

FIRST AMENDMENT TO  
PURE WATER DELIVERY AND SUPPLY PROJECT AGREEMENT  
BETWEEN MONTEREY REGIONAL WATER POLLUTION CONTROL AGENCY AND  
MARINA COAST WATER DISTRICT

WHEREAS, on April 8, 2016, Marina Coast Water District (MCWD) and Monterey Regional Water Pollution Control Agency entered into the Pure Water Delivery and Supply Project Agreement (Agreement).

The parties agree to amend the Agreement as follows:

1. Everywhere the term “Monterey Regional Water Pollution Control Agency” or “PCA” is used, substitute the term “Monterey One Water” and “M1W,” respectively.
2. Delete Section 1.01 in its entirety. The Parties agree that this Amendment addresses all of the matters previously listed in Section 1.01.
3. Amend Section 1.03(a) as follows:

M1W will conduct any necessary CEQA review for the AWT including Phase 1 and Phase 2 and will obtain all necessary regulatory approvals to allow the use of recycled water under this Agreement for injection and recovery for municipal and industrial purposes and for irrigation purposes before December 31, 2018. In conducting the CEQA review, M1W 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 M1W 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.

4. Add as a new Section 1.03(g) to read: “(g) M1W agrees to not object to MCWD selling for use on the Monterey Peninsula such amount of the 600 AFY Phase 1 entitlement not needed to meet demand as determined by MCWD within MCWD’s Ord Community and such amount of the 827 AFY Phase 2 entitlement not needed to meet demand as determined by MCWD within MCWD’s Ord Community.”
5. In Section 2.05(a), delete the words “Subject to Section 1.01(a) conditions” and substitute the following words, “Subject to Section 1.03(a) conditions”.

6. In Section 3.01(b), delete “January 31, 2017” and substitute “December 31, 2018”.
7. Delete existing Section 4.01 in its entirety and replace with the following:

(a) Reserved.

(b) The estimated construction costs and proportional share of the New Pipeline Facilities and AWT Phase 1 are presented below (which also includes the Distribution, Diversion, and Injection Facilities to provide a total project cost perspective even though those are not part of the cost sharing). The cost allocations for the Pipeline Facilities are based upon a MCWD maximum use of 1,427 AFY per year and a M1W 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.

Capital Facility	Costs (Millions)		TOTAL
	M1W Share	MCWD Share	
AWT Phase 1	\$ 56.79	\$ 9.21	\$ 66.00
New Pipeline Facilities	\$ 18.76	\$ 7.24	\$ 26.00
Existing Pipeline Facilities	\$ 1.00	\$ 0.39	\$ 1.39
Diversion Facilities	\$ 6.60	\$ -	\$ 6.60
Injection Facilities	\$ 10.67	\$ -	\$ 10.67
Distribution Facilities	\$ -	\$ 12.00	\$ 12.00
<b>TOTAL</b>	<b>\$ 93.83</b>	<b>\$ 28.83</b>	<b>\$ 122.66</b>

- (c) Except for the \$1.39 million in Section 4.01(b) for the Existing Pipeline Facilities, the Parties agree that all dollar amounts in this Agreement, including exhibits, are estimates.
- (d) Grants and Capital Contributions from Third Parties.

i. Unless otherwise agreed in writing by the Parties, each Party is only required to apply grant funds and capital contributions from third parties to cover that Party’s cost share of the Pure Water Delivery and Supply Project Facilities.

ii. FORA Capital Contribution. FORA and MCWD entered into the Reimbursement Agreement for Advanced Water Treatment Phase 1 and Product Water Conveyance Facilities of the RUWAP Recycled Project dated September 6, 2016 (the FORA-MCWD Reimbursement Agreement”), pursuant to Sections 3.2.2 and 7.1.2 of the 1998 Water/Wastewater Facilities Agreement (the “1998 Agreement”). If the FORA Board of Directors independently determines to provide \$2.3 million to M1W for M1W’s share of costs for the Project, then MCWD agrees to not object so long as M1W enters into a separate reimbursement agreement for the \$2.3 million on the same terms and conditions as to the timing and disbursement of funds under the FORA-MCWD Reimbursement Agreement.

M1W acknowledges FORA's obligations to MCWD under Section 7.1.2 of the 1998 Agreement. M1W agrees that it shall not be entitled to any additional funds allocated to MCWD by FORA for RUWAP and/or for Water Augmentation under the Base Reuse Plan; however, nothing herein is intended to prevent M1W from seeking additional funds directly from FORA.

8. Add the following new Subsections iv, v, and vi to Section 4.02(a):

- iv. The transmission main turnouts and the portable water facility included in MCWD's transmission pipeline construction contract are considered to be a part of the Distribution System for cost sharing purposes (e.g. MCWD pays for 100% of the Distribution System costs).
- v. The 2.0 million gallon recycled water reservoir included in MCWD's transmission pipeline construction contract is considered to be 25% for Injection Facilities and 75% for Distribution Facilities and therefore the parties will split the cost of the recycled water reservoir along these percentages.
- vi. The chlorination of the transmission pipeline is solely needed for the injection facilities and therefore those costs that are included within MCWD's transmission pipeline construction contract for the chlorination of the transmission pipeline will be 100% paid for by M1W.

9. Substitute the following for Sections 4.04(b):

(b) MCWD applied for a Clean Water SRF loan to pay for its cost share of the Project Facilities except for its cost share of the AWT Phase 1 treatment plant facilities, which will be included in the Section 4.04(a) SRF loan.

10. Section 5.01 has two subsections "(a)." The second subsection (a) should be re-lettered subsection (b) and the following subsections (b), (c), (d), and (e) shall be re-lettered (c), (d), (e), and (f), respectively. Subsection 5.01(b)(i) shall be deleted because M1W's SRF loan includes M1W's share of the New Pipeline Facilities.

11. Subsection 5.02(b) shall be deleted because M1W's SRF loan includes M1W's share of the New Pipeline Facilities.

12. In Section 5.10, Claims for Stranded Costs, delete "March 31, 2017" and substitute "December 31, 2018".

13. Delete the existing Exhibit A and substitute the attached new Exhibit A.

14. Delete the existing Exhibit C (2 pages) and substitute the attached new Exhibit C (2 pages).

15. Delete the existing Exhibit E and substitute the attached Exhibit E.

16. Delete the existing Exhibit G.

17. Except as set forth in this First Amendment, all the provisions of the Agreement shall remain unchanged and in full force and effect.

In witness whereof, the parties execute this First Amendment as follows:

**M1W**

Dated: \_\_\_\_\_

\_\_\_\_\_  
Board Chair, Board of Directors

Approved as to form:

Dated: \_\_\_\_\_

\_\_\_\_\_  
Counsel, M1W

**MCWD**

Dated: \_\_\_\_\_

\_\_\_\_\_  
President, Board of Directors

Dated: \_\_\_\_\_

\_\_\_\_\_  
Legal Counsel, MCWD