on any work products transferred (e.g. right-of-way, design, survey, environmental, and bid document development).

1.01(b)(ii)(b). In the event that PCA assumes responsibility for the financing and construction of the product water conveyance facilities, MCWD would continue to maintain ownership of the Product Water Conveyance Facilities per 2.06 of this agreement, ~~and MCWD agrees to would assume ownership upon satisfactory mitigate demonstration of no~~ additional financial impact to PCA, for providing the financing to construct the Product Water Conveyance Facilities that can be satisfactorily demonstrated to be the direct result of PCA assuming the responsibility for the financing and construction of the Product Water Conveyance Facilities and MCWD maintaining ownership of those facilities.

BE IT FURTHER RESOLVED that the President of the Board of Director is hereby authorized to execute and deliver after consultation with the District's Legal Counsel, **subject to discussions with PCA on setting those dates,** the Amendment No. 1 provisions set forth in this Resolution with such non-substantive changes, insertions and deletions as may be approved by the President, the President's signature being conclusive evidence of such approval.

PASSED AND ADOPTED on April 17, 2017, by the Board of Directors of the Marina Coast Water District by the following roll call vote:

Ayes: Directors Cortez, Shriner, Moore, Gustafson

Noes: Directors None

Absent: Directors Lee

Abstained: Directors None


Howard Gustafson, President

ATTEST:


Keith Van Der Maaten, Secretary

CERTIFICATE OF SECRETARY

The undersigned Secretary of the Board of the Marina Coast Water District hereby certifies that the foregoing is a full, true and correct copy of Resolution No. 2017-26 adopted on April 17, 2017.


Keith Van Der Maaten, Secretary