

Joint Exercise of Powers Agreement

between

CONTRA COSTA WATER DISTRICT

and

OAKLEY WATER DISTRICT (DIABLO WATER DISTRICT

for a

JOINT WATER TREATMENT PLANT

TABLE OF CONTENTS
OF JOINT EXERCISE OF POWERS AGREEMENT BETWEEN
CONTRA COSTA WATER DISTRICT AND OAKLEY WATER DISTRICT

| | | |
|-----------|--|-----------|
| Article 1 | Purpose | page 2 |
| Article 2 | Formation and Operation of the Authority | 2 |
| 2.1 | Creation of Authority | 2 |
| 2.2 | Governing Board | 3 |
| 2.3 | Meetings of the Board | 3 |
| 2.4 | Officers; Duties | 4 |
| 2.5 | General Powers | 5 |
| 2.6 | Fiscal Year | 6 |
| 2.7 | Accounts and Reports | 6 |
| 2.8 | Conflict of Interest Code | 7 |
| 2.9 | Costs of the Authority | 8 |
| 2.10 | Responsibility for Authorization and Payment of Indebtedness of Authority | 8 |
| Article 3 | Joint Water Treatment Plant | 8 |
| 3.1 | Design of Plant | 8 |
| 3.2 | Acquisition of Site | 8 |
| 3.3 | Construction of Plant | 9 |
| 3.4 | Ownership of Plant | 9 |
| 3.5 | Allocation of Capacity of Plant | 10 |
| 3.6 | Operation and Maintenance of Plant | 10 |
| Article 4 | Financing the Plant | 11 |
| 4.1 | Responsibilities of CCWD | 11 |
| 4.2 | Voluntary Contributions by OWD | 11 |
| 4.3 | Records of Costs | 12 |
| 4.4 | Definition of Capital Costs | 12 |
| Article 5 | Payment Obligations of OWD | 13 |
| 5.1 | Capital Costs of Initial Plant | 13 |
| 5.2 | Limit on Capital Cost of Initial Plant Payable by OWD | 14 |
| 5.3 | Capital Costs of an Increase in Plant Capacity Allocated to OWD | 14 |
| 5.4 | Credits for Oversizing the Initial Plant | 15 |
| 5.5 | Continuing Costs of the Plant | 15 |
| Article 6 | Delivery of Treated Water to OWD | 18 |
| 6.1 | Point of Delivery | 18 |
| 6.2 | Measurement and Records | 18 |
| 6.3 | Delivery Schedules | 19 |
| 6.4 | Service Interruptions | 19 |
| Article 7 | OWD Service Area | 20 |

| | | |
|------------|------------------------------|----|
| Article 8 | Other Projects | 21 |
| Article 9 | Disputes | 21 |
| Article 10 | Effective Date and Term | 21 |
| Article 11 | Miscellaneous Provisions | 22 |
| 11.1 | Amendment of Agreement | 22 |
| 11.2 | Article and Section Headings | 22 |
| 11.3 | Severability | 22 |

Appendices

| | | |
|----|---|----|
| A. | Description of Plant Site | 9 |
| B. | Quality Standards | 11 |
| C. | Schedule of Payments by OWD | 13 |
| D. | Map of OWD Service Area and Adjacent Area | 21 |

JOINT EXERCISE OF POWERS AGREEMENT

THIS JOINT EXERCISE OF POWERS AGREEMENT, dated June 6 , 1989 (herein called this "Agreement"), by and between CONTRA COSTA WATER DISTRICT, a county water district duly organized and existing under the laws of the State of California (herein called "CCWD"), and OAKLEY WATER DISTRICT, a county water district duly organized and existing under the laws of the State of California (herein called "OWD").

W I T N E S S E T H:

WHEREAS, Article 1 of Chapter 5 of Division 7 of Title 1 of the California Government Code (the "Law") authorizes CCWD and OWD to create a joint exercise of powers entity (herein called the "Authority") which has the power to jointly exercise any powers common to CCWD and OWD;

WHEREAS, CCWD and OWD are each empowered to do any act necessary to furnish sufficient water for distribution to the public, including designing, constructing, operating and maintaining facilities for the treatment, storage, conveyance or supply of water;

WHEREAS, CCWD and OWD have determined to provide for the financing, construction, operation, maintenance and future enlargement of a joint water treatment plant (the "Plant") to be constructed at the Neroly site at or near the southeast corner of Laurel Road and Live Oak Avenue near the community of Oakley, California; and

WHEREAS, by this Agreement, CCWD and OWD desire to create and establish the Authority for the purposes set forth herein and to exercise the powers described herein;

NOW, THEREFORE, CCWD and OWD, for and in consideration of the mutual promises and agreements herein contained, do agree as follows:

ARTICLE 1. PURPOSE

This Agreement is made pursuant to Chapter 5 of Division 7 of Title 1 of the California Government Code (commencing with Section 6500) to provide for the joint exercise of powers common to CCWD and OWD for the purpose of providing for the financing, construction, maintenance and operation of public capital improvements in accordance with the Law, including without limitation the financing, construction, maintenance and operation of the Plant.

ARTICLE 2. FORMATION AND OPERATION OF THE AUTHORITY

Section 2.1. Creation of Authority. There is hereby created pursuant to the Law an agency and public entity to be known as the "Contra Costa Water Authority". As provided in the Law, the Authority shall be a public entity separate from CCWD and OWD. The debts, liabilities and obligations of the Authority shall not constitute debts, liabilities or obligations of CCWD or OWD except as specifically provided herein.

Within 30 days after the effective date of this Agreement or any amendment hereto, the Authority will cause a notice of this Agreement to be prepared and filed with the office

of the Secretary of State of the State of California in the manner set forth in Section 6503.5 of the Law.

Section 2.2. Governing Board. The Authority shall be administered by the Board, which shall consist of the members of the Board of Directors of CCWD. The term of office of any member of the Board shall be equivalent to such member's term of office on the Board of Directors of CCWD.

Members of the Board shall not receive any compensation for serving as such, but shall be entitled to reimbursement by CCWD for any expenses actually incurred in connection with serving as a member of the Board and CCWD shall determine that such expenses shall be reimbursed.

Section 2.3. Meetings of Board. (a) Regular Meetings. The Board shall hold at least one regular meeting each year, and, by resolution, may provide for the holding of regular meetings at more frequent intervals. The date upon which, and the hour and place at which, each such regular meeting shall be held shall be fixed by resolution of the Board.

(b) Legal Notice. All meetings of the Board shall be called, noticed, held and conducted subject to the provisions of the Ralph M. Brown Act (Chapter 9 of Part 1 of Division 2 of Title 5 of the California Government Code (Sections 54950-54961)) or any successor legislation hereinafter enacted.

(c) Minutes. The secretary of the Authority shall cause minutes of all meetings of the Board to be kept and shall, as soon as possible after each meeting, cause a copy of

the minutes to be forwarded to each member of the Board and to CCWD and OWD.

(d) Quorum. A majority of the members of the Board shall constitute a quorum for the transaction of business, except that less than a quorum may adjourn meetings from time to time.

Section 2.4. Officers; Duties. (a) The President of the Board of Directors of CCWD shall serve as chairperson of the Authority and the Vice-President of CCWD shall serve as vice-chairperson of the Authority. The Board shall by resolution appoint a secretary of the Authority.

(b) The General Manager of CCWD is hereby designated as Treasurer of the Authority. Subject to the applicable provisions of any indenture, trust agreement or resolution providing for a trustee or other fiscal agent, the General Manager of CCWD is designated as the depository of the Authority to have custody of all the money of the Authority, from whatever source, and, as such, shall have the powers, duties and responsibilities specified in Section 6505.5 of the Law.

(c) The General Manager of CCWD is hereby designated as Controller of the Authority, and, as such, shall have the powers, duties and responsibilities specified in SECTION 6505.5 of the Law. The Controller shall draw checks to pay demands against the Authority when the demands have been approved by the Authority.

(d) The Treasurer and Controller of the Authority

is designated as the public officer or person who has charge of, handles, or has access to any property of the Authority, and such officer shall file an official bond in the amount of \$25,000 as required by Section 6505.1 of the Law; provided that such bond shall not be required if the Authority does not possess or own property or funds with an aggregate value of greater than \$500.00.

(e) The Treasurer and Controller of the Authority is hereby authorized and directed to prepare or cause to be prepared:

(i) a special audit as required pursuant to Section 6505 of the Government Code of the State of California every year during the term of this Agreement; and

(ii) a report in writing on the first day of July, October, January, and April of each year to the Board, CCWD and OWD which report shall describe the amount of money held by the Treasurer and Controller of the Authority for the Board, the amount of receipts since the last such report, and the amount paid out since the last such report.

(f) The Board shall have the power to appoint such other officers and employees as it may deem necessary and to retain independent counsel, consultants and accountants.

Section 2.5. General Powers. In addition to the powers set forth elsewhere in this Agreement, the Authority is

authorized, in its own name, to do all acts necessary to effectuate the purposes set forth in Article 1 of this Agreement, including but not limited to any or all of the following: to make and enter into contracts; to employ agents and employees; and to sue and be sued in its own name.

Such power shall be exercised subject only to such restrictions upon the manner of exercising such powers as are imposed upon CCWD in the exercise of similar powers, as provided in Section 6509 of the Law, except, however, nothing herein shall limit the powers of the Authority under the Marks-Roos Local Bond Pooling Act of 1985.

Notwithstanding the foregoing, the Authority shall have any additional powers conferred under the Law, insofar as such additional powers may be necessary to accomplish the purposes set forth in Article 1 hereof.

The Authority shall continue to exercise the powers herein conferred upon it until the termination of this Agreement as provided in Section 6.4.

Section 2.6. Fiscal Year. Unless and until changed by resolution of the Board, the fiscal year of the Authority shall be the period from July 1 of each year to and including the following June 30, except for the first fiscal year which shall be the period from the date of this Agreement to the following June 30.

Section 2.7. Accounts and Reports. The Authority shall establish and maintain such funds and accounts as may be

required by good accounting practices. The books and records of the Authority shall be open to inspection at all reasonable times by CCWD and OWD and their representatives.

So long as required by Section 6505.6 of the California Government Code, the Controller of the Authority shall either make, or contract with a certified public accountant or public accountant to make, an annual audit of the accounts and records of the Authority. In each case the minimum requirements of the audit shall be those prescribed by the State Controller for special districts under Section 26909 of the Government Code of the State of California and shall conform to generally accepted auditing standards. When such an audit of an account and records is made by a certified public accountant, or public accountant, a report thereof shall be filed as public records with CCWD, OWD and, if required by Sections 6505.6 of the Government Code of the State of California, with the County Auditor/Controller of the County of Contra Costa. Such report shall be filed within 12 months of the end of the fiscal year or years under examination.

Any costs of the audit, including contracts with, or employment of, certified public accountants or public accountants, in making an audit pursuant to this section shall be borne by CCWD.

In any year the Authority may, by unanimous request of the Board, replace the annual special audit with an audit covering a two-year period.

Section 2.8. Conflict of Interest Code. The Authority

by resolution shall adopt a Conflict of Interest Code as required by law.

Section 2.9 Costs of the Authority. All costs incurred by the Authority shall be borne and paid by CCWD, and OWD shall have no responsibility for such costs.

Section 2.10 Responsibility for Authorization and Payment of Indebtedness of Authority. CCWD shall be solely responsible for authorization and payment of any indebtedness of the Authority. OWD shall not be responsible for any contractual obligation, liability, indebtedness or expense of the Authority and CCWD shall indemnify and hold harmless OWD from any such responsibility.

ARTICLE 3. JOINT WATER TREATMENT PLANT

Section 3.1 Design of Plant. On January 13, 1989 James M. Montgomery Consulting Engineers, Inc. and Black & Veatch, Engineers-Architects submitted to CCWD and OWD a report titled "Preliminary Design Study for a Joint Water Treatment Plant" ("the Preliminary Report"). CCWD shall promptly engage engineers to prepare the final design of the Plant. The design shall provide for an initial flow rate ("capacity") of 40 million gallons per day ("mgd") and for enlargement to 80 mgd. No substantial change shall be made in the recommended design contained in the Preliminary Report without the written prior approval of OWD.

Section 3.2 Acquisition of Site. CCWD shall take all action reasonably required to acquire fee title to a suitable

site for the Plant within the area shown on the drawing attached hereto as Appendix A.

Section 3.3 Construction of Plant. Promptly after completion of the final design of the Plant, CCWD shall engage engineers to prepare construction contract documents and shall invite sealed bids for the construction of the Plant in accordance with the final design. Change orders reasonably deemed by CCWD to require an in-the-field decision may be approved without prior notice to OWD so long as the change order does not increase a cost to OWD by more than \$25,000. CCWD shall provide prior written notice to OWD for any other change orders, and OWD shall have fifteen days to approve or disapprove any such change orders. A change order shall be deemed approved if OWD does not respond within fifteen days and CCWD may then itself decide whether to authorize the change order. If OWD disapproves a change order, CCWD may proceed if, in the opinion of CCWD, it is necessary to the project. Disputes may be resolved pursuant to Article 9 upon completion of construction. CCWD shall notify OWD in writing of all approved change orders within five (5) days of approval. CCWD shall have complete responsibility for the construction of the Plant and OWD shall have no responsibility for such construction. CCWD and OWD shall use their best efforts to cause the construction of the Plant to be completed and the Plant to be tested and placed in operation in May, 1992.

Section 3.4. Ownership of Plant. CCWD and OWD shall take such action as may be required from time to time so that

title to the Plant vests jointly in CCWD and OWD, with CCWD and OWD each owning an undivided interest in the Plant equal to the percentage of the total capacity of the plant allocated to CCWD and OWD, respectively, pursuant to Section 3.5 hereof.

Section 3.5. Allocation of Capacity. (a) The Plant shall be designed to have an initial design flow rate (i.e., capacity) of 40 million gallons per day ("mgd"), allocated 25 mgd to CCWD and 15 mgd to OWD, and shall be designed for enlargement to a design flow rate of 80 mgd.

(b) OWD shall be entitled to increase its allocation of capacity of the Plant from 15 mgd up to 30 mgd from time to time and at any time following completion of the Plant upon compliance with the provisions of this Section 3.5; provided that, without waiver by CCWD, the capacity allocated to OWD shall not be increased by less than 5 mgd in any single increment. OWD shall notify CCWD of the need for such additional capacity at least three years prior to the date such capacity is required. The notice shall specify the capacity required in mgd. Upon receipt of such notice, CCWD, on or before the date specified in such notice for the receipt of the increased capacity, shall in its sole discretion either (i) sell to OWD from its own allocated share of capacity the additional capacity required by OWD or (ii) cause the plant to be enlarged to such capacity as may be determined by CCWD, but at least to a size sufficient to provide the additional capacity required by OWD.

Section 3.6 Operation and Maintenance of the Plant.

(a) From and after completion and testing of the Plant, CCWD shall operate and maintain the Plant in good condition and repair and in compliance with the requirements of all applicable governmental agencies.

(b) CCWD shall operate the Plant in accordance with Appendix B hereto.

(c) Each water treatment plant operator regularly employed by OWD at the time the Plant becomes operational shall be offered employment by CCWD as operators at the Plant without reduction in compensation.

ARTICLE 4. FINANCING THE PLANT

Section 4.1 Responsibilities of CCWD. CCWD shall be completely and solely responsible for the payment of all capital costs of the Plant initially constructed, of any enlargement or modification thereof, and all costs of replacement, repair, maintenance and operation of the Plant. CCWD shall not impose or permit the imposition of any lien or encumbrance on the Plant or the Plant site except as required for financing the Plant and additions to the Plant. CCWD, through the Authority or otherwise, shall have the responsibility to arrange for the financing of such capital costs. The financing shall be structured by CCWD so that, in CCWD's judgment, it offers the lowest practicable net interest cost.

Section 4.2 Voluntary Contributions by OWD. OWD may with the written approval of CCWD voluntarily contribute services and materials to the construction, enlargement, modification,

replacement, repair, maintenance and operation of the Plant, but OWD shall be under no obligation to do so. OWD shall receive a credit for all such contributions to be applied against OWD's payment obligations set forth in Section 5 hereof in an amount agreed to by the parties prior to making such contribution.

Section 4.3 Records of Costs. Each party shall keep complete and accurate records, which shall be available for audit by the other party, of its costs reasonably and necessarily incurred pursuant to Sections 4.1 and 4.2 hereof.

Section 4.4 Definition of Capital Costs. The term "capital costs" as used in this agreement shall include engineering costs, costs of feasibility and environmental studies, site acquisition costs, construction costs and any other costs properly capitalized to the cost of the Plant under generally accepted accounting principles and shall also include all financing costs which are to be amortized over the term of the indebtedness issued to finance the Plant under generally accepted accounting principles. Capital costs shall include the costs of the Preliminary Report but shall not include any cost or expenditure incurred by either party prior to undertaking the Preliminary Report or in negotiating this agreement and shall not include the costs of any off-site water transmission main except the works for diverting water from the Contra Costa Canal immediately downstream from Pumping Plant No. 4 to the Plant.

ARTICLE 5. PAYMENT OBLIGATIONS OF OWD

Section 5.1 Capital Costs of Initial Plant. OWD

shall reimburse CCWD for 37.5 percent of the capital costs of the initial Plant in consideration of the allocation to OWD of 15 mgd of the initial 40 mgd capacity of the Plant.

(a) OWD shall receive a credit on said reimbursement for the part of the cost of the Preliminary Report paid by OWD. The balance of said reimbursement shall be paid in semi-annual installments determined as provided in Appendix C hereto.

(b) At any time before CCWD or the Authority incurs a debt for financing the initial Plant OWD may, in its sole discretion, pay all or any portion of its share of the capital costs of the initial Plant. In such event CCWD shall reduce the amount to be financed by the amount of such payment by OWD and OWD shall be relieved of paying any financing costs on such portion of its share of the capital costs.

(c) At any time or times after such debt is incurred OWD may prepay any of the principal installments shown on Schedule C by paying to CCWD a prepayment price equal to the sum of (1) the principal amount to be prepaid, (2) the interest to accrue on such principal amount until the next date upon which the indebtedness issued to finance the capital costs may be prepaid or redeemed in accordance with its terms and (3) any prepayment or redemption premium payable on such indebtedness as a result of the use of the prepayment price paid by OWD to prepay or redeem such indebtedness. The amount of the prepayment price

payable by OWD shall be reduced by the interest earnings, if any, on the prepayment price until its application to the prepayment or redemption of such indebtedness.

(d) During the period from the date of this agreement until CCWD or the Authority receives the proceeds of a loan to finance the initial Plant, OWD shall pay CCWD 37.5% of CCWD's disbursements on account of capital costs of the initial Plant. Such payments shall be made promptly on receipt of bills therefor submitted by CCWD not more frequently than monthly.

Section 5.2 Limit on Capital Cost of Initial Plant Payable by OWD. Notwithstanding the provisions of Section 5.1 hereof the capital costs of the initial Plant reimbursable by OWD shall not exceed \$15,750,000, plus interest as provided in Section 5.1, but excluding any money set aside in trust as a debt service reserve fund. Said sum of \$15,750,000 shall be increased in proportion to any increase in the Construction Cost Index for San Francisco at the end of the first quarter of 1991 as published by the Engineering News Record over said Index for December, 1988 which, on the base of 1913=100, was 5,734.48.

Section 5.3 Capital Costs of an Increase in the Plant Capacity Allocated to OWD. If the capacity of the plant allocated to OWD is increased in accordance with Section 3.5 (b) hereof, the obligations of OWD shall be as set forth below.

(a) If CCWD elects to enlarge the Plant CCWD shall pay the capital cost thereby incurred and OWD shall reimburse CCWD for said cost multiplied by the percentage of the enlargement

2,362,500

allocated to OWD. Payments shall be made in the manner provided in Section 5.1 hereof.

(b) If either party determines to sell to the other any of the capacity initially allocated to the seller, the parties shall agree upon a fair price to be paid by the buyer which, for each mgd of capacity sold, shall not exceed the cost per mgd of the initial Plant plus the interest to the date of such sale on the indebtedness incurred to finance that portion of the capacity of the Plant. The price shall be paid in semiannual installments over the remaining period of repayment of the indebtedness to finance the initial Plant. Buyer shall pay interest on the agreed fair price from the date of such purchase at the average rate being paid on said indebtedness.

Section 5.4 Credits for Oversizing the Initial Plant. The cost of oversizing the initial Plant to a capacity of 80 mgd is conclusively deemed to be 15 percent of the cost of construction of the initial Plant. When that amount is ascertained, one fortieth thereof is hereinafter referred to as the "per mgd cost of oversizing". Upon enlargement of the Plant if the capacity allocated to CCWD or any entity other than OWD exceeds 25 mgd, OWD shall receive a credit equal to the per mgd cost of oversizing multiplied by such excess of mgd, but if the capacity allocated to OWD exceeds 15 mgd OWD shall pay CCWD an amount equal to the per mgd cost of oversizing multiplied by such excess of mgd.

Section 5.5 Continuing Costs of the Plant. OWD

shall pay CCWD portions of the costs of operating and maintaining the Plant as set forth in this section.

(a) On or before April 1 of each year, CCWD shall submit to OWD a budget for the fiscal year commencing on the next July 1. The budget shall specify the amount of maintenance and operation expenses required for the ensuing fiscal year and set forth in reasonable detail the fixed and variable cost components of such maintenance and operation expenses. The fixed and variable costs shall be determined in accordance with generally accepted accounting principles. OWD shall review the budget and shall, within 30 days after receipt thereof, submit its comments thereon to CCWD. The parties shall agree upon and approve a budget not later than June 1, but if they fail to do so they shall submit the issue of the necessity and appropriateness of any item or items of the budget on which they do not agree to binding arbitration in accordance with Article 9 hereof.

(b) Fixed operation and maintenance costs shall include the costs of disposal of spent granular activated carbon, the costs of any modification of the Plant necessary to meet water quality standards or other matters mandated after the date of this agreement by any governmental agency with jurisdiction, and any capital costs for the routine replacement or renovation or equipment or other capital components of the Plant. Such costs shall not include, however, any of the following:

(i) Any amounts for raw water delivered to the Plant, which shall be paid for by OWD separately at

CCWD's uniform rate for raw water for municipal uses.

(ii) Any capital or operation and maintenance costs associated with any treatment process downstream of the treatment process originally included in the Plant that may be necessary to enable the Plant to meet the water quality standards set forth in Part 1 of Appendix B attached hereto.

(iii) Any other plant modifications (other than routine replacement and renovation) required to enable the Plant to meet the water quality standards set forth in Part 1 of Appendix B attached hereto.

(iv) Any technical study or process development costs not directly chargeable to the Plant.

(c) Variable operation and maintenance cost shall include the cost of the raw water from the Contra Costa Canal or the Los Vaqueros Project used to produce the treated water delivered to OWD. Such cost shall be based on CCWD's rates for raw water for municipal use from time to time in effect. If the Plant is not operated to deliver water to OWD 24 hours a day, it shall nevertheless be assumed for purposes of determining such cost that the quantity of water delivered to OWD in any day was delivered at a constant rate throughout 24 hours.

(d) Variable operation and maintenance costs shall not include any cost for the disposal of spent granular activated carbon.

(e) Fixed costs shall be allocated to and paid by each

party in proportion to the capacity then allocated to each such party pursuant to Section 3.5 hereof.

(f) Variable costs shall be allocated to OWD based on the water scheduled to be delivered to OWD as shown on the estimated delivery schedule provided to CCWD pursuant to Section 6.3 hereof as a percentage of the total water to be delivered from the Plant in the next ensuing fiscal year. The allocation of such variable costs shall be adjusted within sixty (60) days of the close of each fiscal year to reflect the actual water delivered to OWD as a percentage of the actual water delivered by the Plant during the immediately preceding fiscal year, and OWD shall pay, or receive a refund for, any variable costs inappropriately allocated to OWD.

ARTICLE 6. DELIVERY OF TREATED WATER TO OWD

Section 6.1 Point of Delivery. Treated water shall be delivered to OWD at a meter to be installed at the Plant site at such rates of flow and under such pressures as OWD shall request. Risk of loss and responsibility for the carriage, handling and storage of water shall pass to OWD at the point of delivery.

Section 6.2 Measurement and Records. CCWD shall measure and record all water delivered to OWD and shall maintain accurate and complete records thereof. All deliveries shall be measured at the delivery point specified above. Measuring devices and other related equipment shall be examined, tested, and serviced regularly, but not less than once a year, to ensure

accuracy. At any time during normal business hours of CCWD, OWD may inspect any such device and equipment including all records and measurement data taken therefrom.

Section 6.3 Delivery Schedules. On or before March 1 of each year, OWD shall submit in writing a proposed monthly delivery schedule for the ensuing fiscal year beginning July 1 of the following year. The proposed delivery schedule shall be in the form provided by CCWD and shall indicate the approximate amounts of treated water desired by OWD during each month of the ensuing year. OWD's anticipated monthly delivery schedules shall not constitute a commitment by OWD to receive the amount of water set forth therein but shall establish the monthly scheduled amounts of treated water to be delivered to OWD for planning and budgetary purposes.

Section 6.4 Service Interruption. CCWD shall make all reasonable efforts to provide continuous service to OWD in accordance with the delivery schedule specified above, but may temporarily discontinue or reduce the delivery of water to OWD for the purpose of necessary inspection, maintenance, repair or replacement of any part of the Plant. CCWD shall notify OWD as far in advance as practicable of any planned discontinuance or reduction and the estimated duration of such discontinuance or reduction and, except in emergency situations, shall not discontinue or reduce the delivery of water to OWD without OWD's approval (which shall not be unreasonably withheld). CCWD shall not be liable for failure to deliver water to OWD in the amounts

requested by OWD if such failure shall be caused by water shortage or any other reason beyond the reasonable control of CCWD. CCWD shall give OWD written notice as far in advance as practicable of any reduction in deliveries of treated water because of a shortage in water supply. Recognizing that OWD will rely on the District for uninterrupted deliveries of water, CCWD agrees to use its best efforts throughout the term of this contract to avoid or limit any discontinuance or reduction in the delivery of water.

ARTICLE 7. OWD SERVICE AREA

CCWD shall not deliver treated water from the plant to any person for use in the service area of OWD, as that area is delineated on the map attached hereto as Appendix D. CCWD shall not deliver treated water to any person for use within the area delineated on Appendix D attached hereto as the "Area Adjacent to Service Area of OWD" without first informing OWD of its intention to so deliver water not less than 180 days prior to such delivery and without first giving OWD opportunity to undertake to deliver to said area treated water sufficient to meet the reasonable demands of the beneficial uses within said area. Notwithstanding the foregoing the parties shall comply with any order which may be made by the Local Agency Formation Commission of Contra Costa County in the proper exercise of its jurisdiction which prevents OWD from supplying water to any area outside its corporate territory.

ARTICLE 8. OTHER PROJECTS

CCWD and OWD may by written agreement jointly authorize the Authority to exercise any powers contained in the Law for the purpose of assisting CCWD and OWD or either of them in the financing, construction, operation, and maintenance of any capital improvement in addition to the Plant for the purpose of supplying, treating, storing or conserving water. Neither party shall bear any cost or be under any liability with respect to such a project except as expressly provided in the authorizing agreement.

ARTICLE 9. DISPUTES

The parties agree that they shall endeavor in good faith to resolve any controversy or claim arising out of or relating to this agreement or the breach thereof. If the parties fail to resolve any such controversy, claim or breach, the parties agree that such controversy, claim or breach shall be settled by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association, and judgment upon the award rendered by the Arbitrator(s) may be entered in any Court having jurisdiction thereof.

ARTICLE 10. EFFECTIVE DATE AND TERM

This agreement shall become effective as of the date hereof and shall continue in full force and effect until terminated by a written agreement of OWD and CCWD.

ARTICLE 11. MISCELLANEOUS PROVISIONS

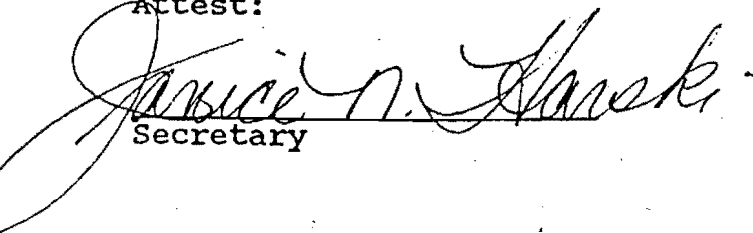
Section 11.1 Amendment of Agreement. This agreement may be amended at anytime by supplemental agreement executed by CCWD and OWD.

Section 11.2 Article and Section Headings. All article and section headings contained herein are for convenience of reference only and are not intended to define or limit the scope of any provision of this agreement.

Section 11.3 Severability. Should any part, term or provision of this Agreement be decided by the courts to be illegal or in conflict with any law of the State of California, or otherwise be rendered unenforceable or ineffectual, the validity of the remaining parts, terms or provisions hereof shall not be affected thereby.

IN WITNESS WHEREOF the parties have executed this agreement by their respective officers thereunto duly authorized on the date first above written.

Attest:



Secretary

CONTRA COSTA WATER DISTRICT

By:


President

Attest:


Secretary

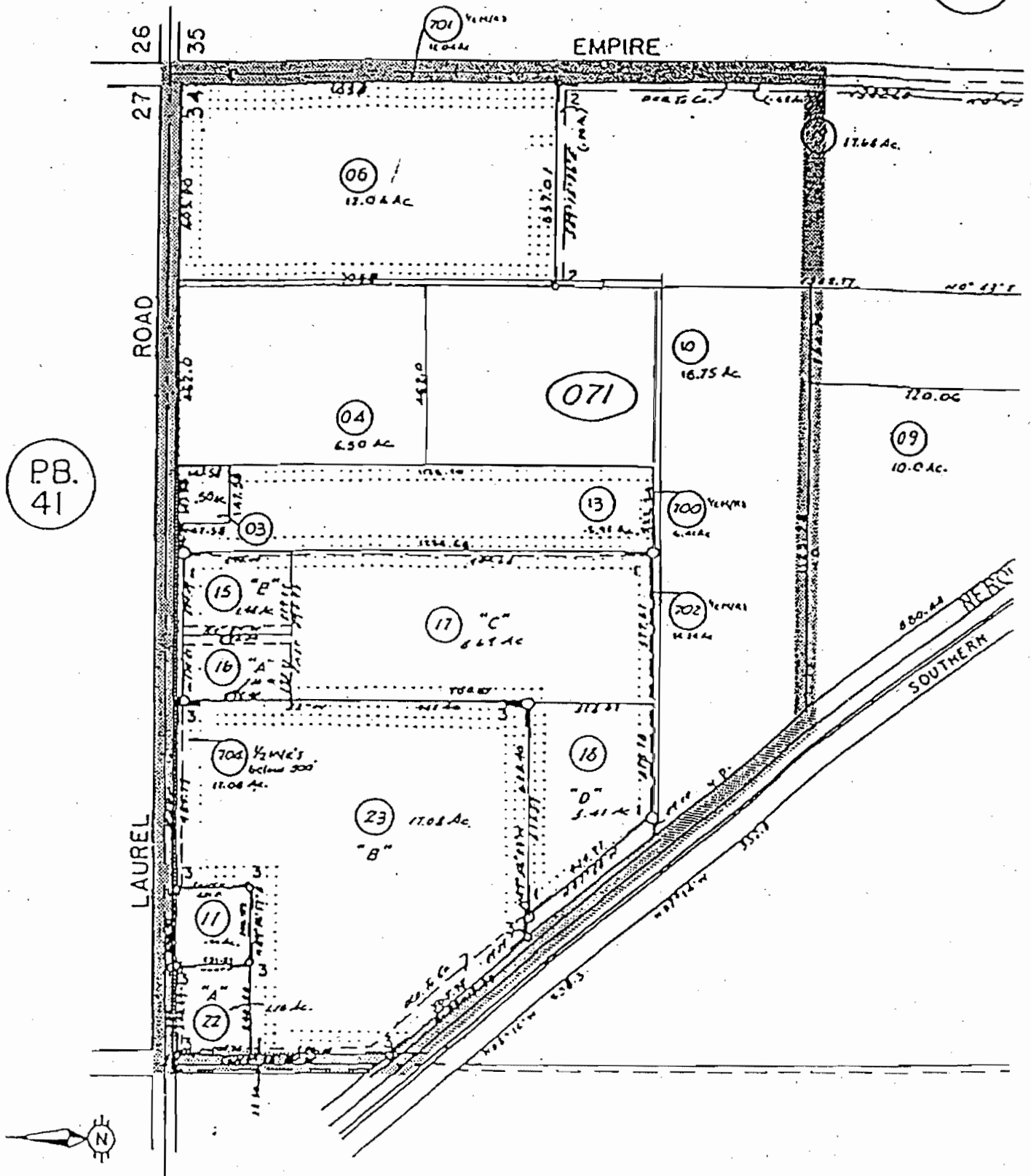
OAKLEY WATER DISTRICT

By:


President

APPENDIX A

PB.
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GENERAL SITE LOCATION

APPENDIX B

Water Quality Standards

PART 1 All water delivered to OWD from the Plant shall at all times meet the Primary and Secondary Standards for Drinking Water established by the California Department of Health Services (DOHS) and in effect on the date of this agreement. In addition all water shall meet the following more stringent standards:

| | |
|----------------------------|---|
| Turbidity: | not more than 0.1 nephelometric units 50% of time, |
| Taste and odor: | the median of all tests shall not exceed a threshold odor number of 3, |
| Trihalomethanes: | the average of the last four quarterly test results shall not exceed 40 micrograms per liter, |
| Heterotrophic Plate Count: | the median of all tests shall not exceed 100 colony-forming units per milliliter. |

PART 2 CCWD will use its best efforts to deliver water from the Plant that will meet the following standards at all times, unless otherwise agreed to by the parties:

| | |
|----------------------------|--|
| Turbidity: | less than 0.1 NTU, |
| Taste and odor: | less than 3 TON, |
| Trihalomethanes: | the average of the last four quarterly test results shall not exceed 20 ug/l, |
| Heterotrophic Plate Count: | not more than a median of 10 CFU/ml, |

More stringent standards for drinking water that may
hereafter be established by DOHS.

The methods, frequency and locations for sampling and testing shall be in accordance with the applicable standards of DOHS.

APPENDIX C

The following is a preliminary schedule of the installment payments to be made by OWD pursuant to Section 5.1. The schedule is based on the following estimates:

| | |
|---|---------------------|
| Par amount of bonds | 48,900,000.00 |
| Plus interest earned during construction | 2,449,341.00 |
| Less debt service reserve | <u>4,261,000.00</u> |
| Net to Project Fund | 46,157,591.00 |

This schedule will be adjusted from time to time to reflect changes in the above-estimated items, voluntary contributions by OWD pursuant to section 4.2, and payments by OWD pursuant to section 5.1. The final payments by OWD shall be reduced by its share of the debt service reserve fund.

CCWD-Oakley Joint Treatment Plant
 Capital Cost Payment Schedule
 based on Estimated Project Costs

APPENDIX C

| Estimated Date of Bond Payments | Total Principal Outstanding | Principal Paid | Bond Interest at 7.9% | Total Debt Service | Reserve Fund Interest @ 7% | Net Debt Service Payment Due | OWD 37.5% Share of Debt Service | OWD Annual Total |
|---------------------------------------|-----------------------------------|-------------------|-----------------------------|-----------------------|----------------------------------|------------------------------------|--|------------------------|
| 1-Oct-90 | 48,900,000 | 0 | 1,931,550 | 1,931,550 | 149,135 | 1,782,415 | 668,406 | |
| 1-Apr-91 | 48,900,000 | 415,000 | 1,931,550 | 2,346,550 | 149,135 | 2,197,415 | 824,031 | 1,492,436 |
| 1-Oct-91 | 48,485,000 | 0 | 1,915,158 | 1,915,158 | 149,135 | 1,766,023 | 662,259 | 0 |
| 1-Apr-92 | 48,485,000 | 450,000 | 1,915,158 | 2,365,158 | 149,135 | 2,216,023 | 831,009 | 1,493,267 |
| 1-Oct-92 | 48,035,000 | 0 | 1,897,382 | 1,897,382 | 149,135 | 1,748,247 | 655,593 | 0 |
| 1-Apr-93 | 48,035,000 | 485,000 | 1,897,382 | 2,382,382 | 149,135 | 2,233,247 | 837,468 | 1,493,060 |
| 1-Oct-93 | 47,550,000 | 0 | 1,878,225 | 1,878,225 | 149,135 | 1,729,090 | 648,409 | 0 |
| 1-Apr-94 | 47,550,000 | 525,000 | 1,878,225 | 2,403,225 | 149,135 | 2,254,090 | 845,284 | 1,493,693 |
| 1-Oct-94 | 47,025,000 | 0 | 1,857,488 | 1,857,488 | 149,135 | 1,708,353 | 640,632 | 0 |
| 1-Apr-95 | 47,025,000 | 570,000 | 1,857,488 | 2,427,488 | 149,135 | 2,278,353 | 854,382 | 1,495,015 |
| 1-Oct-95 | 46,455,000 | 0 | 1,834,972 | 1,834,972 | 149,135 | 1,685,837 | 632,189 | 0 |
| 1-Apr-96 | 46,455,000 | 615,000 | 1,834,972 | 2,449,972 | 149,135 | 2,300,837 | 862,814 | 1,495,003 |
| 1-Oct-96 | 45,840,000 | 0 | 1,810,680 | 1,810,680 | 149,135 | 1,661,545 | 623,079 | 0 |
| 1-Apr-97 | 45,840,000 | 665,000 | 1,810,680 | 2,475,680 | 149,135 | 2,326,545 | 872,454 | 1,495,534 |
| 1-Oct-97 | 45,175,000 | 0 | 1,784,412 | 1,784,412 | 149,135 | 1,635,277 | 613,229 | 0 |
| 1-Apr-98 | 45,175,000 | 720,000 | 1,784,412 | 2,504,412 | 149,135 | 2,355,277 | 883,229 | 1,496,458 |
| 1-Oct-98 | 44,455,000 | 0 | 1,755,972 | 1,755,972 | 149,135 | 1,606,837 | 602,564 | 0 |
| 1-Apr-99 | 44,455,000 | 780,000 | 1,755,972 | 2,535,972 | 149,135 | 2,386,837 | 895,064 | 1,497,628 |
| 1-Oct-99 | 43,675,000 | 0 | 1,725,162 | 1,725,162 | 149,135 | 1,576,027 | 591,010 | 0 |
| 1-Apr-00 | 43,675,000 | 845,000 | 1,725,162 | 2,570,162 | 149,135 | 2,421,027 | 907,885 | 1,498,895 |
| 1-Oct-00 | 42,830,000 | 0 | 1,691,785 | 1,691,785 | 149,135 | 1,542,650 | 578,494 | 0 |
| Apr-01 | 42,830,000 | 915,000 | 1,691,785 | 2,606,785 | 149,135 | 2,457,650 | 921,619 | 1,500,113 |
| Oct-01 | 41,915,000 | 0 | 1,655,642 | 1,655,642 | 149,135 | 1,506,507 | 564,940 | 0 |
| 1-Apr-02 | 41,915,000 | 990,000 | 1,655,642 | 2,645,642 | 149,135 | 2,496,507 | 936,190 | 1,501,130 |
| 1-Oct-02 | 40,925,000 | 0 | 1,616,538 | 1,616,538 | 149,135 | 1,467,403 | 550,276 | 0 |
| 1-Apr-03 | 40,925,000 | 1,070,000 | 1,616,538 | 2,686,538 | 149,135 | 2,537,403 | 951,526 | 1,501,802 |
| 1-Oct-03 | 39,855,000 | 0 | 1,574,272 | 1,574,272 | 149,135 | 1,425,137 | 534,426 | 0 |
| 1-Apr-04 | 39,855,000 | 1,155,000 | 1,574,272 | 2,729,272 | 149,135 | 2,580,137 | 967,551 | 1,501,978 |
| 1-Oct-04 | 38,700,000 | 0 | 1,528,650 | 1,528,650 | 149,135 | 1,379,515 | 517,318 | 0 |
| 1-Apr-05 | 38,700,000 | 1,250,000 | 1,528,650 | 2,778,650 | 149,135 | 2,629,515 | 986,068 | 1,503,386 |
| 1-Oct-05 | 37,450,000 | 0 | 1,479,275 | 1,479,275 | 149,135 | 1,330,140 | 498,803 | 0 |
| 1-Apr-06 | 37,450,000 | 1,355,000 | 1,479,275 | 2,834,275 | 149,135 | 2,685,140 | 1,006,928 | 1,505,730 |
| 1-Oct-06 | 36,095,000 | 0 | 1,425,752 | 1,425,752 | 149,135 | 1,276,617 | 478,731 | 0 |
| 1-Apr-07 | 36,095,000 | 1,465,000 | 1,425,752 | 2,890,752 | 149,135 | 2,741,617 | 1,028,106 | 1,506,838 |
| 1-Oct-07 | 34,630,000 | 0 | 1,367,885 | 1,367,885 | 149,135 | 1,218,750 | 457,031 | 0 |
| 1-Apr-08 | 34,630,000 | 1,590,000 | 1,367,885 | 2,957,885 | 149,135 | 2,808,750 | 1,053,281 | 1,510,313 |
| 1-Oct-08 | 33,040,000 | 0 | 1,305,080 | 1,305,080 | 149,135 | 1,155,945 | 433,479 | 0 |
| 1-Apr-09 | 33,040,000 | 1,720,000 | 1,305,080 | 3,025,080 | 149,135 | 2,875,945 | 1,078,479 | 1,511,959 |
| 1-Oct-09 | 31,320,000 | 0 | 1,237,140 | 1,237,140 | 149,135 | 1,088,005 | 408,002 | 0 |
| 1-Apr-10 | 31,320,000 | 1,860,000 | 1,237,140 | 3,097,140 | 149,135 | 2,948,005 | 1,105,502 | 1,513,504 |
| 1-Oct-10 | 29,460,000 | 0 | 1,163,670 | 1,163,670 | 149,135 | 1,014,535 | 380,451 | 0 |
| 1-Apr-11 | 29,460,000 | 2,010,000 | 1,163,670 | 3,173,670 | 149,135 | 3,024,535 | 1,134,201 | 1,514,651 |
| 1-Oct-11 | 27,450,000 | 0 | 1,084,275 | 1,084,275 | 149,135 | 935,140 | 350,678 | 0 |
| 1-Apr-12 | 27,450,000 | 2,180,000 | 1,084,275 | 3,264,275 | 149,135 | 3,115,140 | 1,168,178 | 1,518,855 |
| 1-Oct-12 | 25,270,000 | 0 | 998,165 | 998,165 | 149,135 | 849,030 | 318,386 | 0 |
| 1-Apr-13 | 25,270,000 | 2,355,000 | 998,165 | 3,353,165 | 149,135 | 3,204,030 | 1,201,511 | 1,519,898 |
| 1-Oct-13 | 22,915,000 | 0 | 905,142 | 905,142 | 149,135 | 756,007 | 283,503 | 0 |
| 1-Apr-14 | 22,915,000 | 2,550,000 | 905,142 | 3,455,142 | 149,135 | 3,306,007 | 1,239,753 | 1,523,255 |
| 1-Oct-14 | 20,365,000 | 0 | 804,417 | 804,417 | 149,135 | 655,282 | 245,731 | 0 |
| 1-Apr-15 | 20,365,000 | 2,760,000 | 804,417 | 3,564,417 | 149,135 | 3,415,282 | 1,280,731 | 1,526,462 |
| Oct-15 | 17,605,000 | 0 | 695,398 | 695,398 | 149,135 | 546,263 | 204,849 | 0 |
| Apr-16 | 17,605,000 | 2,985,000 | 695,398 | 3,683,398 | 149,135 | 3,534,263 | 1,325,349 | 1,530,197 |
| Oct-16 | 14,620,000 | 0 | 577,490 | 577,490 | 149,135 | 428,355 | 160,633 | 0 |
| 1-Apr-17 | 14,620,000 | 3,235,000 | 577,490 | 3,812,490 | 149,135 | 3,663,355 | 1,373,758 | 1,534,391 |
| 1-Oct-17 | 11,385,000 | 0 | 449,708 | 449,708 | 149,135 | 300,573 | 112,715 | 0 |
| 1-Apr-18 | 11,385,000 | 3,500,000 | 449,708 | 3,949,708 | 149,135 | 3,800,573 | 1,425,215 | 1,537,930 |
| 1-Oct-18 | 7,885,000 | 0 | 311,458 | 311,458 | 149,135 | 162,323 | 60,871 | 0 |
| 1-Apr-19 | 7,885,000 | 3,785,000 | 311,458 | 4,096,458 | 149,135 | 3,947,323 | 1,480,246 | 1,541,117 |
| 1-Oct-19 | 4,100,000 | 0 | 161,950 | 161,950 | 149,135 | 12,815 | 4,806 | 0 |