State of California
California Natural Resources Agency
DEPARTMENT OF WATER RESOURCES

AGREEMENT FOR FUNDING BETWEEN THE DEPARTMENT OF WATER RESOURCES AND ALAMEDA COUNTY WATER DISTRICT

FOR THE COSTS OF ENVIRONMENTAL ANALYSIS, PLANNING AND DESIGN OF DELTA CONSERVATION MEASURES, INCLUDING DELTA CONVEYANCE OPTIONS

(SWPAO #09914)

THIS AGREEMENT is made this 20th day of March, 2009, pursuant to the provisions of all applicable laws of the State of California, between the State of California, acting by and through its Department of Water Resources ("DWR"), and Alameda County Water District ("Contractor"). DWR and the Contractor may also be referred to individually as "Party" or collectively as "Parties."

Recitals

A. **WHEREAS**, DWR and Contractor have entered into and subsequently amended a long-term water supply contract, herein referred to as the "Water Supply Contract," providing that DWR will supply certain quantities of water to Contractor, and providing that Contractor shall make certain payments to DWR, and setting forth the terms and conditions of such supply and such payment; and

B. **WHEREAS**, DWR and several State Water Project (SWP) Contractors are parties to a Memorandum of Agreement ("MOA"), providing that they will collaborate to develop the environmental documents, engineering designs, and other necessary information for possible conservation measures, particularly Delta water conveyance options; and

C. **WHEREAS**, the MOA is intended to support and complement the certain activities of the Bay-Delta Conservation Plan ("BDCP") Steering Committee by establishing procedures to facilitate the funding and planning for the Delta water conveyance and habitat conservation studies, which the Parties refer to as the "Planning Phase" of the Delta Habitat Conservation and Conveyance Program ("DHCCP" or "Program"); and

D. **WHEREAS**, DWR and a group of SWP Contractors, collectively known as the "Participating SWP Contractors," believe the DHCCP Planning Phase is necessary to facilitate the assessment and planning of likely conservation measures of the BDCP, analyze responses to the multiple threats to the State's economic well being posed by the current Delta water conveyance system's vulnerability to seismic risk, climate change, and ongoing regulatory prescriptions, and to consider prudent funding sources for species conservation and improved Delta water conveyance facilities in order to achieve related benefits to water supply, water supply reliability, and ecosystem health and resiliency; and

E. **WHEREAS**, subject to any adjustments provided for in the MOA, DWR will fund fifty percent (50%) of the total cost for the DHCCP Planning Phase and will collect that amount from Contractor and other Participating SWP Contractors, pursuant to this and similar Agreements; and

F. **WHEREAS**, subject to any adjustments provided for in the MOA, certain federal Central Valley Project contractors have agreed to fund the remaining 50 percent of the total DHCCP Planning Phase costs and Reclamation, as allowed under federal appropriations law, via in-kind services and a financial assistance agreement, will provide some portion of this 50 percent; and

G. **WHEREAS**, DWR and the Participating SWP Contractors are endeavoring to increase DWR's flexibility to perform work on the DHCCP Planning Phase by modifying the funding practices and providing funds so the DHCCP Planning Phase work may start as soon as possible; and

H. **WHEREAS**, because DWR must have a source of funding to repay and fund the costs of the DHCCP Planning Phase starting in 2008 until its expected completion by 2010, the Contractor, along with the other Participating SWP Contractors, is willing to provide such funds under the terms of this Agreement through the DHCCP charge; and

I. **WHEREAS**, DWR is willing to credit the Contractor and the other Participating SWP Contractors from 2008 excess revenue bond reserve funds, an amount equal to the Contractor's allocation of the 2008 DHCCP Planning Phase costs, and to credit additional reserve funds in 2009 as provided by Article 50 of the Water Supply Contract; and

J. **WHEREAS**, Contractor is willing to enter into this Agreement to pay a share of the DHCCP Planning Phase costs, and, in consideration therefore, DWR is willing to consult with Contractor and other Participating SWP Contractors on decisions related to the budget, scope, schedule, and activities of the Program's Planning Phase to ensure its timely completion in a cost-efficient manner, and

K. **WHEREAS,** it is DWR's intent that all funds needed to meet DWR's Share of the Program's Costs will be collected through this and all other SWP DHCCP Funding Agreements.

AGREEMENT

NOW THEREFORE, it is mutually agreed by DWR and Contractor as follows:

1. **Definitions**

When used in this Agreement, the definitions in the Water Supply Contract shall apply. In addition, the following definitions shall apply:

a. "**DHCCP**" or "**Program**" means the proposed development of possible BDCP conservation measures, including Delta conveyance options as described in the MOA.

b. "**DHCCP Planning Phase**" or "**Program's Planning Phase**" means the proposed development of environmental documents, planning, engineering designs, and other necessary information for possible BDCP conservation measures, including Delta conveyance options as described in the MOA. It does not include construction activity for any BDCP conservation measure, including any Delta Conveyance option.

c. "**MOA**" means the "Memorandum of Agreement Regarding Collaboration on the Planning, Preliminary Design and Environmental Compliance for the Delta Habitat Conservation and Conveyance Program in Connection with the Development of the Bay Delta Conservation Plan," a copy of which is attached hereto as Exhibit 1.

d. "**SWP**" means the State Water Project operated by DWR. The SWP generally includes the State Water Facilities, as defined in California Water Code section 12934(d), and certain facilities found in the Central Valley Project Act at section 11100 et. seq.

e. "**Water Supply Contract**" means the long-term water supply contract between Contractor and DWR, and similar contracts entered into by DWR and other Participating SWP Contractors.

f. "**Water Supply Contractor**" means one of the contractors that signed a Water Supply Contract which is still in effect.

g. "**DHCCP SWP Funding Agreement**" means this Agreement and agreements substantially the same as this Agreement signed by Participating SWP Contractors and DWR.

h. "**Participating SWP Contractor**" means a SWP Water Supply Contractor that has executed a DHCCP SWP Funding Agreement.

i. "**Calendar Year**" means the period January 1 through December 31.

j. "**DHCCP Table A Amount**" means, for Contractor, the maximum Table A amount as listed in its Water Supply Contract. The DHCCP Table A Amount will be used each year to calculate the Contractor's share of the DHCCP Planning Phase charges as a percentage of the sum of all the DHCCP Table A Amounts of the Participating SWP Contractors.

k. "**2008 DHCCP Charge**" means a charge to Contractor included in its annual statement of charges for 2008 that reflects the estimated costs for DHCCP in 2008.

l. "**Department's Share of the Program's Costs**" means fifty percent (50%) of the total DHCCP Planning Phase costs.

m. "**DHCCP Pay-Go Charge**" means the charge to the Contractor pursuant to this Agreement included in its Annual Statement of Charges to recover the Contractor's allocation of Department's Share of the Program's Costs beginning in 2009 and continuing until the Program's Planning Phase is completed or December 31, 2011, which ever is earlier.

n. "**Reclamation**" means the United States Department of the Interior, Bureau of Reclamation.

o. "**Central Valley Project contractors**" means the Central Valley Project contractors that are involved in funding the DHCCP Planning Phase, which are a subset of the total Central Valley Project contractors group.

2. **Purpose of the Agreement**

a. The purpose of this Agreement is to establish the terms and conditions under which Contractor will provide funding to DWR that, along with funding from the other Participating SWP Contractors, will provide all funds needed to pay the actual costs of DWR's Share of the Program's costs.

b. Funding pursuant to this Agreement addresses only the DHCCP Planning Phase. After completing the DHCCP Planning Phase, if the Parties determine to proceed with actions beyond the DHCCP Planning Phase, including the implementation and construction phases of the DHCCP, the Parties may enter into additional funding agreements.

3. **Term of Agreement**

This Agreement will take effect upon execution of the Parties and will remain in effect until the DHCCP Planning Phase is completed or until December 31, 2011, whichever comes first, unless extended by written amendment.

4. **DHCCP Planning Phase Costs**

Should the funding procedures established by this and all other DHCCP SWP Funding Agreements, or funding procedures established by Funding Agreements between DWR and Reclamation or federal contractors, terminate, DWR and the Participating Contractors, other than the Participating Contractors that have withdrawn pursuant to Section 9(a), shall use their best efforts to develop a funding plan that will allow for the timely completion of the DHCCP Planning Phase. Any subsequent funding plan for completion of the DHCCP Planning Phase shall include provisions that ensure that Participating Contractors that have withdrawn do not incur any additional charges related to the completion of the DHCCP Planning Phase. For purposes of this paragraph, "charges" shall mean 1) costs chargeable to the contractor or 2) revenues and/or cash available to pay rate management credits to the contractor. This provision shall survive termination of this Agreement. After one year from the termination of the MOA, nothing in this provision would prevent DWR from charging the Contractor in accordance with its Water Supply Contract to fund other and new Delta conveyance planning activities that are distinct and independent of the DHCCP and BDCP.

5. **2008 DHCCP Charge**

a. Before DWR may implement this section and to obtain funding for DWR's Share of the Program Costs incurred before December 31, 2008, the following must be satisfied: (i) this Agreement is fully executed by the Parties, and (ii) the SWP DHCCP Funding Agreements and the MOA are signed by DWR and the SWP Contractors who are also parties to the MOA. Once DWR and the Participating SWP Contractors who are parties to the MOA have signed the MOA, the Parties agree to abide by the terms and conditions of the MOA, notwithstanding that the Parties recognize the MOA may not have been fully executed.

b. DWR will submit a revised 2008 Statement of Charges to the Contractor that includes Contractor's estimated 2008 DHCCP Charge. The 2008 DHCCP Charge shall be based on actual costs incurred in 2008, pursuant to Paragraph 7 (Program Cost, Budgeting and Allocation). At the time the revised 2008 Statement of Charges is transmitted to the Contractor, DWR shall submit to the Contractor a revised invoice for the month of July 2008 reflecting credits resulting from the release of excess revenue bond reserve funds against Contractor's Transportation Capital charges in an amount equal to the amount of the revised 2008 Statement of Charges, as provided by the Water Supply Contract.

c. Should the funding from Contractor for the estimated costs be insufficient to cover the actual costs incurred by DWR through December 31, 2008, DWR shall include the Contractor's additional 2008 costs in its 2009

Statement of Charges. After the actual costs incurred up to and including December 31, 2008, have been finally determined, a table reflecting the actual funding advanced by each Participating SWP Contractor in 2008 will be attached hereto as Exhibit 2, without constituting an amendment of this Agreement. All 2008 DHCCP Planning Phase costs will be allocated to each Participating SWP Contractor in proportion to the ratio of its DHCCP Table A Amount to the sum of all Participating SWP Contractors' 2008 DHCCP Table A Amounts. Attached hereto as Exhibit 3A and 3B is a table of each Participating SWP Contractor's estimated share of the 2008 DHCCP Charge.

6. **DHCCP Pay-Go Charge**

a. Before DWR may implement this section to seek funding for costs incurred after December 31, 2008, the following must be completed: (a) this Agreement is fully executed by the Parties and is in full force and effect, (b) the MOA is executed by all of its parties and in effect, and (c) DWR has executed a binding agreement or agreements with Reclamation and certain Central Valley Project contractors which will establish funding procedures that ensure 50 percent of the DHCCP Planning Phase costs are paid by federal interests. The agreements with the Central Valley Project contractors shall also include provisions that (i) require the Central Valley Project contractors to pay 50 percent of the DHCCP Planning Phase costs incurred prior to October 1, 2008 within 14 days of execution of those agreements; and (ii) provide assurances that 50 percent of all costs incurred after October 1, 2008, and until completion of the Program are paid on a schedule and in amounts, similar to the payment schedule and amounts for the Participating SWP Contractors.

b. Except for those costs described in Section 5 above, DWR shall recover DWR's Share of Program Costs through the DHCCP Pay-Go Charge. The DHCCP Pay-Go Charge shall recover these costs incurred or to be incurred by DWR for the DHCCP Planning Phase beginning on January 1, 2009, and, unless sooner terminated pursuant to Article 9 of this Agreement, continuing until the Program's Planning Phase is completed or December 31, 2011, which ever is earlier.

c. To facilitate billing on a calendar year basis, the DHCCP Pay-Go Charge will be computed and included in Contractor's and other Participating SWP Contractor's Annual Statements of Charges for 2009 and thereafter as long as this Agreement is in effect under the Transportation Minimum Component and shall be collected in 12 equal monthly payments as described in Contractor's Water Supply Contract. The DHCCP Pay-Go Charges shall initially be based on estimates of costs determined pursuant to Section 7 (Program Cost, Budgeting and Allocation). These charges

shall be adjusted after the end of each Calendar Year to accurately reflect DWR's Share of Program Costs during that Calendar Year. Such adjustments shall be reflected in the charges in the following calendar year.

d. The DHCCP Pay-Go Charge will be allocated to each Participating SWP Contractor in proportion to the ratio of its DHCCP Table A Amount to the sum of all Participating SWP Contractors' DHCCP Table A Amounts. Attached hereto as Exhibit 4A and 4B is a table of each Participating SWP Contractor's estimated share of the DHCCP Planning Phase Charges for 2009 and 2010. As these charges are adjusted, or should charges be estimated for 2011, or should there be a change in the ratio due to a withdrawal of a Contractor from the Program's Planning Phase, revised versions of Exhibit 4B Contractor shall be attached hereto, without constituting an amendment of this Agreement.

e. DWR prepared a revision to the calendar year 2009 Statement of Charges in mid–December 2008, which includes an estimated allocation of the DHCCP costs among the anticipated participating Contractors. Execution of this Agreement, even if occurring after January 1, 2009, shall constitute agreement by the Contractor to pay the full amount of the Contractor's share of the 2009 DHCCP charge. The full amount of all prior months unpaid payments for 2009 shall be paid by the Contractor on the first monthly payment to DWR following execution of this Agreement.

f. Once the final participation level in the DHCCP Program is known by DWR, DWR shall prepare an amended 2009 DHCCP cost allocation and invoice and the Contractor shall pay the revised amount, if any, over the remaining months in calendar year 2009. This revised invoice is anticipated to be distributed within the first four months of calendar year 2009.

g. The parties recognize that DWR intends to retain approximately $12 million of the excess revenue bond reserve funds to be applied as a credit against the 2008 Transportation Capital charges. DWR also intends to apply approximately $30 million of excess revenue bond reserve fund credits against the January 2009 Transportation Capital payments from the Contractors, with the remaining excess revenue bond reserve fund credits to be applied as a credit against the July 2009 Transportation Capital payments.

7. **Program Cost, Budget and Allocation**

a. As described in the MOA, DWR will work collaboratively with the DHCCP Executive Committee to determine the budget, schedules, and activities of the DHCCP Planning Phase.

b. The total cost for the DHCCP Planning Phase is currently estimated at $140 million. This estimate may change in the future as more information is developed about the costs of planning and designing the potential BDCP conservation measures and water conveyance facilities.

c. DWR is responsible for formulating the DHCCP Planning Phase Budget with specific DHCCP Planning Phase elements and will work collaboratively through the MOA to develop the budget.

d. The Parties to the MOA have committed to an initial, three-year budget. A copy of the initial budget is attached hereto as Exhibit 5. DWR, in collaboration with the Executive Committee, will consider and approve revised budgets for work as necessary. Revised budget(s) shall be attached hereto as subsequent exhibits, without constituting an amendment of this Agreement, provided they do not exceed the funding limit set forth in Section 7(e).

e. Notwithstanding anything set forth in this Agreement or decided through the MOA process, the maximum amount of DWR's Share of Program Costs that shall be funded through this Agreement and all other DHCCP SWP Funding Agreements shall not exceed $70,000,000.

8. **Reimbursement for DHCCP Planning Phase**

a. If the DHCCP is approved to proceed with construction, DWR intends to issue Revenue Bonds to pay for such construction. DWR shall include in the first issue of Revenue Bonds, pursuant to and consistent with Treasury Regulation 1.150-2, an amount sufficient to reimburse the Contractor and all other Participating SWP Contractors for all planning costs paid through the 2008 DHCCP Charge and the DHCCP Pay-Go Charges. DWR, within 10 days of the effective date of this Agreement, shall adopt the necessary documents to conform to the IRS requirements to allow these costs to be included in a future revenue bond issue.

b. If the DHCCP is not approved to proceed with construction or a revenue bond sale does not occur, no reimbursements will occur. Contractor recognizes that, should the DHCCP not be approved to proceed with construction, Contractor may pay costs for the DHCCP Planning Phase that are greater than the amount it would have paid if other means of funding the Program, including under the Water Supply Contract, had

been utilized. Contractor waives any claims it may have with respect to the greater amount that may be paid by it under this Agreement.

c. The provisions of this Section 8 shall survive termination of this Agreement and/or the MOA.

9. **Withdrawal and Termination**

a. Contractor may withdraw from this Agreement at any time. However, Contractor shall provide 30 days advanced written notice to DWR, all other Participating SWP Contractors, and all Parties to the MOA. The notice of the effective date of its withdrawal shall include a detailed written explanation of why it intends to withdraw.

b. If the MOA terminates, this Agreement shall terminate. However, notwithstanding anything to the contrary set forth in the MOA, DWR agrees that it will not withdraw from the MOA as long as DWR's Share of the Program's Costs remains fully funded. DWR shall remain responsible for administering the provisions of this Agreement that survive termination or withdrawal.

c. If Contractor is a signatory to the MOA, Contractor's withdrawal from the MOA shall be deemed as withdrawal from this Agreement.

d. If any Participating SWP Contractor or Contractors withdraws from its DHCCP SWP Funding Agreement, Contractor, if not a withdrawing party, shall notify DWR within seven days after the effective date of such withdrawal as to whether it intends to continue operating under this Agreement. Failure to provide such notice shall be deemed an agreement to continue as a Party to this Agreement.

e. If one or more Participating SWP Contractors withdraw from their DHCCP SWP Funding Agreements and Contractor decides to continue operating under this Agreement, then Contractor's cost allocation share and the cost allocation shares of all other remaining Participating SWP Contractors will be changed to reflect the new ratios of their DHCCP Table A Amounts to the sum of the remaining Participating SWP Contractors' DHCCP Table A Amounts. Such adjustment shall be made through a revised billing payable in equal installments over the remainder of the then current calendar year or six months from the date the revised billing is received by Contractor, whichever is longer. DWR shall transmit the revised billing to Contractor within 60 days of the effective date of the withdrawal that triggered the revised cost allocation.

f. In the event of Contractor's noticed withdrawal from this Agreement, Contractor shall no longer be obligated to fund any costs related to DHCCP Planning Phase task orders that are subsequently approved by DWR or that were approved by DWR less than 60 days prior to the date the notice of withdrawal was transmitted to DWR pursuant to Section 9(a). However, Contractor shall remain responsible for its share of the costs of completing any DHCCP Planning Phase task orders approved 60 days prior to the date the notice of withdrawal was transmitted.

g. If termination of the MOA occurs concurrent with or after Contractor's notice of withdrawal from this Agreement but prior to the effective date of the Contractor's withdrawal, or the Contractor has not withdrawn, Contractor is obligated to pay its share of the reasonable termination costs incurred in fulfillment of the DHCCP Planning Phase or the objectives of the MOA, such as costs associated with early termination of consultant contracts. The total termination costs will be shared on a 50-50 basis between the State and federal interests. The Contractor's share of termination costs shall be determined using the same ratio as described in Section 6(d) of this Agreement.

h. The provisions of paragraphs (b), (d), (e), (f) and (g) of this Section 9 shall survive termination of this Agreement and/or the MOA

10. <u>Invoices, Notices Or Other Communications</u>

a. All invoices, notices, or other communications required under this Agreement will be in writing, and will be deemed to have been duly given upon the date of service, if: (i.) served personally on the Party to whom notice is to be given; (ii.) sent by electronic mail, and the Party to whom notice is to be given confirms receipt; or (iii.) on the third day after mailing, if mailed to the Party to whom invoice, notice or other communication is directed, by first-class mail, postage prepaid, and properly addressed to the designated representative(s) of the Party set forth below.

DWR: Chief, State Water Project Analysis Office
Department of Water Resources
State Water Project Analysis Office
Department of Water Resources
1416 Ninth Street, Room 1620
Post Office Box 942836
Sacramento, California 94236-0001

ACWD: Mr. Paul Piraino
General Manager
Alameda County Water District
43885 South Grimmer Boulevard
Post Office Box 5110
Fremont, California 94537-5110

b. The time for providing any payments, notices, or other communications specified in this Agreement may be extended within the term of this Agreement with the consent of the Parties, confirmed in writing, without requiring an amendment to this Agreement.

11. No Amendment to Water Supply Contract

This Agreement does not amend, abridge, or modify the Water Supply Contract in any way.

12. Amendments

Except for the addition of exhibits as authorized herein, this Agreement may be amended or modified only by a subsequent written agreement approved and executed by the Parties.

13. Agreement Conformity

All Agreements to fund the DHCCP Planning Phase entered into by DWR and Participating SWP Contractors shall be substantially uniform.

14. Applicable Law

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

15. Complete Contract

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

16. Execution in Counterpart

This Agreement may be executed in counterpart, each of which shall constitute an original, but all of which shall constitute one and the same agreement. Each signing Party shall have received a copy of the signature page signed by every other Party.

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

Approved as to legal form
and Sufficiency

Chief Counsel
Department of Water Resources

Date

State of California
Department of Water Resources

Director

3/12/09
Date

Approved as to legal form
and Sufficiency

Counsel for ACWD

Date

Alameda County Water District

General Manager

Date

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

Approved as to legal form
and Sufficiency

Chief Counsel
Department of Water Resources

MAR 12 2009
Date

State of California
Department of Water Resources

Director

3/12/09
Date

Approved as to legal form
and Sufficiency

Counsel for ACWD

MARCH 17, 2009
Date

Alameda County Water District

General Manager

March 20, 2009
Date

List of Exhibits to be Attached

Exhibit 1: Memorandum of Agreement Regarding Collaboration on the Planning, Preliminary Design and Environmental Compliance for the Delta Habitat Conservation and Conveyance Program in Connection with the Development of the Bay Delta Conservation Plan (Paragraph 1.a)

Exhibit 2: Table of Participating SWP Contractors Actual Advanced Costs for 2008 (Paragraph 5.c)

Exhibit 3: Participating SWP Contractors Share of 2008 Costs (Paragraph 5.c)

Exhibit 4: Participating SWP Contractors Estimated Share of 2009 and 2010 DHCCP Planning Phase Costs (Paragraph 6.d)

Exhibit 5: Initial 3 Year Budget (Paragraph 7.d)

Exhibit 1

(Memorandum of Agreement)

Exhibit 2

(Actual 2008 DHCCP Costs by participating SWP Contractor)
(To be provided once final 2008 costs have been determined)

Exhibit 3A
Estimated 2008 DHCCP Planning Phase Costs
by
All Participating SWP Contractor's

2008 CY Projection	**$**	**23,039,000**
SWPC 50 Percent	**$**	**11,519,500**

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	SWP Contractor Share
Metropolitan WD Of SC	1,911,500	45.81%	$ 5,276,936
Kern County Water Agency	998,730	23.93%	$ 2,757,120
Antelope Valley-East Kern WA	141,400	3.39%	$ 390,352
Coachella Valley WD	121,100	2.90%	$ 334,312
San Bernardino Valley MWD	102,600	2.46%	$ 283,240
Santa Clara Valley WD	100,000	2.40%	$ 276,063
Tulare Lake Basin WSD	95,922	2.30%	$ 264,805
Castaic Lake WA	95,200	2.28%	$ 262,812
Alameda Co FC&WCD - Zone 7	80,619	1.93%	$ 222,559
Mojave Water Agency	75,800	1.82%	$ 209,255
Dudley Ridge WD	57,343	1.37%	$ 158,303
Desert Water Agency	50,000	1.20%	$ 138,031
Solano County WA	47,756	1.14%	$ 131,836
Santa Barbara County FCWCD	45,486	1.09%	$ 125,570
Alameda County WD	42,000	1.01%	$ 115,946
Napa County FC&WCD	29,025	0.70%	$ 80,127
San Gabriel Valley MWD	28,800	0.69%	$ 79,506
Butte County	27,500	0.66%	$ 75,917
San Luis Obispo Co. FC&WCD	25,000	0.60%	$ 69,016
Palmdale WD	21,300	0.51%	$ 58,801
Casitas Municipal WD	20,000	0.48%	$ 55,213
San Gorgonio Pass WA	17,300	0.41%	$ 47,759
City Of Yuba City	9,600	0.23%	$ 26,502
County Of Kings	9,305	0.22%	$ 25,688
Crestline-Lake Arrowhead WA	5,800	0.14%	$ 16,012
Oak Flat WD	5,700	0.14%	$ 15,736
Empire - West Side ID	3,000	0.07%	$ 8,282
Plumas County	2,700	0.06%	$ 7,454
Littlerock Creek ID	2,300	0.06%	$ 6,349
Total Table A	**4,172,786**	**100%**	**11,519,500**

Exhibit 3B
Estimated 2008 DHCCP Planning Phase Costs
by
Estimated Participating SWP Contractor's

2008 CY Projection	**$**	**23,039,000**
SWPC 50 Percent	**$**	**11,519,500**

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A		SWP Contractor Share
Metropolitan WD Of SC	1,911,500	47.37%	$	5,456,674
Kern County Water Agency	998,730	24.75%	$	2,851,030
Antelope Valley-East Kern WA	141,400	3.50%	$	403,648
Coachella Valley WD	121,100	3.00%	$	345,699
San Bernardino Valley MWD	102,600	2.54%	$	292,888
Santa Clara Valley WD	100,000	2.48%	$	285,466
Tulare Lake Basin WSD	95,922	2.38%	$	273,824
Castaic Lake WA	95,200	2.36%	$	271,763
Alameda Co FC&WCD - Zone 7	80,619	2.00%	$	230,139
Mojave Water Agency	75,800	1.88%	$	216,383
Desert Water Agency	50,000	1.24%	$	142,733
Solano County WA	47,756	1.18%	$	136,327
Santa Barbara County FCWCD	45,486	1.13%	$	129,847
Alameda County WD	42,000	1.04%	$	119,896
Napa County FC&WCD	29,025	0.72%	$	82,856
San Gabriel Valley MWD	28,800	0.71%	$	82,214
San Luis Obispo Co. FC&WCD	25,000	0.62%	$	71,366
Palmdale WD	21,300	0.53%	$	60,804
San Gorgonio Pass WA	17,300	0.43%	$	49,386
Crestline-Lake Arrowhead WA	5,800	0.14%	$	16,557
Total Table A	**4,035,338**	**100.00%**	**$**	**11,519,500**

Exhibit 4A
Estimated 2009-2010 DHCCP Planning Phase Costs
by
All Participating SWP Contractor's

Cal Year	2009	2010
CY Projection	$ 55,242,000	$ 61,368,000
SWPC 50 Percent	$ 27,621,000	$ 30,684,000

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	2009 SWP Contractor Projct'd Share	2010 SWP Contractor Projct'd Share
Metropolitan WD Of SC	1,911,500	45.81%	$ 12,652,828	$ 14,055,949
Kern County Water Agency	998,730	23.93%	$ 6,610,912	$ 7,344,022
Antelope Valley-East Kern WA	141,400	3.39%	$ 935,972	$ 1,039,765
Coachella Valley WD	121,100	2.90%	$ 801,599	$ 890,492
San Bernardino Valley MWD	102,600	2.46%	$ 679,142	$ 754,455
Santa Clara Valley WD	100,000	2.40%	$ 661,932	$ 735,336
Tulare Lake Basin WSD	95,922	2.30%	$ 634,938	$ 705,349
Castaic Lake WA	95,200	2.28%	$ 630,159	$ 700,040
Alameda Co FC&WCD - Zone 7	80,619	1.93%	$ 533,643	$ 592,821
Mojave Water Agency	75,800	1.82%	$ 501,744	$ 557,385
Dudley Ridge WD	57,343	1.37%	$ 379,572	$ 421,664
Desert Water Agency	50,000	1.20%	$ 330,966	$ 367,668
Solano County WA	47,756	1.14%	$ 316,112	$ 351,167
Santa Barbara County FCWCD	45,486	1.09%	$ 301,086	$ 334,475
Alameda County WD	42,000	1.01%	$ 278,011	$ 308,841
Napa County FC&WCD	29,025	0.70%	$ 192,126	$ 213,431
San Gabriel Valley MWD	28,800	0.69%	$ 190,636	$ 211,777
Butte County	27,500	0.66%	$ 182,031	$ 202,217
San Luis Obispo Co. FC&WCD	25,000	0.60%	$ 165,483	$ 183,834
Palmdale WD	21,300	0.51%	$ 140,991	$ 156,627
Casitas Municipal WD	20,000	0.48%	$ 132,386	$ 147,067
San Gorgonio Pass WA	17,300	0.41%	$ 114,514	$ 127,213
City Of Yuba City	9,600	0.23%	$ 63,545	$ 70,592
County Of Kings	9,305	0.22%	$ 61,593	$ 68,423
Crestline-Lake Arrowhead WA	5,800	0.14%	$ 38,392	$ 42,649
Oak Flat WD	5,700	0.14%	$ 37,730	$ 41,914
Empire - West Side ID	3,000	0.07%	$ 19,858	$ 22,060
Plumas County	2,700	0.06%	$ 17,872	$ 19,854
Littlerock Creek ID	2,300	0.06%	$ 15,224	$ 16,913
Total Table A	**4,172,786**	**100%**	**27,621,000**	**30,684,000**

Exhibit 4B
Estimated 2009-2010 DHCCP Planning Phase Costs
by
Estimated Participating SWP Contractor's

Cal Year	2009	2010
CY Projection	$ 55,242,000	$ 61,368,000
SWPC 50 Percent	$ 27,621,000	$ 30,684,000

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	2009 SWP Contractor Projct'd Share	2010 SWP Contractor Projct'd Share
Metropolitan WD Of SC	1,911,500	47.37%	$ 13,083,797	$ 14,534,710
Kern County Water Agency	998,730	24.75%	$ 6,836,087	$ 7,594,167
Antelope Valley-East Kern WA	141,400	3.50%	$ 967,852	$ 1,075,181
Coachella Valley WD	121,100	3.00%	$ 828,903	$ 920,823
San Bernardino Valley MWD	102,600	2.54%	$ 702,274	$ 780,152
Santa Clara Valley WD	100,000	2.48%	$ 684,478	$ 760,382
Tulare Lake Basin WSD	95,922	2.38%	$ 656,565	$ 729,374
Castaic Lake WA	95,200	2.36%	$ 651,623	$ 723,884
Alameda Co FC&WCD - Zone 7	80,619	2.00%	$ 551,819	$ 613,013
Mojave Water Agency	75,800	1.88%	$ 518,834	$ 576,370
Desert Water Agency	50,000	1.24%	$ 342,239	$ 380,191
Solano County WA	47,756	1.18%	$ 326,879	$ 363,128
Santa Barbara County FCWCD	45,486	1.13%	$ 311,342	$ 345,868
Alameda County WD	42,000	1.04%	$ 287,481	$ 319,361
Napa County FC&WCD	29,025	0.72%	$ 198,670	$ 220,701
San Gabriel Valley MWD	28,800	0.71%	$ 197,130	$ 218,990
San Luis Obispo Co. FC&WCD	25,000	0.62%	$ 171,119	$ 190,096
Palmdale WD	21,300	0.53%	$ 145,794	$ 161,961
San Gorgonio Pass WA	17,300	0.43%	$ 118,415	$ 131,546
Crestline-Lake Arrowhead WA	5,800	0.14%	$ 39,700	$ 44,102
Total Table A	**4,035,338**	**100%**	**27,621,000**	**30,684,000**

Exhibit 5
Initial DHCCP Planning Phase Budget
(In 1000)

	2008		2009		2010	
Program Element	Jan-Jun	Jul-Dec	Jan-Jun	Jul-Dec	Jan-Jun	Jul-Dec
Management, Planning, & Administration	$ 0	$ 3,134	$ 2,885	$ 2,915	$ 2,995	$ 2,995
Right of Way	$ 611	$ 3,155	$ 2,818	$ 3,568	$ 3,817	$ 3,817
Preliminary Engineering	$ 476	$ 7,840	$11,115	$11,523	$15,903	$15,903
Environmental Services	$ 178	$ 5,645	$ 6,554	$ 11,390	$ 7,141	$ 6,895
Legal Services	$ 0	$ 455	$ 767	$ 767	$ 518	$ 518
General Operating Expenses	$ 5	$ 1,540	$ 438	$ 502	$ 389	$ 477
Six Month Total	$ 1,270	$21,769	$24,577	$30,665	$30,763	$30,605
Calendar Year Total	$ 23,039		$ 55,242		$ 61,368	

State of California
California Natural Resources Agency
DEPARTMENT OF WATER RESOURCES

AGREEMENT FOR FUNDING BETWEEN THE DEPARTMENT OF WATER RESOURCES AND ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT – ZONE 7

FOR THE COSTS OF ENVIRONMENTAL ANALYSIS, PLANNING AND DESIGN OF DELTA CONSERVATION MEASURES, INCLUDING DELTA CONVEYANCE OPTIONS

(SWPAO #09908)

THIS AGREEMENT is made this 15th day of April, 2009, pursuant to the provisions of all applicable laws of the State of California, between the State of California, acting by and through its Department of Water Resources ("DWR"), and Alameda County Flood Control and Water Conservation District – Zone 7 ("Contractor"). DWR and the Contractor may also be referred to individually as "Party" or collectively as "Parties."

Recitals

A. **WHEREAS**, DWR and Contractor have entered into and subsequently amended a long-term water supply contract, herein referred to as the "Water Supply Contract," providing that DWR will supply certain quantities of water to Contractor, and providing that Contractor shall make certain payments to DWR, and setting forth the terms and conditions of such supply and such payment; and

B. **WHEREAS**, DWR and several State Water Project (SWP) Contractors are parties to a Memorandum of Agreement ("MOA"), providing that they will collaborate to develop the environmental documents, engineering designs, and other necessary information for possible conservation measures, particularly Delta water conveyance options; and

C. **WHEREAS**, the MOA is intended to support and complement the certain activities of the Bay-Delta Conservation Plan ("BDCP") Steering Committee by establishing procedures to facilitate the funding and planning for the Delta water conveyance and habitat conservation studies, which the Parties refer to as the "Planning Phase" of the Delta Habitat Conservation and Conveyance Program ("DHCCP" or "Program"); and

D. **WHEREAS**, DWR and a group of SWP Contractors, collectively known as the "Participating SWP Contractors," believe the DHCCP Planning Phase is necessary to facilitate the assessment and planning of likely conservation measures of the BDCP, analyze responses to the multiple threats to the State's economic well being posed by the current Delta water conveyance system's vulnerability to seismic risk, climate change, and ongoing regulatory prescriptions, and to consider prudent funding sources for species conservation and improved Delta water conveyance facilities in order to achieve related benefits to water supply, water supply reliability, and ecosystem health and resiliency; and

E. **WHEREAS**, subject to any adjustments provided for in the MOA, DWR will fund fifty percent (50%) of the total cost for the DHCCP Planning Phase and will collect that amount from Contractor and other Participating SWP Contractors, pursuant to this and similar Agreements; and

F. **WHEREAS**, subject to any adjustments provided for in the MOA, certain federal Central Valley Project contractors have agreed to fund the remaining 50 percent of the total DHCCP Planning Phase costs and Reclamation, as allowed under federal appropriations law, via in-kind services and a financial assistance agreement, will provide some portion of this 50 percent; and

G. **WHEREAS**, DWR and the Participating SWP Contractors are endeavoring to increase DWR's flexibility to perform work on the DHCCP Planning Phase by modifying the funding practices and providing funds so the DHCCP Planning Phase work may start as soon as possible; and

H. **WHEREAS**, because DWR must have a source of funding to repay and fund the costs of the DHCCP Planning Phase starting in 2008 until its expected completion by 2010, the Contractor, along with the other Participating SWP Contractors, is willing to provide such funds under the terms of this Agreement through the DHCCP charge; and

I. **WHEREAS**, DWR is willing to credit the Contractor and the other Participating SWP Contractors from 2008 excess revenue bond reserve funds, an amount equal to the Contractor's allocation of the 2008 DHCCP Planning Phase costs, and to credit additional reserve funds in 2009 as provided by Article 50 of the Water Supply Contract; and

J. **WHEREAS**, Contractor is willing to enter into this Agreement to pay a share of the DHCCP Planning Phase costs, and, in consideration therefore, DWR is willing to consult with Contractor and other Participating SWP Contractors on decisions related to the budget, scope, schedule, and activities of the Program's Planning Phase to ensure its timely completion in a cost-efficient manner, and

K. **WHEREAS,** it is DWR's intent that all funds needed to meet DWR's Share of the Program's Costs will be collected through this and all other SWP DHCCP Funding Agreements.

AGREEMENT

NOW THEREFORE, it is mutually agreed by DWR and Contractor as follows:

1. **Definitions**

When used in this Agreement, the definitions in the Water Supply Contract shall apply. In addition, the following definitions shall apply:

a. "**DHCCP**" or "**Program**" means the proposed development of possible BDCP conservation measures, including Delta conveyance options as described in the MOA.

b. "**DHCCP Planning Phase**" or "**Program's Planning Phase**" means the proposed development of environmental documents, planning, engineering designs, and other necessary information for possible BDCP conservation measures, including Delta conveyance options as described in the MOA. It does not include construction activity for any BDCP conservation measure, including any Delta Conveyance option.

c. "**MOA**" means the "Memorandum of Agreement Regarding Collaboration on the Planning, Preliminary Design and Environmental Compliance for the Delta Habitat Conservation and Conveyance Program in Connection with the Development of the Bay Delta Conservation Plan," a copy of which is attached hereto as Exhibit 1.

d. "**SWP**" means the State Water Project operated by DWR. The SWP generally includes the State Water Facilities, as defined in California Water Code section 12934(d), and certain facilities found in the Central Valley Project Act at section 11100 et. seq.

e. "**Water Supply Contract**" means the long-term water supply contract between Contractor and DWR, and similar contracts entered into by DWR and other Participating SWP Contractors.

f. "**Water Supply Contractor**" means one of the contractors that signed a Water Supply Contract which is still in effect.

g. "**DHCCP SWP Funding Agreement**" means this Agreement and agreements substantially the same as this Agreement signed by Participating SWP Contractors and DWR.

h. "**Participating SWP Contractor**" means a SWP Water Supply Contractor that has executed a DHCCP SWP Funding Agreement.

i. "**Calendar Year**" means the period January 1 through December 31.

j. "**DHCCP Table A Amount**" means, for Contractor, the maximum Table A amount as listed in its Water Supply Contract. The DHCCP Table A Amount will be used each year to calculate the Contractor's share of the DHCCP Planning Phase charges as a percentage of the sum of all the DHCCP Table A Amounts of the Participating SWP Contractors.

k. "**2008 DHCCP Charge**" means a charge to Contractor included in its annual statement of charges for 2008 that reflects the estimated costs for DHCCP in 2008.

l. "**Department's Share of the Program's Costs**" means fifty percent (50%) of the total DHCCP Planning Phase costs.

m. "**DHCCP Pay-Go Charge**" means the charge to the Contractor pursuant to this Agreement included in its Annual Statement of Charges to recover the Contractor's allocation of Department's Share of the Program's Costs beginning in 2009 and continuing until the Program's Planning Phase is completed or December 31, 2011, which ever is earlier.

n. "**Reclamation**" means the United States Department of the Interior, Bureau of Reclamation.

o. "**Central Valley Project contractors**" means the Central Valley Project contractors that are involved in funding the DHCCP Planning Phase, which are a subset of the total Central Valley Project contractors group.

2. **Purpose of the Agreement**

a. The purpose of this Agreement is to establish the terms and conditions under which Contractor will provide funding to DWR that, along with funding from the other Participating SWP Contractors, will provide all funds needed to pay the actual costs of DWR's Share of the Program's costs.

b. Funding pursuant to this Agreement addresses only the DHCCP Planning Phase. After completing the DHCCP Planning Phase, if the Parties determine to proceed with actions beyond the DHCCP Planning Phase, including the implementation and construction phases of the DHCCP, the Parties may enter into additional funding agreements.

3. **Term of Agreement**

This Agreement will take effect upon execution of the Parties and will remain in effect until the DHCCP Planning Phase is completed or until December 31, 2011, whichever comes first, unless extended by written amendment.

4. **DHCCP Planning Phase Costs**

Should the funding procedures established by this and all other DHCCP SWP Funding Agreements, or funding procedures established by Funding Agreements between DWR and Reclamation or federal contractors, terminate, DWR and the Participating Contractors, other than the Participating Contractors that have withdrawn pursuant to Section 9(a), shall use their best efforts to develop a funding plan that will allow for the timely completion of the DHCCP Planning Phase. Any subsequent funding plan for completion of the DHCCP Planning Phase shall include provisions that ensure that Participating Contractors that have withdrawn do not incur any additional charges related to the completion of the DHCCP Planning Phase. For purposes of this paragraph, "charges" shall mean 1) costs chargeable to the contractor or 2) revenues and/or cash available to pay rate management credits to the contractor. This provision shall survive termination of this Agreement. After one year from the termination of the MOA, nothing in this provision would prevent DWR from charging the Contractor in accordance with its Water Supply Contract to fund other and new Delta conveyance planning activities that are distinct and independent of the DHCCP and BDCP.

5. **2008 DHCCP Charge**

a. Before DWR may implement this section and to obtain funding for DWR's Share of the Program Costs incurred before December 31, 2008, the following must be satisfied: (i) this Agreement is fully executed by the Parties, and (ii) the SWP DHCCP Funding Agreements and the MOA are signed by DWR and the SWP Contractors who are also parties to the MOA. Once DWR and the Participating SWP Contractors who are parties to the MOA have signed the MOA, the Parties agree to abide by the terms and conditions of the MOA, notwithstanding that the Parties recognize the MOA may not have been fully executed.

b. DWR will submit a revised 2008 Statement of Charges to the Contractor that includes Contractor's estimated 2008 DHCCP Charge. The 2008 DHCCP Charge shall be based on actual costs incurred in 2008, pursuant to Paragraph 7 (Program Cost, Budgeting and Allocation). At the time the revised 2008 Statement of Charges is transmitted to the Contractor, DWR shall submit to the Contractor a revised invoice for the month of July 2008 reflecting credits resulting from the release of excess revenue bond reserve funds against Contractor's Transportation Capital charges in an amount equal to the amount of the revised 2008 Statement of Charges, as provided by the Water Supply Contract.

c. Should the funding from Contractor for the estimated costs be insufficient to cover the actual costs incurred by DWR through December 31, 2008, DWR shall include the Contractor's additional 2008 costs in its 2009

Statement of Charges. After the actual costs incurred up to and including December 31, 2008, have been finally determined, a table reflecting the actual funding advanced by each Participating SWP Contractor in 2008 will be attached hereto as Exhibit 2, without constituting an amendment of this Agreement. All 2008 DHCCP Planning Phase costs will be allocated to each Participating SWP Contractor in proportion to the ratio of its DHCCP Table A Amount to the sum of all Participating SWP Contractors' 2008 DHCCP Table A Amounts. Attached hereto as Exhibit 3A and 3B is a table of each Participating SWP Contractor's estimated share of the 2008 DHCCP Charge.

6. **DHCCP Pay-Go Charge**

a. Before DWR may implement this section to seek funding for costs incurred after December 31, 2008, the following must be completed: (a) this Agreement is fully executed by the Parties and is in full force and effect, (b) the MOA is executed by all of its parties and in effect, and (c) DWR has executed a binding agreement or agreements with Reclamation and certain Central Valley Project contractors which will establish funding procedures that ensure 50 percent of the DHCCP Planning Phase costs are paid by federal interests. The agreements with the Central Valley Project contractors shall also include provisions that (i) require the Central Valley Project contractors to pay 50 percent of the DHCCP Planning Phase costs incurred prior to October 1, 2008 within 14 days of execution of those agreements; and (ii) provide assurances that 50 percent of all costs incurred after October 1, 2008, and until completion of the Program are paid on a schedule and in amounts, similar to the payment schedule and amounts for the Participating SWP Contractors.

b. Except for those costs described in Section 5 above, DWR shall recover DWR's Share of Program Costs through the DHCCP Pay-Go Charge. The DHCCP Pay-Go Charge shall recover these costs incurred or to be incurred by DWR for the DHCCP Planning Phase beginning on January 1, 2009, and, unless sooner terminated pursuant to Article 9 of this Agreement, continuing until the Program's Planning Phase is completed or December 31, 2011, which ever is earlier.

c. To facilitate billing on a calendar year basis, the DHCCP Pay-Go Charge will be computed and included in Contractor's and other Participating SWP Contractor's Annual Statements of Charges for 2009 and thereafter as long as this Agreement is in effect under the Transportation Minimum Component and shall be collected in 12 equal monthly payments as described in Contractor's Water Supply Contract. The DHCCP Pay-Go Charges shall initially be based on estimates of costs determined pursuant to Section 7 (Program Cost, Budgeting and Allocation). These charges

shall be adjusted after the end of each Calendar Year to accurately reflect DWR's Share of Program Costs during that Calendar Year. Such adjustments shall be reflected in the charges in the following calendar year.

d. The DHCCP Pay-Go Charge will be allocated to each Participating SWP Contractor in proportion to the ratio of its DHCCP Table A Amount to the sum of all Participating SWP Contractors' DHCCP Table A Amounts. Attached hereto as Exhibit 4A and 4B is a table of each Participating SWP Contractor's estimated share of the DHCCP Planning Phase Charges for 2009 and 2010. As these charges are adjusted, or should charges be estimated for 2011, or should there be a change in the ratio due to a withdrawal of a Contractor from the Program's Planning Phase, revised versions of Exhibit 4B Contractor shall be attached hereto, without constituting an amendment of this Agreement.

e. DWR prepared a revision to the calendar year 2009 Statement of Charges in mid–December 2008, which includes an estimated allocation of the DHCCP costs among the anticipated participating Contractors. Execution of this Agreement, even if occurring after January 1, 2009, shall constitute agreement by the Contractor to pay the full amount of the Contractor's share of the 2009 DHCCP charge. The full amount of all prior months unpaid payments for 2009 shall be paid by the Contractor on the first monthly payment to DWR following execution of this Agreement.

f. Once the final participation level in the DHCCP Program is known by DWR, DWR shall prepare an amended 2009 DHCCP cost allocation and invoice and the Contractor shall pay the revised amount, if any, over the remaining months in calendar year 2009. This revised invoice is anticipated to be distributed within the first four months of calendar year 2009.

g. The parties recognize that DWR intends to retain approximately $12 million of the excess revenue bond reserve funds to be applied as a credit against the 2008 Transportation Capital charges. DWR also intends to apply approximately $30 million of excess revenue bond reserve fund credits against the January 2009 Transportation Capital payments from the Contractors, with the remaining excess revenue bond reserve fund credits to be applied as a credit against the July 2009 Transportation Capital payments.

7. **Program Cost, Budget and Allocation**

a. As described in the MOA, DWR will work collaboratively with the DHCCP Executive Committee to determine the budget, schedules, and activities of the DHCCP Planning Phase.

b. The total cost for the DHCCP Planning Phase is currently estimated at $140 million. This estimate may change in the future as more information is developed about the costs of planning and designing the potential BDCP conservation measures and water conveyance facilities.

c. DWR is responsible for formulating the DHCCP Planning Phase Budget with specific DHCCP Planning Phase elements and will work collaboratively through the MOA to develop the budget.

d. The Parties to the MOA have committed to an initial, three-year budget. A copy of the initial budget is attached hereto as Exhibit 5. DWR, in collaboration with the Executive Committee, will consider and approve revised budgets for work as necessary. Revised budget(s) shall be attached hereto as subsequent exhibits, without constituting an amendment of this Agreement, provided they do not exceed the funding limit set forth in Section 7(e).

e. Notwithstanding anything set forth in this Agreement or decided through the MOA process, the maximum amount of DWR's Share of Program Costs that shall be funded through this Agreement and all other DHCCP SWP Funding Agreements shall not exceed $70,000,000.

8. **Reimbursement for DHCCP Planning Phase**

a. If the DHCCP is approved to proceed with construction, DWR intends to issue Revenue Bonds to pay for such construction. DWR shall include in the first issue of Revenue Bonds, pursuant to and consistent with Treasury Regulation 1.150-2, an amount sufficient to reimburse the Contractor and all other Participating SWP Contractors for all planning costs paid through the 2008 DHCCP Charge and the DHCCP Pay-Go Charges. DWR, within 10 days of the effective date of this Agreement, shall adopt the necessary documents to conform to the IRS requirements to allow these costs to be included in a future revenue bond issue.

b. If the DHCCP is not approved to proceed with construction or a revenue bond sale does not occur, no reimbursements will occur. Contractor recognizes that, should the DHCCP not be approved to proceed with construction, Contractor may pay costs for the DHCCP Planning Phase that are greater than the amount it would have paid if other means of funding the Program, including under the Water Supply Contract, had

been utilized. Contractor waives any claims it may have with respect to the greater amount that may be paid by it under this Agreement.

c. The provisions of this Section 8 shall survive termination of this Agreement and/or the MOA.

9. Withdrawal and Termination

a. Contractor may withdraw from this Agreement at any time. However, Contractor shall provide 30 days advanced written notice to DWR, all other Participating SWP Contractors, and all Parties to the MOA. The notice of the effective date of its withdrawal shall include a detailed written explanation of why it intends to withdraw.

b. If the MOA terminates, this Agreement shall terminate. However, notwithstanding anything to the contrary set forth in the MOA, DWR agrees that it will not withdraw from the MOA as long as DWR's Share of the Program's Costs remains fully funded. DWR shall remain responsible for administering the provisions of this Agreement that survive termination or withdrawal.

c. If Contractor is a signatory to the MOA, Contractor's withdrawal from the MOA shall be deemed as withdrawal from this Agreement.

d. If any Participating SWP Contractor or Contractors withdraws from its DHCCP SWP Funding Agreement, Contractor, if not a withdrawing party, shall notify DWR within seven days after the effective date of such withdrawal as to whether it intends to continue operating under this Agreement. Failure to provide such notice shall be deemed an agreement to continue as a Party to this Agreement.

e. If one or more Participating SWP Contractors withdraw from their DHCCP SWP Funding Agreements and Contractor decides to continue operating under this Agreement, then Contractor's cost allocation share and the cost allocation shares of all other remaining Participating SWP Contractors will be changed to reflect the new ratios of their DHCCP Table A Amounts to the sum of the remaining Participating SWP Contractors' DHCCP Table A Amounts. Such adjustment shall be made through a revised billing payable in equal installments over the remainder of the then current calendar year or six months from the date the revised billing is received by Contractor, whichever is longer. DWR shall transmit the revised billing to Contractor within 60 days of the effective date of the withdrawal that triggered the revised cost allocation.

f. In the event of Contractor's noticed withdrawal from this Agreement, Contractor shall no longer be obligated to fund any costs related to DHCCP Planning Phase task orders that are subsequently approved by DWR or that were approved by DWR less than 60 days prior to the date the notice of withdrawal was transmitted to DWR pursuant to Section 9(a). However, Contractor shall remain responsible for its share of the costs of completing any DHCCP Planning Phase task orders approved 60 days prior to the date the notice of withdrawal was transmitted.

g. If termination of the MOA occurs concurrent with or after Contractor's notice of withdrawal from this Agreement but prior to the effective date of the Contractor's withdrawal, or the Contractor has not withdrawn, Contractor is obligated to pay its share of the reasonable termination costs incurred in fulfillment of the DHCCP Planning Phase or the objectives of the MOA, such as costs associated with early termination of consultant contracts. The total termination costs will be shared on a 50-50 basis between the State and federal interests. The Contractor's share of termination costs shall be determined using the same ratio as described in Section 6(d) of this Agreement.

h. The provisions of paragraphs (b), (d), (e), (f) and (g) of this Section 9 shall survive termination of this Agreement and/or the MOA

10. **Invoices, Notices Or Other Communications**

a. All invoices, notices, or other communications required under this Agreement will be in writing, and will be deemed to have been duly given upon the date of service, if: (i.) served personally on the Party to whom notice is to be given; (ii.) sent by electronic mail, and the Party to whom notice is to be given confirms receipt; or (iii.) on the third day after mailing, if mailed to the Party to whom invoice, notice or other communication is directed, by first-class mail, postage prepaid, and properly addressed to the designated representative(s) of the Party set forth below.

DWR: Chief, State Water Project Analysis Office
Department of Water Resources
State Water Project Analysis Office
Department of Water Resources
1416 Ninth Street, Room 1620
Post Office Box 942836
Sacramento, California 94236-0001

ACFC&WCD: Ms. G.F. Duerig
General Manager
Alameda County Flood Control and
Water Conservation District, Zone 7
100 North Canyons Parkway
Livermore, California 94551

b. The time for providing any payments, notices, or other communications specified in this Agreement may be extended within the term of this Agreement with the consent of the Parties, confirmed in writing, without requiring an amendment to this Agreement.

11. No Amendment to Water Supply Contract

This Agreement does not amend, abridge, or modify the Water Supply Contract in any way.

12. Amendments

Except for the addition of exhibits as authorized herein, this Agreement may be amended or modified only by a subsequent written agreement approved and executed by the Parties.

13. Agreement Conformity

All Agreements to fund the DHCCP Planning Phase entered into by DWR and Participating SWP Contractors shall be substantially uniform.

14. Applicable Law

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

15. Complete Contract

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

16. Execution in Counterpart

This Agreement may be executed in counterpart, each of which shall constitute an original, but all of which shall constitute one and the same agreement. Each signing Party shall have received a copy of the signature page signed by every other Party.

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

Approved as to legal form
and Sufficiency

Chief Counsel
Department of Water Resources

MAR 12 2009
Date

State of California
Department of Water Resources

Director

3/12/09
Date

Approved as to legal form
and Sufficiency

Counsel for ACFC&WCD Zone 7

Date

Alameda County Flood Control And
Water Conservation District, Zone 7

General Manager

Date

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

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Chief Counsel
Department of Water Resources

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Date

State of California
Department of Water Resources

Director

3/12/09
Date

Approved as to legal form
and Sufficiency

Counsel for ACFC&WCD Zone 7

4-15-09
Date

Alameda County Flood Control And
Water Conservation District, Zone 7

General Manager

15 Apr 2009
Date

List of Exhibits to be Attached

Exhibit 1: Memorandum of Agreement Regarding Collaboration on the Planning, Preliminary Design and Environmental Compliance for the Delta Habitat Conservation and Conveyance Program in Connection with the Development of the Bay Delta Conservation Plan (Paragraph 1.a)

Exhibit 2: Table of Participating SWP Contractors Actual Advanced Costs for 2008 (Paragraph 5.c)

Exhibit 3: Participating SWP Contractors Share of 2008 Costs (Paragraph 5.c)

Exhibit 4: Participating SWP Contractors Estimated Share of 2009 and 2010 DHCCP Planning Phase Costs (Paragraph 6.d)

Exhibit 5: Initial 3 Year Budget (Paragraph 7.d)

Exhibit 1

(Memorandum of Agreement)

Exhibit 2

(Actual 2008 DHCCP Costs by participating SWP Contractor)
(To be provided once final 2008 costs have been determined)

Exhibit 3A
Estimated 2008 DHCCP Planning Phase Costs
by
All Participating SWP Contractor's

2008 CY Projection	$	23,039,000
SWPC 50 Percent	$	11,519,500

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	SWP Contractor Share
Metropolitan WD Of SC	1,911,500	45.81%	$ 5,276,936
Kern County Water Agency	998,730	23.93%	$ 2,757,120
Antelope Valley-East Kern WA	141,400	3.39%	$ 390,352
Coachella Valley WD	121,100	2.90%	$ 334,312
San Bernardino Valley MWD	102,600	2.46%	$ 283,240
Santa Clara Valley WD	100,000	2.40%	$ 276,063
Tulare Lake Basin WSD	95,922	2.30%	$ 264,805
Castaic Lake WA	95,200	2.28%	$ 262,812
Alameda Co FC&WCD - Zone 7	80,619	1.93%	$ 222,559
Mojave Water Agency	75,800	1.82%	$ 209,255
Dudley Ridge WD	57,343	1.37%	$ 158,303
Desert Water Agency	50,000	1.20%	$ 138,031
Solano County WA	47,756	1.14%	$ 131,836
Santa Barbara County FCWCD	45,486	1.09%	$ 125,570
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Littlerock Creek ID	2,300	0.06%	$ 6,349
Total Table A	**4,172,786**	**100%**	**11,519,500**

Exhibit 3B
Estimated 2008 DHCCP Planning Phase Costs
by
Estimated Participating SWP Contractor's

2008 CY Projection	**$**	**23,039,000**
SWPC 50 Percent	**$**	**11,519,500**

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	SWP Contractor Share
Metropolitan WD Of SC	1,911,500	47.37%	$ 5,456,674
Kern County Water Agency	998,730	24.75%	$ 2,851,030
Antelope Valley-East Kern WA	141,400	3.50%	$ 403,648
Coachella Valley WD	121,100	3.00%	$ 345,699
San Bernardino Valley MWD	102,600	2.54%	$ 292,888
Santa Clara Valley WD	100,000	2.48%	$ 285,466
Tulare Lake Basin WSD	95,922	2.38%	$ 273,824
Castaic Lake WA	95,200	2.36%	$ 271,763
Alameda Co FC&WCD - Zone 7	80,619	2.00%	$ 230,139
Mojave Water Agency	75,800	1.88%	$ 216,383
Desert Water Agency	50,000	1.24%	$ 142,733
Solano County WA	47,756	1.18%	$ 136,327
Santa Barbara County FCWCD	45,486	1.13%	$ 129,847
Alameda County WD	42,000	1.04%	$ 119,896
Napa County FC&WCD	29,025	0.72%	$ 82,856
San Gabriel Valley MWD	28,800	0.71%	$ 82,214
San Luis Obispo Co. FC&WCD	25,000	0.62%	$ 71,366
Palmdale WD	21,300	0.53%	$ 60,804
San Gorgonio Pass WA	17,300	0.43%	$ 49,386
Crestline-Lake Arrowhead WA	5,800	0.14%	$ 16,557
Total Table A	**4,035,338**	**100.00%**	**$ 11,519,500**

Exhibit 4A
Estimated 2009-2010 DHCCP Planning Phase Costs
by
All Participating SWP Contractor's

Cal Year	2009	2010
CY Projection	$ 55,242,000	$ 61,368,000
SWPC 50 Percent	$ 27,621,000	$ 30,684,000

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	2009 SWP Contractor Projct'd Share	2010 SWP Contractor Projct'd Share
Metropolitan WD Of SC	1,911,500	45.81%	$ 12,652,828	$ 14,055,949
Kern County Water Agency	998,730	23.93%	$ 6,610,912	$ 7,344,022
Antelope Valley-East Kern WA	141,400	3.39%	$ 935,972	$ 1,039,765
Coachella Valley WD	121,100	2.90%	$ 801,599	$ 890,492
San Bernardino Valley MWD	102,600	2.46%	$ 679,142	$ 754,455
Santa Clara Valley WD	100,000	2.40%	$ 661,932	$ 735,336
Tulare Lake Basin WSD	95,922	2.30%	$ 634,938	$ 705,349
Castaic Lake WA	95,200	2.28%	$ 630,159	$ 700,040
Alameda Co FC&WCD - Zone 7	80,619	1.93%	$ 533,643	$ 592,821
Mojave Water Agency	75,800	1.82%	$ 501,744	$ 557,385
Dudley Ridge WD	57,343	1.37%	$ 379,572	$ 421,664
Desert Water Agency	50,000	1.20%	$ 330,966	$ 367,668
Solano County WA	47,756	1.14%	$ 316,112	$ 351,167
Santa Barbara County FCWCD	45,486	1.09%	$ 301,086	$ 334,475
Alameda County WD	42,000	1.01%	$ 278,011	$ 308,841
Napa County FC&WCD	29,025	0.70%	$ 192,126	$ 213,431
San Gabriel Valley MWD	28,800	0.69%	$ 190,636	$ 211,777
Butte County	27,500	0.66%	$ 182,031	$ 202,217
San Luis Obispo Co. FC&WCD	25,000	0.60%	$ 165,483	$ 183,834
Palmdale WD	21,300	0.51%	$ 140,991	$ 156,627
Casitas Municipal WD	20,000	0.48%	$ 132,386	$ 147,067
San Gorgonio Pass WA	17,300	0.41%	$ 114,514	$ 127,213
City Of Yuba City	9,600	0.23%	$ 63,545	$ 70,592
County Of Kings	9,305	0.22%	$ 61,593	$ 68,423
Crestline-Lake Arrowhead WA	5,800	0.14%	$ 38,392	$ 42,649
Oak Flat WD	5,700	0.14%	$ 37,730	$ 41,914
Empire - West Side ID	3,000	0.07%	$ 19,858	$ 22,060
Plumas County	2,700	0.06%	$ 17,872	$ 19,854
Littlerock Creek ID	2,300	0.06%	$ 15,224	$ 16,913
Total Table A	**4,172,786**	**100%**	**27,621,000**	**30,684,000**

Exhibit 4B
Estimated 2009-2010 DHCCP Planning Phase Costs
by
Estimated Participating SWP Contractor's

Cal Year	2009	2010
CY Projection	$ 55,242,000	$ 61,368,000
SWPC 50 Percent	$ 27,621,000	$ 30,684,000

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	2009 SWP Contractor Projct'd Share	2010 SWP Contractor Projct'd Share
Metropolitan WD Of SC	1,911,500	47.37%	$ 13,083,797	$ 14,534,710
Kern County Water Agency	998,730	24.75%	$ 6,836,087	$ 7,594,167
Antelope Valley-East Kern WA	141,400	3.50%	$ 967,852	$ 1,075,181
Coachella Valley WD	121,100	3.00%	$ 828,903	$ 920,823
San Bernardino Valley MWD	102,600	2.54%	$ 702,274	$ 780,152
Santa Clara Valley WD	100,000	2.48%	$ 684,478	$ 760,382
Tulare Lake Basin WSD	95,922	2.38%	$ 656,565	$ 729,374
Castaic Lake WA	95,200	2.36%	$ 651,623	$ 723,884
Alameda Co FC&WCD - Zone 7	80,619	2.00%	$ 551,819	$ 613,013
Mojave Water Agency	75,800	1.88%	$ 518,834	$ 576,370
Desert Water Agency	50,000	1.24%	$ 342,239	$ 380,191
Solano County WA	47,756	1.18%	$ 326,879	$ 363,128
Santa Barbara County FCWCD	45,486	1.13%	$ 311,342	$ 345,868
Alameda County WD	42,000	1.04%	$ 287,481	$ 319,361
Napa County FC&WCD	29,025	0.72%	$ 198,670	$ 220,701
San Gabriel Valley MWD	28,800	0.71%	$ 197,130	$ 218,990
San Luis Obispo Co. FC&WCD	25,000	0.62%	$ 171,119	$ 190,096
Palmdale WD	21,300	0.53%	$ 145,794	$ 161,961
San Gorgonio Pass WA	17,300	0.43%	$ 118,415	$ 131,546
Crestline-Lake Arrowhead WA	5,800	0.14%	$ 39,700	$ 44,102
Total Table A	**4,035,338**	**100%**	**27,621,000**	**30,684,000**

Exhibit 5
Initial DHCCP Planning Phase Budget
(In 1000)

	2008		2009		2010	
Program Element	Jan-Jun	Jul-Dec	Jan-Jun	Jul-Dec	Jan-Jun	Jul-Dec
Management, Planning, & Administration	$ 0	$ 3,134	$ 2,885	$ 2,915	$ 2,995	$ 2,995
Right of Way	$ 611	$ 3,155	$ 2,818	$ 3,568	$ 3,817	$ 3,817
Preliminary Engineering	$ 476	$ 7,840	$11,115	$11,523	$15,903	$15,903
Environmental Services	$ 178	$ 5,645	$ 6,554	$ 11,390	$ 7,141	$ 6,895
Legal Services	$ 0	$ 455	$ 767	$ 767	$ 518	$ 518
General Operating Expenses	$ 5	$ 1,540	$ 438	$ 502	$ 389	$ 477
Six Month Total	$ 1,270	$21,769	$24,577	$30,665	$30,763	$30,605
Calendar Year Total	$ 23,039		$ 55,242		$ 61,368	

ZONE 7
ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

BOARD OF DIRECTORS

RESOLUTION NO 09-3265

INTRODUCED BY DIRECTOR MYERS
SECONDED BY DIRECTOR KALTHOFF
Authorization to Become a Member of the State Water Project Contractors Authority's Delta Specific Project Committee and to Execute Related Funding Agreement

WHEREAS, Zone 7 of the Alameda County Flood Control and Water Conservation District is a Member of the State Water Project Contractors Authority ("Authority"), a joint power agency established pursuant to the California Joint Exercise of Powers Act (Government Code Sections 6500, *et seq.*); and

WHEREAS, the Authority authorized the formation of a specific project committee pursuant to Section 4.3 of the Authority's Joint Powers Agreement, to be known as the "Delta Specific Project Committee" (hereinafter the "DSPC"); and

WHEREAS, Section 4.3 of the Authority's Joint Powers Agreement provides that Members of the Authority may become members of the DSPC; and

WHEREAS, this Board has determined that it is in the best interest of Zone 7 of the Alameda County Flood Control and Water Conservation District to become a member of the DSPC;

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of Zone 7 of Alameda County Flood Control and Water Conservation District does hereby authorize and approve becoming a Member of the Authority's DSPC and authorizes the President to execute the Authority's DSPC Specific Project Agreement; and

BE IT FURTHER RESOLVED that the President of the Board is also authorized to execute a DHCCP Funding Agreement with the California Department of Water Resources within 120 days of that Agreement becoming available for execution as provided for in this DSPC Specific Project Agreement; and

BE IT FURTHER RESOLVED that the General Manager or her designee is hereby appointed to represent Zone 7 at all meetings of the Delta Specific Project Committee.

AYES: DIRECTORS FIGUERS, GRECI, KALTHOFF, MYERS, PALMER, QUIGLEY

NOES: DIRECTOR STEVENS

ABSENT: NONE

ABSTAIN: NONE

I certify that the foregoing is a correct copy of a resolution Adopted by the Board of Directors of Zone 7 of Alameda County Flood Control and Water Conservation District on

December 17, 2008

By _____
President, Board of Directors

State of California
California Natural Resources Agency
DEPARTMENT OF WATER RESOURCES

AGREEMENT FOR FUNDING BETWEEN THE DEPARTMENT OF WATER RESOURCES AND ANTELOPE VALLEY – EAST KERN WATER AGENCY

FOR THE COSTS OF ENVIRONMENTAL ANALYSIS, PLANNING AND DESIGN OF DELTA CONSERVATION MEASURES, INCLUDING DELTA CONVEYANCE OPTIONS

(SWPAO #09902)

THIS AGREEMENT is made this 2nd day of April, 2009, pursuant to the provisions of all applicable laws of the State of California, between the State of California, acting by and through its Department of Water Resources ("DWR"), and Antelope Valley-East Kern Water Agency ("Contractor"). DWR and the Contractor may also be referred to individually as "Party" or collectively as "Parties."

Recitals

A. **WHEREAS**, DWR and Contractor have entered into and subsequently amended a long-term water supply contract, herein referred to as the "Water Supply Contract," providing that DWR will supply certain quantities of water to Contractor, and providing that Contractor shall make certain payments to DWR, and setting forth the terms and conditions of such supply and such payment; and

B. **WHEREAS**, DWR and several State Water Project (SWP) Contractors are parties to a Memorandum of Agreement ("MOA"), providing that they will collaborate to develop the environmental documents, engineering designs, and other necessary information for possible conservation measures, particularly Delta water conveyance options; and

C. **WHEREAS**, the MOA is intended to support and complement the certain activities of the Bay-Delta Conservation Plan ("BDCP") Steering Committee by establishing procedures to facilitate the funding and planning for the Delta water conveyance and habitat conservation studies, which the Parties refer to as the "Planning Phase" of the Delta Habitat Conservation and Conveyance Program ("DHCCP" or "Program"); and

D. **WHEREAS**, DWR and a group of SWP Contractors, collectively known as the "Participating SWP Contractors," believe the DHCCP Planning Phase is necessary to facilitate the assessment and planning of likely conservation measures of the BDCP, analyze responses to the multiple threats to the State's economic well being posed by the current Delta water conveyance system's vulnerability to seismic risk, climate change, and ongoing regulatory prescriptions, and to consider prudent funding sources for species conservation and improved Delta water conveyance facilities in order to achieve related benefits to water supply, water supply reliability, and ecosystem health and resiliency; and

E. **WHEREAS**, subject to any adjustments provided for in the MOA, DWR will fund fifty percent (50%) of the total cost for the DHCCP Planning Phase and will collect that amount from Contractor and other Participating SWP Contractors, pursuant to this and similar Agreements; and

F. **WHEREAS**, subject to any adjustments provided for in the MOA, certain federal Central Valley Project contractors have agreed to fund the remaining 50 percent of the total DHCCP Planning Phase costs and Reclamation, as allowed under federal appropriations law, via in-kind services and a financial assistance agreement, will provide some portion of this 50 percent; and

G. **WHEREAS**, DWR and the Participating SWP Contractors are endeavoring to increase DWR's flexibility to perform work on the DHCCP Planning Phase by

modifying the funding practices and providing funds so the DHCCP Planning Phase work may start as soon as possible; and

H. **WHEREAS**, because DWR must have a source of funding to repay and fund the costs of the DHCCP Planning Phase starting in 2008 until its expected completion by 2010, the Contractor, along with the other Participating SWP Contractors, is willing to provide such funds under the terms of this Agreement through the DHCCP charge; and

I. **WHEREAS**, DWR is willing to credit the Contractor and the other Participating SWP Contractors from 2008 excess revenue bond reserve funds, an amount equal to the Contractor's allocation of the 2008 DHCCP Planning Phase costs, and to credit additional reserve funds in 2009 as provided by Article 50 of the Water Supply Contract; and

J. **WHEREAS**, Contractor is willing to enter into this Agreement to pay a share of the DHCCP Planning Phase costs, and, in consideration therefore, DWR is willing to consult with Contractor and other Participating SWP Contractors on decisions related to the budget, scope, schedule, and activities of the Program's Planning Phase to ensure its timely completion in a cost-efficient manner, and

K. **WHEREAS,** it is DWR's intent that all funds needed to meet DWR's Share of the Program's Costs will be collected through this and all other SWP DHCCP Funding Agreements.

AGREEMENT

NOW THEREFORE, it is mutually agreed by DWR and Contractor as follows:

1. **Definitions**

When used in this Agreement, the definitions in the Water Supply Contract shall apply. In addition, the following definitions shall apply:

a. "**DHCCP**" or "**Program**" means the proposed development of possible BDCP conservation measures, including Delta conveyance options as described in the MOA.

b. "**DHCCP Planning Phase**" or "**Program's Planning Phase**" means the proposed development of environmental documents, planning, engineering designs, and other necessary information for possible BDCP conservation measures, including Delta conveyance options as described in the MOA. It does not include construction activity for any BDCP conservation measure, including any Delta Conveyance option.

c. "**MOA**" means the "Memorandum of Agreement Regarding Collaboration on the Planning, Preliminary Design and Environmental Compliance for the Delta Habitat Conservation and Conveyance Program in Connection with the Development of the Bay Delta Conservation Plan," a copy of which is attached hereto as Exhibit 1.

d. "**SWP**" means the State Water Project operated by DWR. The SWP generally includes the State Water Facilities, as defined in California Water Code section 12934(d), and certain facilities found in the Central Valley Project Act at section 11100 et. seq.

e. "**Water Supply Contract**" means the long-term water supply contract between Contractor and DWR, and similar contracts entered into by DWR and other Participating SWP Contractors.

f. "**Water Supply Contractor**" means one of the contractors that signed a Water Supply Contract which is still in effect.

g. "**DHCCP SWP Funding Agreement**" means this Agreement and agreements substantially the same as this Agreement signed by Participating SWP Contractors and DWR.

h. "**Participating SWP Contractor**" means a SWP Water Supply Contractor that has executed a DHCCP SWP Funding Agreement.

i. "**Calendar Year**" means the period January 1 through December 31.

j. "**DHCCP Table A Amount**" means, for Contractor, the maximum Table A amount as listed in its Water Supply Contract. The DHCCP Table A Amount will be used each year to calculate the Contractor's share of the DHCCP Planning Phase charges as a percentage of the sum of all the DHCCP Table A Amounts of the Participating SWP Contractors.

k. "**2008 DHCCP Charge**" means a charge to Contractor included in its annual statement of charges for 2008 that reflects the estimated costs for DHCCP in 2008.

l. "**Department's Share of the Program's Costs**" means fifty percent (50%) of the total DHCCP Planning Phase costs.

m. "**DHCCP Pay-Go Charge**" means the charge to the Contractor pursuant to this Agreement included in its Annual Statement of Charges to recover the Contractor's allocation of Department's Share of the Program's Costs beginning in 2009 and continuing until the Program's Planning Phase is completed or December 31, 2011, which ever is earlier.

n. "**Reclamation**" means the United States Department of the Interior, Bureau of Reclamation.

o. "**Central Valley Project contractors**" means the Central Valley Project contractors that are involved in funding the DHCCP Planning Phase, which are a subset of the total Central Valley Project contractors group.

2. Purpose of the Agreement

a. The purpose of this Agreement is to establish the terms and conditions under which Contractor will provide funding to DWR that, along with funding from the other Participating SWP Contractors, will provide all funds needed to pay the actual costs of DWR's Share of the Program's costs.

b. Funding pursuant to this Agreement addresses only the DHCCP Planning Phase. After completing the DHCCP Planning Phase, if the Parties determine to proceed with actions beyond the DHCCP Planning Phase, including the implementation and construction phases of the DHCCP, the Parties may enter into additional funding agreements.

3. Term of Agreement

This Agreement will take effect upon execution of the Parties and will remain in effect until the DHCCP Planning Phase is completed or until December 31, 2011, whichever comes first, unless extended by written amendment.

4. **DHCCP Planning Phase Costs**

Should the funding procedures established by this and all other DHCCP SWP Funding Agreements, or funding procedures established by Funding Agreements between DWR and Reclamation or federal contractors, terminate, DWR and the Participating Contractors, other than the Participating Contractors that have withdrawn pursuant to Section 9(a), shall use their best efforts to develop a funding plan that will allow for the timely completion of the DHCCP Planning Phase. Any subsequent funding plan for completion of the DHCCP Planning Phase shall include provisions that ensure that Participating Contractors that have withdrawn do not incur any additional charges related to the completion of the DHCCP Planning Phase. For purposes of this paragraph, "charges" shall mean 1) costs chargeable to the contractor or 2) revenues and/or cash available to pay rate management credits to the contractor. This provision shall survive termination of this Agreement. After one year from the termination of the MOA, nothing in this provision would prevent DWR from charging the Contractor in accordance with its Water Supply Contract to fund other and new Delta conveyance planning activities that are distinct and independent of the DHCCP and BDCP.

5. **2008 DHCCP Charge**

a. Before DWR may implement this section and to obtain funding for DWR's Share of the Program Costs incurred before December 31, 2008, the following must be satisfied: (i) this Agreement is fully executed by the Parties, and (ii) the SWP DHCCP Funding Agreements and the MOA are signed by DWR and the SWP Contractors who are also parties to the MOA. Once DWR and the Participating SWP Contractors who are parties to the MOA have signed the MOA, the Parties agree to abide by the terms and conditions of the MOA, notwithstanding that the Parties recognize the MOA may not have been fully executed.

b. DWR will submit a revised 2008 Statement of Charges to the Contractor that includes Contractor's estimated 2008 DHCCP Charge. The 2008 DHCCP Charge shall be based on actual costs incurred in 2008, pursuant to Paragraph 7 (Program Cost, Budgeting and Allocation). At the time the revised 2008 Statement of Charges is transmitted to the Contractor, DWR shall submit to the Contractor a revised invoice for the month of July 2008 reflecting credits resulting from the release of excess revenue bond reserve funds against Contractor's Transportation Capital charges in an amount equal to the amount of the revised 2008 Statement of Charges, as provided by the Water Supply Contract.

c. Should the funding from Contractor for the estimated costs be insufficient to cover the actual costs incurred by DWR through December 31, 2008, DWR shall include the Contractor's additional 2008 costs in its 2009

Statement of Charges. After the actual costs incurred up to and including December 31, 2008, have been finally determined, a table reflecting the actual funding advanced by each Participating SWP Contractor in 2008 will be attached hereto as Exhibit 2, without constituting an amendment of this Agreement. All 2008 DHCCP Planning Phase costs will be allocated to each Participating SWP Contractor in proportion to the ratio of its DHCCP Table A Amount to the sum of all Participating SWP Contractors' 2008 DHCCP Table A Amounts. Attached hereto as Exhibit 3A and 3B is a table of each Participating SWP Contractor's estimated share of the 2008 DHCCP Charge.

6. **DHCCP Pay-Go Charge**

a. Before DWR may implement this section to seek funding for costs incurred after December 31, 2008, the following must be completed: (a) this Agreement is fully executed by the Parties and is in full force and effect, (b) the MOA is executed by all of its parties and in effect, and (c) DWR has executed a binding agreement or agreements with Reclamation and certain Central Valley Project contractors which will establish funding procedures that ensure 50 percent of the DHCCP Planning Phase costs are paid by federal interests. The agreements with the Central Valley Project contractors shall also include provisions that (i) require the Central Valley Project contractors to pay 50 percent of the DHCCP Planning Phase costs incurred prior to October 1, 2008 within 14 days of execution of those agreements; and (ii) provide assurances that 50 percent of all costs incurred after October 1, 2008, and until completion of the Program are paid on a schedule and in amounts, similar to the payment schedule and amounts for the Participating SWP Contractors.

b. Except for those costs described in Section 5 above, DWR shall recover DWR's Share of Program Costs through the DHCCP Pay-Go Charge. The DHCCP Pay-Go Charge shall recover these costs incurred or to be incurred by DWR for the DHCCP Planning Phase beginning on January 1, 2009, and, unless sooner terminated pursuant to Article 9 of this Agreement, continuing until the Program's Planning Phase is completed or December 31, 2011, which ever is earlier.

c. To facilitate billing on a calendar year basis, the DHCCP Pay-Go Charge will be computed and included in Contractor's and other Participating SWP Contractor's Annual Statements of Charges for 2009 and thereafter as long as this Agreement is in effect under the Transportation Minimum Component and shall be collected in 12 equal monthly payments as described in Contractor's Water Supply Contract. The DHCCP Pay-Go Charges shall initially be based on estimates of costs determined pursuant

to Section 7 (Program Cost, Budgeting and Allocation). These charges shall be adjusted after the end of each Calendar Year to accurately reflect DWR's Share of Program Costs during that Calendar Year. Such adjustments shall be reflected in the charges in the following calendar year.

d. The DHCCP Pay-Go Charge will be allocated to each Participating SWP Contractor in proportion to the ratio of its DHCCP Table A Amount to the sum of all Participating SWP Contractors' DHCCP Table A Amounts. Attached hereto as Exhibit 4A and 4B is a table of each Participating SWP Contractor's estimated share of the DHCCP Planning Phase Charges for 2009 and 2010. As these charges are adjusted, or should charges be estimated for 2011, or should there be a change in the ratio due to a withdrawal of a Contractor from the Program's Planning Phase, revised versions of Exhibit 4B Contractor shall be attached hereto, without constituting an amendment of this Agreement.

e. DWR prepared a revision to the calendar year 2009 Statement of Charges in mid–December 2008, which includes an estimated allocation of the DHCCP costs among the anticipated participating Contractors. Execution of this Agreement, even if occurring after January 1, 2009, shall constitute agreement by the Contractor to pay the full amount of the Contractor's share of the 2009 DHCCP charge. The full amount of all prior months unpaid payments for 2009 shall be paid by the Contractor on the first monthly payment to DWR following execution of this Agreement.

f. Once the final participation level in the DHCCP Program is known by DWR, DWR shall prepare an amended 2009 DHCCP cost allocation and invoice and the Contractor shall pay the revised amount, if any, over the remaining months in calendar year 2009. This revised invoice is anticipated to be distributed within the first four months of calendar year 2009.

g. The parties recognize that DWR intends to retain approximately $12 million of the excess revenue bond reserve funds to be applied as a credit against the 2008 Transportation Capital charges. DWR also intends to apply approximately $30 million of excess revenue bond reserve fund credits against the January 2009 Transportation Capital payments from the Contractors, with the remaining excess revenue bond reserve fund credits to be applied as a credit against the July 2009 Transportation Capital payments.

7. **Program Cost, Budget and Allocation**

a. As described in the MOA, DWR will work collaboratively with the DHCCP Executive Committee to determine the budget, schedules, and activities of the DHCCP Planning Phase.

b. The total cost for the DHCCP Planning Phase is currently estimated at $140 million. This estimate may change in the future as more information is developed about the costs of planning and designing the potential BDCP conservation measures and water conveyance facilities.

c. DWR is responsible for formulating the DHCCP Planning Phase Budget with specific DHCCP Planning Phase elements and will work collaboratively through the MOA to develop the budget.

d. The Parties to the MOA have committed to an initial, three-year budget. A copy of the initial budget is attached hereto as Exhibit 5. DWR, in collaboration with the Executive Committee, will consider and approve revised budgets for work as necessary. Revised budget(s) shall be attached hereto as subsequent exhibits, without constituting an amendment of this Agreement, provided they do not exceed the funding limit set forth in Section 7(e).

e. Notwithstanding anything set forth in this Agreement or decided through the MOA process, the maximum amount of DWR's Share of Program Costs that shall be funded through this Agreement and all other DHCCP SWP Funding Agreements shall not exceed $70,000,000.

8. **Reimbursement for DHCCP Planning Phase**

a. If the DHCCP is approved to proceed with construction, DWR intends to issue Revenue Bonds to pay for such construction. DWR shall include in the first issue of Revenue Bonds, pursuant to and consistent with Treasury Regulation 1.150-2, an amount sufficient to reimburse the Contractor and all other Participating SWP Contractors for all planning costs paid through the 2008 DHCCP Charge and the DHCCP Pay-Go Charges. DWR, within 10 days of the effective date of this Agreement, shall adopt the necessary documents to conform to the IRS requirements to allow these costs to be included in a future revenue bond issue.

b. If the DHCCP is not approved to proceed with construction or a revenue bond sale does not occur, no reimbursements will occur. Contractor recognizes that, should the DHCCP not be approved to proceed with construction, Contractor may pay costs for the DHCCP Planning Phase that are greater than the amount it would have paid if other means of funding the Program, including under the Water Supply Contract, had

been utilized. Contractor waives any claims it may have with respect to the greater amount that may be paid by it under this Agreement.

c. The provisions of this Section 8 shall survive termination of this Agreement and/or the MOA.

9. **Withdrawal and Termination**

a. Contractor may withdraw from this Agreement at any time. However, Contractor shall provide 30 days advanced written notice to DWR, all other Participating SWP Contractors, and all Parties to the MOA. The notice of the effective date of its withdrawal shall include a detailed written explanation of why it intends to withdraw.

b. If the MOA terminates, this Agreement shall terminate. However, notwithstanding anything to the contrary set forth in the MOA, DWR agrees that it will not withdraw from the MOA as long as DWR's Share of the Program's Costs remains fully funded. DWR shall remain responsible for administering the provisions of this Agreement that survive termination or withdrawal.

c. If Contractor is a signatory to the MOA, Contractor's withdrawal from the MOA shall be deemed as withdrawal from this Agreement.

d. If any Participating SWP Contractor or Contractors withdraws from its DHCCP SWP Funding Agreement, Contractor, if not a withdrawing party, shall notify DWR within seven days after the effective date of such withdrawal as to whether it intends to continue operating under this Agreement. Failure to provide such notice shall be deemed an agreement to continue as a Party to this Agreement.

e. If one or more Participating SWP Contractors withdraw from their DHCCP SWP Funding Agreements and Contractor decides to continue operating under this Agreement, then Contractor's cost allocation share and the cost allocation shares of all other remaining Participating SWP Contractors will be changed to reflect the new ratios of their DHCCP Table A Amounts to the sum of the remaining Participating SWP Contractors' DHCCP Table A Amounts. Such adjustment shall be made through a revised billing payable in equal installments over the remainder of the then current calendar year or six months from the date the revised billing is received by Contractor, whichever is longer. DWR shall transmit the revised billing to Contractor within 60 days of the effective date of the withdrawal that triggered the revised cost allocation.

f. In the event of Contractor's noticed withdrawal from this Agreement, Contractor shall no longer be obligated to fund any costs related to DHCCP Planning Phase task orders that are subsequently approved by DWR or that were approved by DWR less than 60 days prior to the date the notice of withdrawal was transmitted to DWR pursuant to Section 9(a). However, Contractor shall remain responsible for its share of the costs of completing any DHCCP Planning Phase task orders approved 60 days prior to the date the notice of withdrawal was transmitted.

g. If termination of the MOA occurs concurrent with or after Contractor's notice of withdrawal from this Agreement but prior to the effective date of the Contractor's withdrawal, or the Contractor has not withdrawn, Contractor is obligated to pay its share of the reasonable termination costs incurred in fulfillment of the DHCCP Planning Phase or the objectives of the MOA, such as costs associated with early termination of consultant contracts. The total termination costs will be shared on a 50-50 basis between the State and federal interests. The Contractor's share of termination costs shall be determined using the same ratio as described in Section 6(d) of this Agreement.

h. The provisions of paragraphs (b), (d), (e), (f) and (g) of this Section 9 shall survive termination of this Agreement and/or the MOA

10. Invoices, Notices Or Other Communications

a. All invoices, notices, or other communications required under this Agreement will be in writing, and will be deemed to have been duly given upon the date of service, if: (i.) served personally on the Party to whom notice is to be given; (ii.) sent by electronic mail, and the Party to whom notice is to be given confirms receipt; or (iii.) on the third day after mailing, if mailed to the Party to whom invoice, notice or other communication is directed, by first-class mail, postage prepaid, and properly addressed to the designated representative(s) of the Party set forth below.

DWR: Chief, State Water Project Analysis Office
Department of Water Resources
State Water Project Analysis Office
Department of Water Resources
1416 Ninth Street, Room 1620
Post Office Box 942836
Sacramento, California 94236-0001

AVEK WA: Mr. Andy D. Rutledge
President, Board of Directors
Antelope Valley-East Kern Water Agency
6500 West Avenue N
Palmdale, California 93551-2855

b. The time for providing any payments, notices, or other communications specified in this Agreement may be extended within the term of this Agreement with the consent of the Parties, confirmed in writing, without requiring an amendment to this Agreement.

11. **No Amendment to Water Supply Contract**
This Agreement does not amend, abridge, or modify the Water Supply Contract in any way.

12. **Amendments**
Except for the addition of exhibits as authorized herein, this Agreement may be amended or modified only by a subsequent written agreement approved and executed by the Parties.

13. **Agreement Conformity**
All Agreements to fund the DHCCP Planning Phase entered into by DWR and Participating SWP Contractors shall be substantially uniform.

14. **Applicable Law**
This Agreement will be construed under and will be deemed to be governed by the laws of the United States and the State of California.

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

16. **Execution in Counterpart**
This Agreement may be executed in counterpart, each of which shall constitute an original, but all of which shall constitute one and the same agreement. Each signing Party shall have received a copy of the signature page signed by every other Party.

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

Approved as to legal form
and Sufficiency

Chief Counsel
Department of Water Resources

MAR 12 2009
Date

State of California
Department of Water Resources

Director

3/12/09
Date

Approved as to legal form
and Sufficiency

Counsel for AVEK WA

Date

Antelope Valley-East Kern Water
Agency

David Rizzo
President

4-2-09
Date

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Approved as to legal form
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Chief Counsel
Department of Water Resources

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Date

State of California
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Approved as to legal form
and Sufficiency

Counsel for AVEK WA

Date

Antelope Valley-East Kern Water
Agency

President

Date

List of Exhibits to be Attached

Exhibit 1: Memorandum of Agreement Regarding Collaboration on the Planning, Preliminary Design and Environmental Compliance for the Delta Habitat Conservation and Conveyance Program in Connection with the Development of the Bay Delta Conservation Plan (Paragraph 1.a)

Exhibit 2: Table of Participating SWP Contractors Actual Advanced Costs for 2008 (Paragraph 5.c)

Exhibit 3: Participating SWP Contractors Share of 2008 Costs (Paragraph 5.c)

Exhibit 4: Participating SWP Contractors Estimated Share of 2009 and 2010 DHCCP Planning Phase Costs (Paragraph 6.d)

Exhibit 5: Initial 3 Year Budget (Paragraph 7.d)

Exhibit 1

(Memorandum of Agreement)

Exhibit 2

(Actual 2008 DHCCP Costs by participating SWP Contractor)
(To be provided once final 2008 costs have been determined)

Exhibit 3A
Estimated 2008 DHCCP Planning Phase Costs
by
All Participating SWP Contractor's

2008 CY Projection	$	23,039,000
SWPC 50 Percent	$	11,519,500

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	SWP Contractor Share
Metropolitan WD Of SC	1,911,500	45.81%	$ 5,276,936
Kern County Water Agency	998,730	23.93%	$ 2,757,120
Antelope Valley-East Kern WA	141,400	3.39%	$ 390,352
Coachella Valley WD	121,100	2.90%	$ 334,312
San Bernardino Valley MWD	102,600	2.46%	$ 283,240
Santa Clara Valley WD	100,000	2.40%	$ 276,063
Tulare Lake Basin WSD	95,922	2.30%	$ 264,805
Castaic Lake WA	95,200	2.28%	$ 262,812
Alameda Co FC&WCD - Zone 7	80,619	1.93%	$ 222,559
Mojave Water Agency	75,800	1.82%	$ 209,255
Dudley Ridge WD	57,343	1.37%	$ 158,303
Desert Water Agency	50,000	1.20%	$ 138,031
Solano County WA	47,756	1.14%	$ 131,836
Santa Barbara County FCWCD	45,486	1.09%	$ 125,570
Alameda County WD	42,000	1.01%	$ 115,946
Napa County FC&WCD	29,025	0.70%	$ 80,127
San Gabriel Valley MWD	28,800	0.69%	$ 79,506
Butte County	27,500	0.66%	$ 75,917
San Luis Obispo Co. FC&WCD	25,000	0.60%	$ 69,016
Palmdale WD	21,300	0.51%	$ 58,801
Casitas Municipal WD	20,000	0.48%	$ 55,213
San Gorgonio Pass WA	17,300	0.41%	$ 47,759
City Of Yuba City	9,600	0.23%	$ 26,502
County Of Kings	9,305	0.22%	$ 25,688
Crestline-Lake Arrowhead WA	5,800	0.14%	$ 16,012
Oak Flat WD	5,700	0.14%	$ 15,736
Empire - West Side ID	3,000	0.07%	$ 8,282
Plumas County	2,700	0.06%	$ 7,454
Littlerock Creek ID	2,300	0.06%	$ 6,349
Total Table A	**4,172,786**	**100%**	**11,519,500**

Exhibit 3B
Estimated 2008 DHCCP Planning Phase Costs
by
Estimated Participating SWP Contractor's

2008 CY Projection	**$**	**23,039,000**
SWPC 50 Percent	**$**	**11,519,500**

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	SWP Contractor Share
Metropolitan WD Of SC	1,911,500	47.37%	$ 5,456,674
Kern County Water Agency	998,730	24.75%	$ 2,851,030
Antelope Valley-East Kern WA	141,400	3.50%	$ 403,648
Coachella Valley WD	121,100	3.00%	$ 345,699
San Bernardino Valley MWD	102,600	2.54%	$ 292,888
Santa Clara Valley WD	100,000	2.48%	$ 285,466
Tulare Lake Basin WSD	95,922	2.38%	$ 273,824
Castaic Lake WA	95,200	2.36%	$ 271,763
Alameda Co FC&WCD - Zone 7	80,619	2.00%	$ 230,139
Mojave Water Agency	75,800	1.88%	$ 216,383
Desert Water Agency	50,000	1.24%	$ 142,733
Solano County WA	47,756	1.18%	$ 136,327
Santa Barbara County FCWCD	45,486	1.13%	$ 129,847
Alameda County WD	42,000	1.04%	$ 119,896
Napa County FC&WCD	29,025	0.72%	$ 82,856
San Gabriel Valley MWD	28,800	0.71%	$ 82,214
San Luis Obispo Co. FC&WCD	25,000	0.62%	$ 71,366
Palmdale WD	21,300	0.53%	$ 60,804
San Gorgonio Pass WA	17,300	0.43%	$ 49,386
Crestline-Lake Arrowhead WA	5,800	0.14%	$ 16,557
Total Table A	**4,035,338**	**100.00%**	**$ 11,519,500**

Exhibit 4A
Estimated 2009-2010 DHCCP Planning Phase Costs
by
All Participating SWP Contractor's

Cal Year	2009	2010
CY Projection	$ 55,242,000	$ 61,368,000
SWPC 50 Percent	$ 27,621,000	$ 30,684,000

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	2009 SWP Contractor Projct'd Share	2010 SWP Contractor Projct'd Share
Metropolitan WD Of SC	1,911,500	45.81%	$ 12,652,828	$ 14,055,949
Kern County Water Agency	998,730	23.93%	$ 6,610,912	$ 7,344,022
Antelope Valley-East Kern WA	141,400	3.39%	$ 935,972	$ 1,039,765
Coachella Valley WD	121,100	2.90%	$ 801,599	$ 890,492
San Bernardino Valley MWD	102,600	2.46%	$ 679,142	$ 754,455
Santa Clara Valley WD	100,000	2.40%	$ 661,932	$ 735,336
Tulare Lake Basin WSD	95,922	2.30%	$ 634,938	$ 705,349
Castaic Lake WA	95,200	2.28%	$ 630,159	$ 700,040
Alameda Co FC&WCD - Zone 7	80,619	1.93%	$ 533,643	$ 592,821
Mojave Water Agency	75,800	1.82%	$ 501,744	$ 557,385
Dudley Ridge WD	57,343	1.37%	$ 379,572	$ 421,664
Desert Water Agency	50,000	1.20%	$ 330,966	$ 367,668
Solano County WA	47,756	1.14%	$ 316,112	$ 351,167
Santa Barbara County FCWCD	45,486	1.09%	$ 301,086	$ 334,475
Alameda County WD	42,000	1.01%	$ 278,011	$ 308,841
Napa County FC&WCD	29,025	0.70%	$ 192,126	$ 213,431
San Gabriel Valley MWD	28,800	0.69%	$ 190,636	$ 211,777
Butte County	27,500	0.66%	$ 182,031	$ 202,217
San Luis Obispo Co. FC&WCD	25,000	0.60%	$ 165,483	$ 183,834
Palmdale WD	21,300	0.51%	$ 140,991	$ 156,627
Casitas Municipal WD	20,000	0.48%	$ 132,386	$ 147,067
San Gorgonio Pass WA	17,300	0.41%	$ 114,514	$ 127,213
City Of Yuba City	9,600	0.23%	$ 63,545	$ 70,592
County Of Kings	9,305	0.22%	$ 61,593	$ 68,423
Crestline-Lake Arrowhead WA	5,800	0.14%	$ 38,392	$ 42,649
Oak Flat WD	5,700	0.14%	$ 37,730	$ 41,914
Empire - West Side ID	3,000	0.07%	$ 19,858	$ 22,060
Plumas County	2,700	0.06%	$ 17,872	$ 19,854
Littlerock Creek ID	2,300	0.06%	$ 15,224	$ 16,913
Total Table A	**4,172,786**	**100%**	**27,621,000**	**30,684,000**

Exhibit 4B
Estimated 2009-2010 DHCCP Planning Phase Costs
by
Estimated Participating SWP Contractor's

Cal Year	2009	2010
CY Projection	$ 55,242,000	$ 61,368,000
SWPC 50 Percent	$ 27,621,000	$ 30,684,000

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	2009 SWP Contractor Projct'd Share	2010 SWP Contractor Projct'd Share
Metropolitan WD Of SC	1,911,500	47.37%	$ 13,083,797	$ 14,534,710
Kern County Water Agency	998,730	24.75%	$ 6,836,087	$ 7,594,167
Antelope Valley-East Kern WA	141,400	3.50%	$ 967,852	$ 1,075,181
Coachella Valley WD	121,100	3.00%	$ 828,903	$ 920,823
San Bernardino Valley MWD	102,600	2.54%	$ 702,274	$ 780,152
Santa Clara Valley WD	100,000	2.48%	$ 684,478	$ 760,382
Tulare Lake Basin WSD	95,922	2.38%	$ 656,565	$ 729,374
Castaic Lake WA	95,200	2.36%	$ 651,623	$ 723,884
Alameda Co FC&WCD - Zone 7	80,619	2.00%	$ 551,819	$ 613,013
Mojave Water Agency	75,800	1.88%	$ 518,834	$ 576,370
Desert Water Agency	50,000	1.24%	$ 342,239	$ 380,191
Solano County WA	47,756	1.18%	$ 326,879	$ 363,128
Santa Barbara County FCWCD	45,486	1.13%	$ 311,342	$ 345,868
Alameda County WD	42,000	1.04%	$ 287,481	$ 319,361
Napa County FC&WCD	29,025	0.72%	$ 198,670	$ 220,701
San Gabriel Valley MWD	28,800	0.71%	$ 197,130	$ 218,990
San Luis Obispo Co. FC&WCD	25,000	0.62%	$ 171,119	$ 190,096
Palmdale WD	21,300	0.53%	$ 145,794	$ 161,961
San Gorgonio Pass WA	17,300	0.43%	$ 118,415	$ 131,546
Crestline-Lake Arrowhead WA	5,800	0.14%	$ 39,700	$ 44,102
Total Table A	**4,035,338**	**100%**	**27,621,000**	**30,684,000**

Exhibit 5
Initial DHCCP Planning Phase Budget
(In 1000)

	2008		2009		2010	
Program Element	Jan-Jun	Jul-Dec	Jan-Jun	Jul-Dec	Jan-Jun	Jul-Dec
Management, Planning, & Administration	$ 0	$ 3,134	$ 2,885	$ 2,915	$ 2,995	$ 2,995
Right of Way	$ 611	$ 3,155	$ 2,818	$ 3,568	$ 3,817	$ 3,817
Preliminary Engineering	$ 476	$ 7,840	$11,115	$11,523	$15,903	$15,903
Environmental Services	$ 178	$ 5,645	$ 6,554	$ 11,390	$ 7,141	$ 6,895
Legal Services	$ 0	$ 455	$ 767	$ 767	$ 518	$ 518
General Operating Expenses	$ 5	$ 1,540	$ 438	$ 502	$ 389	$ 477
Six Month Total	$ 1,270	$21,769	$24,577	$30,665	$30,763	$30,605
Calendar Year Total	$ 23,039		$ 55,242		$ 61,368	

State of California
California Natural Resources Agency
DEPARTMENT OF WATER RESOURCES

AGREEMENT FOR FUNDING BETWEEN THE DEPARTMENT OF WATER RESOURCES AND CASTAIC LAKE WATER AGENCY

FOR THE COSTS OF ENVIRONMENTAL ANALYSIS, PLANNING AND DESIGN OF DELTA CONSERVATION MEASURES, INCLUDING DELTA CONVEYANCE OPTIONS

(SWPAO #09907)

THIS AGREEMENT is made this 16th day of March, 2009, pursuant to the provisions of all applicable laws of the State of California, between the State of California, acting by and through its Department of Water Resources ("DWR"), and Castaic Lake Water Agency ("Contractor"). DWR and the Contractor may also be referred to individually as "Party" or collectively as "Parties."

Recitals

A. **WHEREAS**, DWR and Contractor have entered into and subsequently amended a long-term water supply contract, herein referred to as the "Water Supply Contract," providing that DWR will supply certain quantities of water to Contractor, and providing that Contractor shall make certain payments to DWR, and setting forth the terms and conditions of such supply and such payment; and

B. **WHEREAS**, DWR and several State Water Project (SWP) Contractors are parties to a Memorandum of Agreement ("MOA"), providing that they will collaborate to develop the environmental documents, engineering designs, and other necessary information for possible conservation measures, particularly Delta water conveyance options; and

C. **WHEREAS**, the MOA is intended to support and complement the certain activities of the Bay-Delta Conservation Plan ("BDCP") Steering Committee by establishing procedures to facilitate the funding and planning for the Delta water conveyance and habitat conservation studies, which the Parties refer to as the "Planning Phase" of the Delta Habitat Conservation and Conveyance Program ("DHCCP" or "Program"); and

D. **WHEREAS**, DWR and a group of SWP Contractors, collectively known as the "Participating SWP Contractors," believe the DHCCP Planning Phase is necessary to facilitate the assessment and planning of likely conservation measures of the BDCP, analyze responses to the multiple threats to the State's economic well being posed by the current Delta water conveyance system's vulnerability to seismic risk, climate change, and ongoing regulatory prescriptions, and to consider prudent funding sources for species conservation and improved Delta water conveyance facilities in order to achieve related benefits to water supply, water supply reliability, and ecosystem health and resiliency; and

E. **WHEREAS**, subject to any adjustments provided for in the MOA, DWR will fund fifty percent (50%) of the total cost for the DHCCP Planning Phase and will collect that amount from Contractor and other Participating SWP Contractors, pursuant to this and similar Agreements; and

F. **WHEREAS**, subject to any adjustments provided for in the MOA, certain federal Central Valley Project contractors have agreed to fund the remaining 50 percent of the total DHCCP Planning Phase costs and Reclamation, as allowed under federal appropriations law, via in-kind services and a financial assistance agreement, will provide some portion of this 50 percent; and

G. **WHEREAS**, DWR and the Participating SWP Contractors are endeavoring to increase DWR's flexibility to perform work on the DHCCP Planning Phase by modifying the funding practices and providing funds so the DHCCP Planning Phase work may start as soon as possible; and

H. **WHEREAS**, because DWR must have a source of funding to repay and fund the costs of the DHCCP Planning Phase starting in 2008 until its expected completion by 2010, the Contractor, along with the other Participating SWP Contractors, is willing to provide such funds under the terms of this Agreement through the DHCCP charge; and

I. **WHEREAS**, DWR is willing to credit the Contractor and the other Participating SWP Contractors from 2008 excess revenue bond reserve funds, an amount equal to the Contractor's allocation of the 2008 DHCCP Planning Phase costs, and to credit additional reserve funds in 2009 as provided by Article 50 of the Water Supply Contract; and

J. **WHEREAS**, Contractor is willing to enter into this Agreement to pay a share of the DHCCP Planning Phase costs, and, in consideration therefore, DWR is willing to consult with Contractor and other Participating SWP Contractors on decisions related to the budget, scope, schedule, and activities of the Program's Planning Phase to ensure its timely completion in a cost-efficient manner, and

K. **WHEREAS,** it is DWR's intent that all funds needed to meet DWR's Share of the Program's Costs will be collected through this and all other SWP DHCCP Funding Agreements.

AGREEMENT

NOW THEREFORE, it is mutually agreed by DWR and Contractor as follows:

1. **Definitions**

When used in this Agreement, the definitions in the Water Supply Contract shall apply. In addition, the following definitions shall apply:

a. "**DHCCP**" or "**Program**" means the proposed development of possible BDCP conservation measures, including Delta conveyance options as described in the MOA.

b. "**DHCCP Planning Phase**" or "**Program's Planning Phase**" means the proposed development of environmental documents, planning, engineering designs, and other necessary information for possible BDCP conservation measures, including Delta conveyance options as described in the MOA. It does not include construction activity for any BDCP conservation measure, including any Delta Conveyance option.

c. "**MOA**" means the "Memorandum of Agreement Regarding Collaboration on the Planning, Preliminary Design and Environmental Compliance for the Delta Habitat Conservation and Conveyance Program in Connection with the Development of the Bay Delta Conservation Plan," a copy of which is attached hereto as Exhibit 1.

d. "**SWP**" means the State Water Project operated by DWR. The SWP generally includes the State Water Facilities, as defined in California Water Code section 12934(d), and certain facilities found in the Central Valley Project Act at section 11100 et. seq.

e. "**Water Supply Contract**" means the long-term water supply contract between Contractor and DWR, and similar contracts entered into by DWR and other Participating SWP Contractors.

f. "**Water Supply Contractor**" means one of the contractors that signed a Water Supply Contract which is still in effect.

g. "**DHCCP SWP Funding Agreement**" means this Agreement and agreements substantially the same as this Agreement signed by Participating SWP Contractors and DWR.

h. "**Participating SWP Contractor**" means a SWP Water Supply Contractor that has executed a DHCCP SWP Funding Agreement.

i. "**Calendar Year**" means the period January 1 through December 31.

j. "**DHCCP Table A Amount**" means, for Contractor, the maximum Table A amount as listed in its Water Supply Contract. The DHCCP Table A Amount will be used each year to calculate the Contractor's share of the DHCCP Planning Phase charges as a percentage of the sum of all the DHCCP Table A Amounts of the Participating SWP Contractors.

k. "**2008 DHCCP Charge**" means a charge to Contractor included in its annual statement of charges for 2008 that reflects the estimated costs for DHCCP in 2008.

l. "**Department's Share of the Program's Costs**" means fifty percent (50%) of the total DHCCP Planning Phase costs.

m. "**DHCCP Pay-Go Charge**" means the charge to the Contractor pursuant to this Agreement included in its Annual Statement of Charges to recover the Contractor's allocation of Department's Share of the Program's Costs beginning in 2009 and continuing until the Program's Planning Phase is completed or December 31, 2011, which ever is earlier.

n. "**Reclamation**" means the United States Department of the Interior, Bureau of Reclamation.

o. "**Central Valley Project contractors**" means the Central Valley Project contractors that are involved in funding the DHCCP Planning Phase, which are a subset of the total Central Valley Project contractors group.

2. Purpose of the Agreement

a. The purpose of this Agreement is to establish the terms and conditions under which Contractor will provide funding to DWR that, along with funding from the other Participating SWP Contractors, will provide all funds needed to pay the actual costs of DWR's Share of the Program's costs.

b. Funding pursuant to this Agreement addresses only the DHCCP Planning Phase. After completing the DHCCP Planning Phase, if the Parties determine to proceed with actions beyond the DHCCP Planning Phase, including the implementation and construction phases of the DHCCP, the Parties may enter into additional funding agreements.

3. Term of Agreement

This Agreement will take effect upon execution of the Parties and will remain in effect until the DHCCP Planning Phase is completed or until December 31, 2011, whichever comes first, unless extended by written amendment.

4. **DHCCP Planning Phase Costs**

Should the funding procedures established by this and all other DHCCP SWP Funding Agreements, or funding procedures established by Funding Agreements between DWR and Reclamation or federal contractors, terminate, DWR and the Participating Contractors, other than the Participating Contractors that have withdrawn pursuant to Section 9(a), shall use their best efforts to develop a funding plan that will allow for the timely completion of the DHCCP Planning Phase. Any subsequent funding plan for completion of the DHCCP Planning Phase shall include provisions that ensure that Participating Contractors that have withdrawn do not incur any additional charges related to the completion of the DHCCP Planning Phase. For purposes of this paragraph, "charges" shall mean 1) costs chargeable to the contractor or 2) revenues and/or cash available to pay rate management credits to the contractor. This provision shall survive termination of this Agreement. After one year from the termination of the MOA, nothing in this provision would prevent DWR from charging the Contractor in accordance with its Water Supply Contract to fund other and new Delta conveyance planning activities that are distinct and independent of the DHCCP and BDCP.

5. **2008 DHCCP Charge**

a. Before DWR may implement this section and to obtain funding for DWR's Share of the Program Costs incurred before December 31, 2008, the following must be satisfied: (i) this Agreement is fully executed by the Parties, and (ii) the SWP DHCCP Funding Agreements and the MOA are signed by DWR and the SWP Contractors who are also parties to the MOA. Once DWR and the Participating SWP Contractors who are parties to the MOA have signed the MOA, the Parties agree to abide by the terms and conditions of the MOA, notwithstanding that the Parties recognize the MOA may not have been fully executed.

b. DWR will submit a revised 2008 Statement of Charges to the Contractor that includes Contractor's estimated 2008 DHCCP Charge. The 2008 DHCCP Charge shall be based on actual costs incurred in 2008, pursuant to Paragraph 7 (Program Cost, Budgeting and Allocation). At the time the revised 2008 Statement of Charges is transmitted to the Contractor, DWR shall submit to the Contractor a revised invoice for the month of July 2008 reflecting credits resulting from the release of excess revenue bond reserve funds against Contractor's Transportation Capital charges in an amount equal to the amount of the revised 2008 Statement of Charges, as provided by the Water Supply Contract.

c. Should the funding from Contractor for the estimated costs be insufficient to cover the actual costs incurred by DWR through December 31, 2008, DWR shall include the Contractor's additional 2008 costs in its 2009

Statement of Charges. After the actual costs incurred up to and including December 31, 2008, have been finally determined, a table reflecting the actual funding advanced by each Participating SWP Contractor in 2008 will be attached hereto as Exhibit 2, without constituting an amendment of this Agreement. All 2008 DHCCP Planning Phase costs will be allocated to each Participating SWP Contractor in proportion to the ratio of its DHCCP Table A Amount to the sum of all Participating SWP Contractors' 2008 DHCCP Table A Amounts. Attached hereto as Exhibit 3A and 3B is a table of each Participating SWP Contractor's estimated share of the 2008 DHCCP Charge.

6. **DHCCP Pay-Go Charge**

a. Before DWR may implement this section to seek funding for costs incurred after December 31, 2008, the following must be completed: (a) this Agreement is fully executed by the Parties and is in full force and effect, (b) the MOA is executed by all of its parties and in effect, and (c) DWR has executed a binding agreement or agreements with Reclamation and certain Central Valley Project contractors which will establish funding procedures that ensure 50 percent of the DHCCP Planning Phase costs are paid by federal interests. The agreements with the Central Valley Project contractors shall also include provisions that (i) require the Central Valley Project contractors to pay 50 percent of the DHCCP Planning Phase costs incurred prior to October 1, 2008 within 14 days of execution of those agreements; and (ii) provide assurances that 50 percent of all costs incurred after October 1, 2008, and until completion of the Program are paid on a schedule and in amounts, similar to the payment schedule and amounts for the Participating SWP Contractors.

b. Except for those costs described in Section 5 above, DWR shall recover DWR's Share of Program Costs through the DHCCP Pay-Go Charge. The DHCCP Pay-Go Charge shall recover these costs incurred or to be incurred by DWR for the DHCCP Planning Phase beginning on January 1, 2009, and, unless sooner terminated pursuant to Article 9 of this Agreement, continuing until the Program's Planning Phase is completed or December 31, 2011, which ever is earlier.

c. To facilitate billing on a calendar year basis, the DHCCP Pay-Go Charge will be computed and included in Contractor's and other Participating SWP Contractor's Annual Statements of Charges for 2009 and thereafter as long as this Agreement is in effect under the Transportation Minimum Component and shall be collected in 12 equal monthly payments as described in Contractor's Water Supply Contract. The DHCCP Pay-Go Charges shall initially be based on estimates of costs determined pursuant to Section 7 (Program Cost, Budgeting and Allocation). These charges

shall be adjusted after the end of each Calendar Year to accurately reflect DWR's Share of Program Costs during that Calendar Year. Such adjustments shall be reflected in the charges in the following calendar year.

d. The DHCCP Pay-Go Charge will be allocated to each Participating SWP Contractor in proportion to the ratio of its DHCCP Table A Amount to the sum of all Participating SWP Contractors' DHCCP Table A Amounts. Attached hereto as Exhibit 4A and 4B is a table of each Participating SWP Contractor's estimated share of the DHCCP Planning Phase Charges for 2009 and 2010. As these charges are adjusted, or should charges be estimated for 2011, or should there be a change in the ratio due to a withdrawal of a Contractor from the Program's Planning Phase, revised versions of Exhibit 4B Contractor shall be attached hereto, without constituting an amendment of this Agreement.

e. DWR prepared a revision to the calendar year 2009 Statement of Charges in mid–December 2008, which includes an estimated allocation of the DHCCP costs among the anticipated participating Contractors. Execution of this Agreement, even if occurring after January 1, 2009, shall constitute agreement by the Contractor to pay the full amount of the Contractor's share of the 2009 DHCCP charge. The full amount of all prior months unpaid payments for 2009 shall be paid by the Contractor on the first monthly payment to DWR following execution of this Agreement.

f. Once the final participation level in the DHCCP Program is known by DWR, DWR shall prepare an amended 2009 DHCCP cost allocation and invoice and the Contractor shall pay the revised amount, if any, over the remaining months in calendar year 2009. This revised invoice is anticipated to be distributed within the first four months of calendar year 2009.

g. The parties recognize that DWR intends to retain approximately $12 million of the excess revenue bond reserve funds to be applied as a credit against the 2008 Transportation Capital charges. DWR also intends to apply approximately $30 million of excess revenue bond reserve fund credits against the January 2009 Transportation Capital payments from the Contractors, with the remaining excess revenue bond reserve fund credits to be applied as a credit against the July 2009 Transportation Capital payments.

7. **Program Cost, Budget and Allocation**

a. As described in the MOA, DWR will work collaboratively with the DHCCP Executive Committee to determine the budget, schedules, and activities of the DHCCP Planning Phase.

b. The total cost for the DHCCP Planning Phase is currently estimated at $140 million. This estimate may change in the future as more information is developed about the costs of planning and designing the potential BDCP conservation measures and water conveyance facilities.

c. DWR is responsible for formulating the DHCCP Planning Phase Budget with specific DHCCP Planning Phase elements and will work collaboratively through the MOA to develop the budget.

d. The Parties to the MOA have committed to an initial, three-year budget. A copy of the initial budget is attached hereto as Exhibit 5. DWR, in collaboration with the Executive Committee, will consider and approve revised budgets for work as necessary. Revised budget(s) shall be attached hereto as subsequent exhibits, without constituting an amendment of this Agreement, provided they do not exceed the funding limit set forth in Section 7(e).

e. Notwithstanding anything set forth in this Agreement or decided through the MOA process, the maximum amount of DWR's Share of Program Costs that shall be funded through this Agreement and all other DHCCP SWP Funding Agreements shall not exceed $70,000,000.

8. **Reimbursement for DHCCP Planning Phase**

a. If the DHCCP is approved to proceed with construction, DWR intends to issue Revenue Bonds to pay for such construction. DWR shall include in the first issue of Revenue Bonds, pursuant to and consistent with Treasury Regulation 1.150-2, an amount sufficient to reimburse the Contractor and all other Participating SWP Contractors for all planning costs paid through the 2008 DHCCP Charge and the DHCCP Pay-Go Charges. DWR, within 10 days of the effective date of this Agreement, shall adopt the necessary documents to conform to the IRS requirements to allow these costs to be included in a future revenue bond issue.

b. If the DHCCP is not approved to proceed with construction or a revenue bond sale does not occur, no reimbursements will occur. Contractor recognizes that, should the DHCCP not be approved to proceed with construction, Contractor may pay costs for the DHCCP Planning Phase that are greater than the amount it would have paid if other means of funding the Program, including under the Water Supply Contract, had

been utilized. Contractor waives any claims it may have with respect to the greater amount that may be paid by it under this Agreement.

c. The provisions of this Section 8 shall survive termination of this Agreement and/or the MOA.

9. **Withdrawal and Termination**

a. Contractor may withdraw from this Agreement at any time. However, Contractor shall provide 30 days advanced written notice to DWR, all other Participating SWP Contractors, and all Parties to the MOA. The notice of the effective date of its withdrawal shall include a detailed written explanation of why it intends to withdraw.

b. If the MOA terminates, this Agreement shall terminate. However, notwithstanding anything to the contrary set forth in the MOA, DWR agrees that it will not withdraw from the MOA as long as DWR's Share of the Program's Costs remains fully funded. DWR shall remain responsible for administering the provisions of this Agreement that survive termination or withdrawal.

c. If Contractor is a signatory to the MOA, Contractor's withdrawal from the MOA shall be deemed as withdrawal from this Agreement.

d. If any Participating SWP Contractor or Contractors withdraws from its DHCCP SWP Funding Agreement, Contractor, if not a withdrawing party, shall notify DWR within seven days after the effective date of such withdrawal as to whether it intends to continue operating under this Agreement. Failure to provide such notice shall be deemed an agreement to continue as a Party to this Agreement.

e. If one or more Participating SWP Contractors withdraw from their DHCCP SWP Funding Agreements and Contractor decides to continue operating under this Agreement, then Contractor's cost allocation share and the cost allocation shares of all other remaining Participating SWP Contractors will be changed to reflect the new ratios of their DHCCP Table A Amounts to the sum of the remaining Participating SWP Contractors' DHCCP Table A Amounts. Such adjustment shall be made through a revised billing payable in equal installments over the remainder of the then current calendar year or six months from the date the revised billing is received by Contractor, whichever is longer. DWR shall transmit the revised billing to Contractor within 60 days of the effective date of the withdrawal that triggered the revised cost allocation.

f. In the event of Contractor's noticed withdrawal from this Agreement, Contractor shall no longer be obligated to fund any costs related to DHCCP Planning Phase task orders that are subsequently approved by DWR or that were approved by DWR less than 60 days prior to the date the notice of withdrawal was transmitted to DWR pursuant to Section 9(a). However, Contractor shall remain responsible for its share of the costs of completing any DHCCP Planning Phase task orders approved 60 days prior to the date the notice of withdrawal was transmitted.

g. If termination of the MOA occurs concurrent with or after Contractor's notice of withdrawal from this Agreement but prior to the effective date of the Contractor's withdrawal, or the Contractor has not withdrawn, Contractor is obligated to pay its share of the reasonable termination costs incurred in fulfillment of the DHCCP Planning Phase or the objectives of the MOA, such as costs associated with early termination of consultant contracts. The total termination costs will be shared on a 50-50 basis between the State and federal interests. The Contractor's share of termination costs shall be determined using the same ratio as described in Section 6(d) of this Agreement.

h. The provisions of paragraphs (b), (d), (e), (f) and (g) of this Section 9 shall survive termination of this Agreement and/or the MOA

10. <u>Invoices, Notices Or Other Communications</u>

a. All invoices, notices, or other communications required under this Agreement will be in writing, and will be deemed to have been duly given upon the date of service, if: (i.) served personally on the Party to whom notice is to be given; (ii.) sent by electronic mail, and the Party to whom notice is to be given confirms receipt; or (iii.) on the third day after mailing, if mailed to the Party to whom invoice, notice or other communication is directed, by first-class mail, postage prepaid, and properly addressed to the designated representative(s) of the Party set forth below.

DWR: Chief, State Water Project Analysis Office
Department of Water Resources
State Water Project Analysis Office
Department of Water Resources
1416 Ninth Street, Room 1620
Post Office Box 942836
Sacramento, California 94236-0001

CLWA: Mr. Dan Masnada
General Manager
Castaic Lake Water Agency
27234 Bouquet Canyon Road
Santa Clarita, California 91350

b. The time for providing any payments, notices, or other communications specified in this Agreement may be extended within the term of this Agreement with the consent of the Parties, confirmed in writing, without requiring an amendment to this Agreement.

11. No Amendment to Water Supply Contract
This Agreement does not amend, abridge, or modify the Water Supply Contract in any way.

12. Amendments
Except for the addition of exhibits as authorized herein, this Agreement may be amended or modified only by a subsequent written agreement approved and executed by the Parties.

13. Agreement Conformity
All Agreements to fund the DHCCP Planning Phase entered into by DWR and Participating SWP Contractors shall be substantially uniform.

14. Applicable Law
This Agreement will be construed under and will be deemed to be governed by the laws of the United States and the State of California.

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

16. Execution in Counterpart
This Agreement may be executed in counterpart, each of which shall constitute an original, but all of which shall constitute one and the same agreement. Each signing Party shall have received a copy of the signature page signed by every other Party.

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

Approved as to legal form
and Sufficiency

Chief Counsel
Department of Water Resources

MAR 12 2009
Date

State of California
Department of Water Resources

Director

3/12/09
Date

Approved as to legal form
and Sufficiency

Counsel for CLWA

Date

Castaic Lake Water Agency

General Manager

Date

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

Approved as to legal form
and Sufficiency

Chief Counsel
Department of Water Resources

MAR 12 2009
Date

State of California
Department of Water Resources

Director

3/12/09
Date

Approved as to legal form
and Sufficiency

Counsel for CLWA

3-25-09
Date

Castaic Lake Water Agency

General Manager

3/16/09
Date

List of Exhibits to be Attached

Exhibit 1: Memorandum of Agreement Regarding Collaboration on the Planning, Preliminary Design and Environmental Compliance for the Delta Habitat Conservation and Conveyance Program in Connection with the Development of the Bay Delta Conservation Plan (Paragraph 1.a)

Exhibit 2: Table of Participating SWP Contractors Actual Advanced Costs for 2008 (Paragraph 5.c)

Exhibit 3: Participating SWP Contractors Share of 2008 Costs (Paragraph 5.c)

Exhibit 4: Participating SWP Contractors Estimated Share of 2009 and 2010 DHCCP Planning Phase Costs (Paragraph 6.d)

Exhibit 5: Initial 3 Year Budget (Paragraph 7.d)

Exhibit 1

(Memorandum of Agreement)

Exhibit 2

(Actual 2008 DHCCP Costs by participating SWP Contractor)
(To be provided once final 2008 costs have been determined)

Exhibit 3A
Estimated 2008 DHCCP Planning Phase Costs
by
All Participating SWP Contractor's

2008 CY Projection	$	23,039,000
SWPC 50 Percent	$	11,519,500

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	SWP Contractor Share
Metropolitan WD Of SC	1,911,500	45.81%	$ 5,276,936
Kern County Water Agency	998,730	23.93%	$ 2,757,120
Antelope Valley-East Kern WA	141,400	3.39%	$ 390,352
Coachella Valley WD	121,100	2.90%	$ 334,312
San Bernardino Valley MWD	102,600	2.46%	$ 283,240
Santa Clara Valley WD	100,000	2.40%	$ 276,063
Tulare Lake Basin WSD	95,922	2.30%	$ 264,805
Castaic Lake WA	95,200	2.28%	$ 262,812
Alameda Co FC&WCD - Zone 7	80,619	1.93%	$ 222,559
Mojave Water Agency	75,800	1.82%	$ 209,255
Dudley Ridge WD	57,343	1.37%	$ 158,303
Desert Water Agency	50,000	1.20%	$ 138,031
Solano County WA	47,756	1.14%	$ 131,836
Santa Barbara County FCWCD	45,486	1.09%	$ 125,570
Alameda County WD	42,000	1.01%	$ 115,946
Napa County FC&WCD	29,025	0.70%	$ 80,127
San Gabriel Valley MWD	28,800	0.69%	$ 79,506
Butte County	27,500	0.66%	$ 75,917
San Luis Obispo Co. FC&WCD	25,000	0.60%	$ 69,016
Palmdale WD	21,300	0.51%	$ 58,801
Casitas Municipal WD	20,000	0.48%	$ 55,213
San Gorgonio Pass WA	17,300	0.41%	$ 47,759
City Of Yuba City	9,600	0.23%	$ 26,502
County Of Kings	9,305	0.22%	$ 25,688
Crestline-Lake Arrowhead WA	5,800	0.14%	$ 16,012
Oak Flat WD	5,700	0.14%	$ 15,736
Empire - West Side ID	3,000	0.07%	$ 8,282
Plumas County	2,700	0.06%	$ 7,454
Littlerock Creek ID	2,300	0.06%	$ 6,349
Total Table A	**4,172,786**	**100%**	**11,519,500**

Exhibit 3B
Estimated 2008 DHCCP Planning Phase Costs
by
Estimated Participating SWP Contractor's

2008 CY Projection	$	23,039,000
SWPC 50 Percent	$	11,519,500

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	SWP Contractor Share
Metropolitan WD Of SC	1,911,500	47.37%	$ 5,456,674
Kern County Water Agency	998,730	24.75%	$ 2,851,030
Antelope Valley-East Kern WA	141,400	3.50%	$ 403,648
Coachella Valley WD	121,100	3.00%	$ 345,699
San Bernardino Valley MWD	102,600	2.54%	$ 292,888
Santa Clara Valley WD	100,000	2.48%	$ 285,466
Tulare Lake Basin WSD	95,922	2.38%	$ 273,824
Castaic Lake WA	95,200	2.36%	$ 271,763
Alameda Co FC&WCD - Zone 7	80,619	2.00%	$ 230,139
Mojave Water Agency	75,800	1.88%	$ 216,383
Desert Water Agency	50,000	1.24%	$ 142,733
Solano County WA	47,756	1.18%	$ 136,327
Santa Barbara County FCWCD	45,486	1.13%	$ 129,847
Alameda County WD	42,000	1.04%	$ 119,896
Napa County FC&WCD	29,025	0.72%	$ 82,856
San Gabriel Valley MWD	28,800	0.71%	$ 82,214
San Luis Obispo Co. FC&WCD	25,000	0.62%	$ 71,366
Palmdale WD	21,300	0.53%	$ 60,804
San Gorgonio Pass WA	17,300	0.43%	$ 49,386
Crestline-Lake Arrowhead WA	5,800	0.14%	$ 16,557
Total Table A	**4,035,338**	**100.00%**	**$ 11,519,500**

Exhibit 4A
Estimated 2009-2010 DHCCP Planning Phase Costs
by
All Participating SWP Contractor's

Cal Year	2009	2010
CY Projection	$ 55,242,000	$ 61,368,000
SWPC 50 Percent	$ 27,621,000	$ 30,684,000

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	2009 SWP Contractor Projct'd Share	2010 SWP Contractor Projct'd Share
Metropolitan WD Of SC	1,911,500	45.81%	$ 12,652,828	$ 14,055,949
Kern County Water Agency	998,730	23.93%	$ 6,610,912	$ 7,344,022
Antelope Valley-East Kern WA	141,400	3.39%	$ 935,972	$ 1,039,765
Coachella Valley WD	121,100	2.90%	$ 801,599	$ 890,492
San Bernardino Valley MWD	102,600	2.46%	$ 679,142	$ 754,455
Santa Clara Valley WD	100,000	2.40%	$ 661,932	$ 735,336
Tulare Lake Basin WSD	95,922	2.30%	$ 634,938	$ 705,349
Castaic Lake WA	95,200	2.28%	$ 630,159	$ 700,040
Alameda Co FC&WCD - Zone 7	80,619	1.93%	$ 533,643	$ 592,821
Mojave Water Agency	75,800	1.82%	$ 501,744	$ 557,385
Dudley Ridge WD	57,343	1.37%	$ 379,572	$ 421,664
Desert Water Agency	50,000	1.20%	$ 330,966	$ 367,668
Solano County WA	47,756	1.14%	$ 316,112	$ 351,167
Santa Barbara County FCWCD	45,486	1.09%	$ 301,086	$ 334,475
Alameda County WD	42,000	1.01%	$ 278,011	$ 308,841
Napa County FC&WCD	29,025	0.70%	$ 192,126	$ 213,431
San Gabriel Valley MWD	28,800	0.69%	$ 190,636	$ 211,777
Butte County	27,500	0.66%	$ 182,031	$ 202,217
San Luis Obispo Co. FC&WCD	25,000	0.60%	$ 165,483	$ 183,834
Palmdale WD	21,300	0.51%	$ 140,991	$ 156,627
Casitas Municipal WD	20,000	0.48%	$ 132,386	$ 147,067
San Gorgonio Pass WA	17,300	0.41%	$ 114,514	$ 127,213
City Of Yuba City	9,600	0.23%	$ 63,545	$ 70,592
County Of Kings	9,305	0.22%	$ 61,593	$ 68,423
Crestline-Lake Arrowhead WA	5,800	0.14%	$ 38,392	$ 42,649
Oak Flat WD	5,700	0.14%	$ 37,730	$ 41,914
Empire - West Side ID	3,000	0.07%	$ 19,858	$ 22,060
Plumas County	2,700	0.06%	$ 17,872	$ 19,854
Littlerock Creek ID	2,300	0.06%	$ 15,224	$ 16,913
Total Table A	**4,172,786**	**100%**	**27,621,000**	**30,684,000**

Exhibit 4B

Estimated 2009-2010 DHCCP Planning Phase Costs
by
Estimated Participating SWP Contractor's

Cal Year	2009	2010
CY Projection	$ 55,242,000	$ 61,368,000
SWPC 50 Percent	$ 27,621,000	$ 30,684,000

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	2009 SWP Contractor Projct'd Share	2010 SWP Contractor Projct'd Share
Metropolitan WD Of SC	1,911,500	47.37%	$ 13,083,797	$ 14,534,710
Kern County Water Agency	998,730	24.75%	$ 6,836,087	$ 7,594,167
Antelope Valley-East Kern WA	141,400	3.50%	$ 967,852	$ 1,075,181
Coachella Valley WD	121,100	3.00%	$ 828,903	$ 920,823
San Bernardino Valley MWD	102,600	2.54%	$ 702,274	$ 780,152
Santa Clara Valley WD	100,000	2.48%	$ 684,478	$ 760,382
Tulare Lake Basin WSD	95,922	2.38%	$ 656,565	$ 729,374
Castaic Lake WA	95,200	2.36%	$ 651,623	$ 723,884
Alameda Co FC&WCD - Zone 7	80,619	2.00%	$ 551,819	$ 613,013
Mojave Water Agency	75,800	1.88%	$ 518,834	$ 576,370
Desert Water Agency	50,000	1.24%	$ 342,239	$ 380,191
Solano County WA	47,756	1.18%	$ 326,879	$ 363,128
Santa Barbara County FCWCD	45,486	1.13%	$ 311,342	$ 345,868
Alameda County WD	42,000	1.04%	$ 287,481	$ 319,361
Napa County FC&WCD	29,025	0.72%	$ 198,670	$ 220,701
San Gabriel Valley MWD	28,800	0.71%	$ 197,130	$ 218,990
San Luis Obispo Co. FC&WCD	25,000	0.62%	$ 171,119	$ 190,096
Palmdale WD	21,300	0.53%	$ 145,794	$ 161,961
San Gorgonio Pass WA	17,300	0.43%	$ 118,415	$ 131,546
Crestline-Lake Arrowhead WA	5,800	0.14%	$ 39,700	$ 44,102
Total Table A	**4,035,338**	**100%**	**27,621,000**	**30,684,000**

Exhibit 5
Initial DHCCP Planning Phase Budget
(In 1000)

	2008		2009		2010	
Program Element	Jan-Jun	Jul-Dec	Jan-Jun	Jul-Dec	Jan-Jun	Jul-Dec
Management, Planning, & Administration	$ 0	$ 3,134	$ 2,885	$ 2,915	$ 2,995	$ 2,995
Right of Way	$ 611	$ 3,155	$ 2,818	$ 3,568	$ 3,817	$ 3,817
Preliminary Engineering	$ 476	$ 7,840	$11,115	$11,523	$15,903	$15,903
Environmental Services	$ 178	$ 5,645	$ 6,554	$ 11,390	$ 7,141	$ 6,895
Legal Services	$ 0	$ 455	$ 767	$ 767	$ 518	$ 518
General Operating Expenses	$ 5	$ 1,540	$ 438	$ 502	$ 389	$ 477
Six Month Total	$ 1,270	$21,769	$24,577	$30,665	$30,763	$30,605
Calendar Year Total	$ 23,039		$ 55,242		$ 61,368	

State of California
California Natural Resources Agency
DEPARTMENT OF WATER RESOURCES

AGREEMENT FOR FUNDING BETWEEN THE DEPARTMENT OF WATER RESOURCES AND COACHELLA VALLEY WATER DISTRICT

FOR THE COSTS OF ENVIRONMENTAL ANALYSIS, PLANNING AND DESIGN OF DELTA CONSERVATION MEASURES, INCLUDING DELTA CONVEYANCE OPTIONS

(SWPAO #09903)

THIS AGREEMENT is made this 18th day of March, 2009, pursuant to the provisions of all applicable laws of the State of California, between the State of California, acting by and through its Department of Water Resources ("DWR"), and Coachella Valley Water District ("Contractor"). DWR and the Contractor may also be referred to individually as "Party" or collectively as "Parties."

Recitals

A. **WHEREAS**, DWR and Contractor have entered into and subsequently amended a long-term water supply contract, herein referred to as the "Water Supply Contract," providing that DWR will supply certain quantities of water to Contractor, and providing that Contractor shall make certain payments to DWR, and setting forth the terms and conditions of such supply and such payment; and

B. **WHEREAS**, DWR and several State Water Project (SWP) Contractors are parties to a Memorandum of Agreement ("MOA"), providing that they will collaborate to develop the environmental documents, engineering designs, and other necessary information for possible conservation measures, particularly Delta water conveyance options; and

C. **WHEREAS**, the MOA is intended to support and complement the certain activities of the Bay-Delta Conservation Plan ("BDCP") Steering Committee by establishing procedures to facilitate the funding and planning for the Delta water conveyance and habitat conservation studies, which the Parties refer to as the "Planning Phase" of the Delta Habitat Conservation and Conveyance Program ("DHCCP" or "Program"); and

D. **WHEREAS**, DWR and a group of SWP Contractors, collectively known as the "Participating SWP Contractors," believe the DHCCP Planning Phase is necessary to facilitate the assessment and planning of likely conservation measures of the BDCP, analyze responses to the multiple threats to the State's economic well being posed by the current Delta water conveyance system's vulnerability to seismic risk, climate change, and ongoing regulatory prescriptions, and to consider prudent funding sources for species conservation and improved Delta water conveyance facilities in order to achieve related benefits to water supply, water supply reliability, and ecosystem health and resiliency; and

E. **WHEREAS**, subject to any adjustments provided for in the MOA, DWR will fund fifty percent (50%) of the total cost for the DHCCP Planning Phase and will collect that amount from Contractor and other Participating SWP Contractors, pursuant to this and similar Agreements; and

F. **WHEREAS**, subject to any adjustments provided for in the MOA, certain federal Central Valley Project contractors have agreed to fund the remaining 50 percent of the total DHCCP Planning Phase costs and Reclamation, as allowed under federal appropriations law, via in-kind services and a financial assistance agreement, will provide some portion of this 50 percent; and

G. **WHEREAS**, DWR and the Participating SWP Contractors are endeavoring to increase DWR's flexibility to perform work on the DHCCP Planning Phase by

modifying the funding practices and providing funds so the DHCCP Planning Phase work may start as soon as possible; and

H. **WHEREAS**, because DWR must have a source of funding to repay and fund the costs of the DHCCP Planning Phase starting in 2008 until its expected completion by 2010, the Contractor, along with the other Participating SWP Contractors, is willing to provide such funds under the terms of this Agreement through the DHCCP charge; and

I. **WHEREAS**, DWR is willing to credit the Contractor and the other Participating SWP Contractors from 2008 excess revenue bond reserve funds, an amount equal to the Contractor's allocation of the 2008 DHCCP Planning Phase costs, and to credit additional reserve funds in 2009 as provided by Article 50 of the Water Supply Contract; and

J. **WHEREAS**, Contractor is willing to enter into this Agreement to pay a share of the DHCCP Planning Phase costs, and, in consideration therefore, DWR is willing to consult with Contractor and other Participating SWP Contractors on decisions related to the budget, scope, schedule, and activities of the Program's Planning Phase to ensure its timely completion in a cost-efficient manner, and

K. **WHEREAS,** it is DWR's intent that all funds needed to meet DWR's Share of the Program's Costs will be collected through this and all other SWP DHCCP Funding Agreements.

AGREEMENT

NOW THEREFORE, it is mutually agreed by DWR and Contractor as follows:

1. **Definitions**

When used in this Agreement, the definitions in the Water Supply Contract shall apply. In addition, the following definitions shall apply:

a. "**DHCCP**" or "**Program**" means the proposed development of possible BDCP conservation measures, including Delta conveyance options as described in the MOA.

b. "**DHCCP Planning Phase**" or "**Program's Planning Phase**" means the proposed development of environmental documents, planning, engineering designs, and other necessary information for possible BDCP conservation measures, including Delta conveyance options as described in the MOA. It does not include construction activity for any BDCP conservation measure, including any Delta Conveyance option.

c. "**MOA**" means the "Memorandum of Agreement Regarding Collaboration on the Planning, Preliminary Design and Environmental Compliance for the Delta Habitat Conservation and Conveyance Program in Connection with the Development of the Bay Delta Conservation Plan," a copy of which is attached hereto as Exhibit 1.

d. "**SWP**" means the State Water Project operated by DWR. The SWP generally includes the State Water Facilities, as defined in California Water Code section 12934(d), and certain facilities found in the Central Valley Project Act at section 11100 et. seq.

e. "**Water Supply Contract**" means the long-term water supply contract between Contractor and DWR, and similar contracts entered into by DWR and other Participating SWP Contractors.

f. "**Water Supply Contractor**" means one of the contractors that signed a Water Supply Contract which is still in effect.

g. "**DHCCP SWP Funding Agreement**" means this Agreement and agreements substantially the same as this Agreement signed by Participating SWP Contractors and DWR.

h. "**Participating SWP Contractor**" means a SWP Water Supply Contractor that has executed a DHCCP SWP Funding Agreement.

i. "**Calendar Year**" means the period January 1 through December 31.

j. "**DHCCP Table A Amount**" means, for Contractor, the maximum Table A amount as listed in its Water Supply Contract. The DHCCP Table A Amount will be used each year to calculate the Contractor's share of the DHCCP Planning Phase charges as a percentage of the sum of all the DHCCP Table A Amounts of the Participating SWP Contractors.

k. "**2008 DHCCP Charge**" means a charge to Contractor included in its annual statement of charges for 2008 that reflects the estimated costs for DHCCP in 2008.

l. "**Department's Share of the Program's Costs**" means fifty percent (50%) of the total DHCCP Planning Phase costs.

m. "**DHCCP Pay-Go Charge**" means the charge to the Contractor pursuant to this Agreement included in its Annual Statement of Charges to recover the Contractor's allocation of Department's Share of the Program's Costs beginning in 2009 and continuing until the Program's Planning Phase is completed or December 31, 2011, which ever is earlier.

n. "**Reclamation**" means the United States Department of the Interior, Bureau of Reclamation.

o. "**Central Valley Project contractors**" means the Central Valley Project contractors that are involved in funding the DHCCP Planning Phase, which are a subset of the total Central Valley Project contractors group.

2. **Purpose of the Agreement**

a. The purpose of this Agreement is to establish the terms and conditions under which Contractor will provide funding to DWR that, along with funding from the other Participating SWP Contractors, will provide all funds needed to pay the actual costs of DWR's Share of the Program's costs.

b. Funding pursuant to this Agreement addresses only the DHCCP Planning Phase. After completing the DHCCP Planning Phase, if the Parties determine to proceed with actions beyond the DHCCP Planning Phase, including the implementation and construction phases of the DHCCP, the Parties may enter into additional funding agreements.

3. **Term of Agreement**

This Agreement will take effect upon execution of the Parties and will remain in effect until the DHCCP Planning Phase is completed or until December 31, 2011, whichever comes first, unless extended by written amendment.

4. **DHCCP Planning Phase Costs**

Should the funding procedures established by this and all other DHCCP SWP Funding Agreements, or funding procedures established by Funding Agreements between DWR and Reclamation or federal contractors, terminate, DWR and the Participating Contractors, other than the Participating Contractors that have withdrawn pursuant to Section 9(a), shall use their best efforts to develop a funding plan that will allow for the timely completion of the DHCCP Planning Phase. Any subsequent funding plan for completion of the DHCCP Planning Phase shall include provisions that ensure that Participating Contractors that have withdrawn do not incur any additional charges related to the completion of the DHCCP Planning Phase. For purposes of this paragraph, "charges" shall mean 1) costs chargeable to the contractor or 2) revenues and/or cash available to pay rate management credits to the contractor. This provision shall survive termination of this Agreement. After one year from the termination of the MOA, nothing in this provision would prevent DWR from charging the Contractor in accordance with its Water Supply Contract to fund other and new Delta conveyance planning activities that are distinct and independent of the DHCCP and BDCP.

5. **2008 DHCCP Charge**

a. Before DWR may implement this section and to obtain funding for DWR's Share of the Program Costs incurred before December 31, 2008, the following must be satisfied: (i) this Agreement is fully executed by the Parties, and (ii) the SWP DHCCP Funding Agreements and the MOA are signed by DWR and the SWP Contractors who are also parties to the MOA. Once DWR and the Participating SWP Contractors who are parties to the MOA have signed the MOA, the Parties agree to abide by the terms and conditions of the MOA, notwithstanding that the Parties recognize the MOA may not have been fully executed.

b. DWR will submit a revised 2008 Statement of Charges to the Contractor that includes Contractor's estimated 2008 DHCCP Charge. The 2008 DHCCP Charge shall be based on actual costs incurred in 2008, pursuant to Paragraph 7 (Program Cost, Budgeting and Allocation). At the time the revised 2008 Statement of Charges is transmitted to the Contractor, DWR shall submit to the Contractor a revised invoice for the month of July 2008 reflecting credits resulting from the release of excess revenue bond reserve funds against Contractor's Transportation Capital charges in an

amount equal to the amount of the revised 2008 Statement of Charges, as provided by the Water Supply Contract.

c. Should the funding from Contractor for the estimated costs be insufficient to cover the actual costs incurred by DWR through December 31, 2008, DWR shall include the Contractor's additional 2008 costs in its 2009 Statement of Charges. After the actual costs incurred up to and including December 31, 2008, have been finally determined, a table reflecting the actual funding advanced by each Participating SWP Contractor in 2008 will be attached hereto as Exhibit 2, without constituting an amendment of this Agreement. All 2008 DHCCP Planning Phase costs will be allocated to each Participating SWP Contractor in proportion to the ratio of its DHCCP Table A Amount to the sum of all Participating SWP Contractors' 2008 DHCCP Table A Amounts. Attached hereto as Exhibit 3A and 3B is a table of each Participating SWP Contractor's estimated share of the 2008 DHCCP Charge.

6. **DHCCP Pay-Go Charge**

a. Before DWR may implement this section to seek funding for costs incurred after December 31, 2008, the following must be completed: (a) this Agreement is fully executed by the Parties and is in full force and effect, (b) the MOA is executed by all of its parties and in effect, and (c) DWR has executed a binding agreement or agreements with Reclamation and certain Central Valley Project contractors which will establish funding procedures that ensure 50 percent of the DHCCP Planning Phase costs are paid by federal interests. The agreements with the Central Valley Project contractors shall also include provisions that (i) require the Central Valley Project contractors to pay 50 percent of the DHCCP Planning Phase costs incurred prior to October 1, 2008 within 14 days of execution of those agreements; and (ii) provide assurances that 50 percent of all costs incurred after October 1, 2008, and until completion of the Program are paid on a schedule and in amounts, similar to the payment schedule and amounts for the Participating SWP Contractors.

b. Except for those costs described in Section 5 above, DWR shall recover DWR's Share of Program Costs through the DHCCP Pay-Go Charge. The DHCCP Pay-Go Charge shall recover these costs incurred or to be incurred by DWR for the DHCCP Planning Phase beginning on January 1, 2009, and, unless sooner terminated pursuant to Article 9 of this Agreement, continuing until the Program's Planning Phase is completed or December 31, 2011, which ever is earlier.

c. To facilitate billing on a calendar year basis, the DHCCP Pay-Go Charge will be computed and included in Contractor's and other Participating SWP

Contractor's Annual Statements of Charges for 2009 and thereafter as long as this Agreement is in effect under the Transportation Minimum Component and shall be collected in 12 equal monthly payments as described in Contractor's Water Supply Contract. The DHCCP Pay-Go Charges shall initially be based on estimates of costs determined pursuant to Section 7 (Program Cost, Budgeting and Allocation). These charges shall be adjusted after the end of each Calendar Year to accurately reflect DWR's Share of Program Costs during that Calendar Year. Such adjustments shall be reflected in the charges in the following calendar year.

d. The DHCCP Pay-Go Charge will be allocated to each Participating SWP Contractor in proportion to the ratio of its DHCCP Table A Amount to the sum of all Participating SWP Contractors' DHCCP Table A Amounts. Attached hereto as Exhibit 4A and 4B is a table of each Participating SWP Contractor's estimated share of the DHCCP Planning Phase Charges for 2009 and 2010. As these charges are adjusted, or should charges be estimated for 2011, or should there be a change in the ratio due to a withdrawal of a Contractor from the Program's Planning Phase, revised versions of Exhibit 4B Contractor shall be attached hereto, without constituting an amendment of this Agreement.

e. DWR prepared a revision to the calendar year 2009 Statement of Charges in mid–December 2008, which includes an estimated allocation of the DHCCP costs among the anticipated participating Contractors. Execution of this Agreement, even if occurring after January 1, 2009, shall constitute agreement by the Contractor to pay the full amount of the Contractor's share of the 2009 DHCCP charge. The full amount of all prior months unpaid payments for 2009 shall be paid by the Contractor on the first monthly payment to DWR following execution of this Agreement.

f. Once the final participation level in the DHCCP Program is known by DWR, DWR shall prepare an amended 2009 DHCCP cost allocation and invoice and the Contractor shall pay the revised amount, if any, over the remaining months in calendar year 2009. This revised invoice is anticipated to be distributed within the first four months of calendar year 2009.

g. The parties recognize that DWR intends to retain approximately $12 million of the excess revenue bond reserve funds to be applied as a credit against the 2008 Transportation Capital charges. DWR also intends to apply approximately $30 million of excess revenue bond reserve fund credits against the January 2009 Transportation Capital payments from the Contractors, with the remaining excess revenue bond reserve fund

credits to be applied as a credit against the July 2009 Transportation Capital payments.

7. **Program Cost, Budget and Allocation**

a. As described in the MOA, DWR will work collaboratively with the DHCCP Executive Committee to determine the budget, schedules, and activities of the DHCCP Planning Phase.

b. The total cost for the DHCCP Planning Phase is currently estimated at $140 million. This estimate may change in the future as more information is developed about the costs of planning and designing the potential BDCP conservation measures and water conveyance facilities.

c. DWR is responsible for formulating the DHCCP Planning Phase Budget with specific DHCCP Planning Phase elements and will work collaboratively through the MOA to develop the budget.

d. The Parties to the MOA have committed to an initial, three-year budget. A copy of the initial budget is attached hereto as Exhibit 5. DWR, in collaboration with the Executive Committee, will consider and approve revised budgets for work as necessary. Revised budget(s) shall be attached hereto as subsequent exhibits, without constituting an amendment of this Agreement, provided they do not exceed the funding limit set forth in Section 7(e).

e. Notwithstanding anything set forth in this Agreement or decided through the MOA process, the maximum amount of DWR's Share of Program Costs that shall be funded through this Agreement and all other DHCCP SWP Funding Agreements shall not exceed $70,000,000.

8. **Reimbursement for DHCCP Planning Phase**

a. If the DHCCP is approved to proceed with construction, DWR intends to issue Revenue Bonds to pay for such construction. DWR shall include in the first issue of Revenue Bonds, pursuant to and consistent with Treasury Regulation 1.150-2, an amount sufficient to reimburse the Contractor and all other Participating SWP Contractors for all planning costs paid through the 2008 DHCCP Charge and the DHCCP Pay-Go Charges. DWR, within 10 days of the effective date of this Agreement, shall adopt the necessary documents to conform to the IRS requirements to allow these costs to be included in a future revenue bond issue.

b. If the DHCCP is not approved to proceed with construction or a revenue bond sale does not occur, no reimbursements will occur. Contractor recognizes that, should the DHCCP not be approved to proceed with

construction, Contractor may pay costs for the DHCCP Planning Phase that are greater than the amount it would have paid if other means of funding the Program, including under the Water Supply Contract, had been utilized. Contractor waives any claims it may have with respect to the greater amount that may be paid by it under this Agreement.

c. The provisions of this Section 8 shall survive termination of this Agreement and/or the MOA.

9. **Withdrawal and Termination**

a. Contractor may withdraw from this Agreement at any time. However, Contractor shall provide 30 days advanced written notice to DWR, all other Participating SWP Contractors, and all Parties to the MOA. The notice of the effective date of its withdrawal shall include a detailed written explanation of why it intends to withdraw.

b. If the MOA terminates, this Agreement shall terminate. However, notwithstanding anything to the contrary set forth in the MOA, DWR agrees that it will not withdraw from the MOA as long as DWR's Share of the Program's Costs remains fully funded. DWR shall remain responsible for administering the provisions of this Agreement that survive termination or withdrawal.

c. If Contractor is a signatory to the MOA, Contractor's withdrawal from the MOA shall be deemed as withdrawal from this Agreement.

d. If any Participating SWP Contractor or Contractors withdraws from its DHCCP SWP Funding Agreement, Contractor, if not a withdrawing party, shall notify DWR within seven days after the effective date of such withdrawal as to whether it intends to continue operating under this Agreement. Failure to provide such notice shall be deemed an agreement to continue as a Party to this Agreement.

e. If one or more Participating SWP Contractors withdraw from their DHCCP SWP Funding Agreements and Contractor decides to continue operating under this Agreement, then Contractor's cost allocation share and the cost allocation shares of all other remaining Participating SWP Contractors will be changed to reflect the new ratios of their DHCCP Table A Amounts to the sum of the remaining Participating SWP Contractors' DHCCP Table A Amounts. Such adjustment shall be made through a revised billing payable in equal installments over the remainder of the then current calendar year or six months from the date the revised billing is received by Contractor, whichever is longer. DWR shall transmit the revised billing to

Contractor within 60 days of the effective date of the withdrawal that triggered the revised cost allocation.

f. In the event of Contractor's noticed withdrawal from this Agreement, Contractor shall no longer be obligated to fund any costs related to DHCCP Planning Phase task orders that are subsequently approved by DWR or that were approved by DWR less than 60 days prior to the date the notice of withdrawal was transmitted to DWR pursuant to Section 9(a). However, Contractor shall remain responsible for its share of the costs of completing any DHCCP Planning Phase task orders approved 60 days prior to the date the notice of withdrawal was transmitted.

g. If termination of the MOA occurs concurrent with or after Contractor's notice of withdrawal from this Agreement but prior to the effective date of the Contractor's withdrawal, or the Contractor has not withdrawn, Contractor is obligated to pay its share of the reasonable termination costs incurred in fulfillment of the DHCCP Planning Phase or the objectives of the MOA, such as costs associated with early termination of consultant contracts. The total termination costs will be shared on a 50-50 basis between the State and federal interests. The Contractor's share of termination costs shall be determined using the same ratio as described in Section 6(d) of this Agreement.

h. The provisions of paragraphs (b), (d), (e), (f) and (g) of this Section 9 shall survive termination of this Agreement and/or the MOA

10. <u>Invoices, Notices Or Other Communications</u>

a. All invoices, notices, or other communications required under this Agreement will be in writing, and will be deemed to have been duly given upon the date of service, if: (i.) served personally on the Party to whom notice is to be given; (ii.) sent by electronic mail, and the Party to whom notice is to be given confirms receipt; or (iii.) on the third day after mailing, if mailed to the Party to whom invoice, notice or other communication is directed, by first-class mail, postage prepaid, and properly addressed to the designated representative(s) of the Party set forth below.

DWR: Chief, State Water Project Analysis Office
Department of Water Resources
State Water Project Analysis Office
Department of Water Resources
1416 Ninth Street, Room 1620
Post Office Box 942836
Sacramento, California 94236-0001

CVWD: Mr. Steve Robbins, General Manager
Coachella Valley Water District
85-995 Avenue 52
Post Office Box 1058
Coachella, California 92236-1058

b. The time for providing any payments, notices, or other communications specified in this Agreement may be extended within the term of this Agreement with the consent of the Parties, confirmed in writing, without requiring an amendment to this Agreement.

11. **No Amendment to Water Supply Contract**
This Agreement does not amend, abridge, or modify the Water Supply Contract in any way.

12. **Amendments**
Except for the addition of exhibits as authorized herein, this Agreement may be amended or modified only by a subsequent written agreement approved and executed by the Parties.

13. **Agreement Conformity**
All Agreements to fund the DHCCP Planning Phase entered into by DWR and Participating SWP Contractors shall be substantially uniform.

14. **Applicable Law**
This Agreement will be construed under and will be deemed to be governed by the laws of the United States and the State of California.

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

16. **Execution in Counterpart**
This Agreement may be executed in counterpart, each of which shall constitute an original, but all of which shall constitute one and the same agreement. Each signing Party shall have received a copy of the signature page signed by every other Party.

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

Approved as to legal form
and Sufficiency

Chief Counsel
Department of Water Resources

MAR 12 2009
Date

State of California
Department of Water Resources

Director

3/12/09
Date

Approved as to legal form
and Sufficiency

Counsel for CVWD

Date

Coachella Valley Water District

General Manager

Date

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

Approved as to legal form
and Sufficiency

Chief Counsel
Department of Water Resources

MAR 12 2009
Date

State of California
Department of Water Resources

Director

3/12/09
Date

Approved as to legal form
and Sufficiency

Counsel for CVWD

3-18-09
Date

Coachella Valley Water District

General Manager

3-17-09
Date

List of Exhibits to be Attached

Exhibit 1: Memorandum of Agreement Regarding Collaboration on the Planning, Preliminary Design and Environmental Compliance for the Delta Habitat Conservation and Conveyance Program in Connection with the Development of the Bay Delta Conservation Plan (Paragraph 1.a)

Exhibit 2: Table of Participating SWP Contractors Actual Advanced Costs for 2008 (Paragraph 5.c)

Exhibit 3: Participating SWP Contractors Share of 2008 Costs (Paragraph 5.c)

Exhibit 4: Participating SWP Contractors Estimated Share of 2009 and 2010 DHCCP Planning Phase Costs (Paragraph 6.d)

Exhibit 5: Initial 3 Year Budget (Paragraph 7.d)

Exhibit 1

(Memorandum of Agreement)

Exhibit 2

(Actual 2008 DHCCP Costs by participating SWP Contractor)
(To be provided once final 2008 costs have been determined)

Exhibit 3A
Estimated 2008 DHCCP Planning Phase Costs
by
All Participating SWP Contractor's

2008 CY Projection	**$**	**23,039,000**
SWPC 50 Percent	**$**	**11,519,500**

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	SWP Contractor Share
Metropolitan WD Of SC	1,911,500	45.81%	$ 5,276,936
Kern County Water Agency	998,730	23.93%	$ 2,757,120
Antelope Valley-East Kern WA	141,400	3.39%	$ 390,352
Coachella Valley WD	121,100	2.90%	$ 334,312
San Bernardino Valley MWD	102,600	2.46%	$ 283,240
Santa Clara Valley WD	100,000	2.40%	$ 276,063
Tulare Lake Basin WSD	95,922	2.30%	$ 264,805
Castaic Lake WA	95,200	2.28%	$ 262,812
Alameda Co FC&WCD - Zone 7	80,619	1.93%	$ 222,559
Mojave Water Agency	75,800	1.82%	$ 209,255
Dudley Ridge WD	57,343	1.37%	$ 158,303
Desert Water Agency	50,000	1.20%	$ 138,031
Solano County WA	47,756	1.14%	$ 131,836
Santa Barbara County FCWCD	45,486	1.09%	$ 125,570
Alameda County WD	42,000	1.01%	$ 115,946
Napa County FC&WCD	29,025	0.70%	$ 80,127
San Gabriel Valley MWD	28,800	0.69%	$ 79,506
Butte County	27,500	0.66%	$ 75,917
San Luis Obispo Co. FC&WCD	25,000	0.60%	$ 69,016
Palmdale WD	21,300	0.51%	$ 58,801
Casitas Municipal WD	20,000	0.48%	$ 55,213
San Gorgonio Pass WA	17,300	0.41%	$ 47,759
City Of Yuba City	9,600	0.23%	$ 26,502
County Of Kings	9,305	0.22%	$ 25,688
Crestline-Lake Arrowhead WA	5,800	0.14%	$ 16,012
Oak Flat WD	5,700	0.14%	$ 15,736
Empire - West Side ID	3,000	0.07%	$ 8,282
Plumas County	2,700	0.06%	$ 7,454
Littlerock Creek ID	2,300	0.06%	$ 6,349
Total Table A	**4,172,786**	**100%**	**11,519,500**

Exhibit 3B
Estimated 2008 DHCCP Planning Phase Costs
by
Estimated Participating SWP Contractor's

2008 CY Projection	$	23,039,000
SWPC 50 Percent	$	11,519,500

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	SWP Contractor Share
Metropolitan WD Of SC	1,911,500	47.37%	$ 5,456,674
Kern County Water Agency	998,730	24.75%	$ 2,851,030
Antelope Valley-East Kern WA	141,400	3.50%	$ 403,648
Coachella Valley WD	121,100	3.00%	$ 345,699
San Bernardino Valley MWD	102,600	2.54%	$ 292,888
Santa Clara Valley WD	100,000	2.48%	$ 285,466
Tulare Lake Basin WSD	95,922	2.38%	$ 273,824
Castaic Lake WA	95,200	2.36%	$ 271,763
Alameda Co FC&WCD - Zone 7	80,619	2.00%	$ 230,139
Mojave Water Agency	75,800	1.88%	$ 216,383
Desert Water Agency	50,000	1.24%	$ 142,733
Solano County WA	47,756	1.18%	$ 136,327
Santa Barbara County FCWCD	45,486	1.13%	$ 129,847
Alameda County WD	42,000	1.04%	$ 119,896
Napa County FC&WCD	29,025	0.72%	$ 82,856
San Gabriel Valley MWD	28,800	0.71%	$ 82,214
San Luis Obispo Co. FC&WCD	25,000	0.62%	$ 71,366
Palmdale WD	21,300	0.53%	$ 60,804
San Gorgonio Pass WA	17,300	0.43%	$ 49,386
Crestline-Lake Arrowhead WA	5,800	0.14%	$ 16,557
Total Table A	**4,035,338**	**100.00%**	**$ 11,519,500**

Exhibit 4A
Estimated 2009-2010 DHCCP Planning Phase Costs
by
All Participating SWP Contractor's

Cal Year	2009	2010
CY Projection	$ 55,242,000	$ 61,368,000
SWPC 50 Percent	$ 27,621,000	$ 30,684,000

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	2009 SWP Contractor Projct'd Share	2010 SWP Contractor Projct'd Share
Metropolitan WD Of SC	1,911,500	45.81%	$ 12,652,828	$ 14,055,949
Kern County Water Agency	998,730	23.93%	$ 6,610,912	$ 7,344,022
Antelope Valley-East Kern WA	141,400	3.39%	$ 935,972	$ 1,039,765
Coachella Valley WD	121,100	2.90%	$ 801,599	$ 890,492
San Bernardino Valley MWD	102,600	2.46%	$ 679,142	$ 754,455
Santa Clara Valley WD	100,000	2.40%	$ 661,932	$ 735,336
Tulare Lake Basin WSD	95,922	2.30%	$ 634,938	$ 705,349
Castaic Lake WA	95,200	2.28%	$ 630,159	$ 700,040
Alameda Co FC&WCD - Zone 7	80,619	1.93%	$ 533,643	$ 592,821
Mojave Water Agency	75,800	1.82%	$ 501,744	$ 557,385
Dudley Ridge WD	57,343	1.37%	$ 379,572	$ 421,664
Desert Water Agency	50,000	1.20%	$ 330,966	$ 367,668
Solano County WA	47,756	1.14%	$ 316,112	$ 351,167
Santa Barbara County FCWCD	45,486	1.09%	$ 301,086	$ 334,475
Alameda County WD	42,000	1.01%	$ 278,011	$ 308,841
Napa County FC&WCD	29,025	0.70%	$ 192,126	$ 213,431
San Gabriel Valley MWD	28,800	0.69%	$ 190,636	$ 211,777
Butte County	27,500	0.66%	$ 182,031	$ 202,217
San Luis Obispo Co. FC&WCD	25,000	0.60%	$ 165,483	$ 183,834
Palmdale WD	21,300	0.51%	$ 140,991	$ 156,627
Casitas Municipal WD	20,000	0.48%	$ 132,386	$ 147,067
San Gorgonio Pass WA	17,300	0.41%	$ 114,514	$ 127,213
City Of Yuba City	9,600	0.23%	$ 63,545	$ 70,592
County Of Kings	9,305	0.22%	$ 61,593	$ 68,423
Crestline-Lake Arrowhead WA	5,800	0.14%	$ 38,392	$ 42,649
Oak Flat WD	5,700	0.14%	$ 37,730	$ 41,914
Empire - West Side ID	3,000	0.07%	$ 19,858	$ 22,060
Plumas County	2,700	0.06%	$ 17,872	$ 19,854
Littlerock Creek ID	2,300	0.06%	$ 15,224	$ 16,913
Total Table A	**4,172,786**	**100%**	**27,621,000**	**30,684,000**

Exhibit 4B
Estimated 2009-2010 DHCCP Planning Phase Costs
by
Estimated Participating SWP Contractor's

Cal Year	2009	2010
CY Projection	$ 55,242,000	$ 61,368,000
SWPC 50 Percent	$ 27,621,000	$ 30,684,000

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	2009 SWP Contractor Projct'd Share	2010 SWP Contractor Projct'd Share
Metropolitan WD Of SC	1,911,500	47.37%	$ 13,083,797	$ 14,534,710
Kern County Water Agency	998,730	24.75%	$ 6,836,087	$ 7,594,167
Antelope Valley-East Kern WA	141,400	3.50%	$ 967,852	$ 1,075,181
Coachella Valley WD	121,100	3.00%	$ 828,903	$ 920,823
San Bernardino Valley MWD	102,600	2.54%	$ 702,274	$ 780,152
Santa Clara Valley WD	100,000	2.48%	$ 684,478	$ 760,382
Tulare Lake Basin WSD	95,922	2.38%	$ 656,565	$ 729,374
Castaic Lake WA	95,200	2.36%	$ 651,623	$ 723,884
Alameda Co FC&WCD - Zone 7	80,619	2.00%	$ 551,819	$ 613,013
Mojave Water Agency	75,800	1.88%	$ 518,834	$ 576,370
Desert Water Agency	50,000	1.24%	$ 342,239	$ 380,191
Solano County WA	47,756	1.18%	$ 326,879	$ 363,128
Santa Barbara County FCWCD	45,486	1.13%	$ 311,342	$ 345,868
Alameda County WD	42,000	1.04%	$ 287,481	$ 319,361
Napa County FC&WCD	29,025	0.72%	$ 198,670	$ 220,701
San Gabriel Valley MWD	28,800	0.71%	$ 197,130	$ 218,990
San Luis Obispo Co. FC&WCD	25,000	0.62%	$ 171,119	$ 190,096
Palmdale WD	21,300	0.53%	$ 145,794	$ 161,961
San Gorgonio Pass WA	17,300	0.43%	$ 118,415	$ 131,546
Crestline-Lake Arrowhead WA	5,800	0.14%	$ 39,700	$ 44,102
Total Table A	**4,035,338**	**100%**	**27,621,000**	**30,684,000**

Exhibit 5
Initial DHCCP Planning Phase Budget
(In 1000)

	2008		2009		2010	
Program Element	Jan-Jun	Jul-Dec	Jan-Jun	Jul-Dec	Jan-Jun	Jul-Dec
Management, Planning, & Administration	$ 0	$ 3,134	$ 2,885	$ 2,915	$ 2,995	$ 2,995
Right of Way	$ 611	$ 3,155	$ 2,818	$ 3,568	$ 3,817	$ 3,817
Preliminary Engineering	$ 476	$ 7,840	$11,115	$11,523	$15,903	$15,903
Environmental Services	$ 178	$ 5,645	$ 6,554	$ 11,390	$ 7,141	$ 6,895
Legal Services	$ 0	$ 455	$ 767	$ 767	$ 518	$ 518
General Operating Expenses	$ 5	$ 1,540	$ 438	$ 502	$ 389	$ 477
Six Month Total	$ 1,270	$21,769	$24,577	$30,665	$30,763	$30,605
Calendar Year Total	$ 23,039		$ 55,242		$ 61,368	

State of California
California Natural Resources Agency
DEPARTMENT OF WATER RESOURCES

AGREEMENT FOR FUNDING BETWEEN THE DEPARTMENT OF WATER RESOURCES AND DESERT WATER AGENCY

FOR THE COSTS OF ENVIRONMENTAL ANALYSIS, PLANNING AND DESIGN OF DELTA CONSERVATION MEASURES, INCLUDING DELTA CONVEYANCE OPTIONS

(SWPAO #09911)

THIS AGREEMENT is made this 5th day of May, 2009, pursuant to the provisions of all applicable laws of the State of California, between the State of California, acting by and through its Department of Water Resources ("DWR"), and Desert Water Agency ("Contractor"). DWR and the Contractor may also be referred to individually as "Party" or collectively as "Parties."

Recitals

A. **WHEREAS**, DWR and Contractor have entered into and subsequently amended a long-term water supply contract, herein referred to as the "Water Supply Contract," providing that DWR will supply certain quantities of water to Contractor, and providing that Contractor shall make certain payments to DWR, and setting forth the terms and conditions of such supply and such payment; and

B. **WHEREAS**, DWR and several State Water Project (SWP) Contractors are parties to a Memorandum of Agreement ("MOA"), providing that they will collaborate to develop the environmental documents, engineering designs, and other necessary information for possible conservation measures, particularly Delta water conveyance options; and

C. **WHEREAS**, the MOA is intended to support and complement the certain activities of the Bay-Delta Conservation Plan ("BDCP") Steering Committee by establishing procedures to facilitate the funding and planning for the Delta water conveyance and habitat conservation studies, which the Parties refer to as the "Planning Phase" of the Delta Habitat Conservation and Conveyance Program ("DHCCP" or "Program"); and

D. **WHEREAS**, DWR and a group of SWP Contractors, collectively known as the "Participating SWP Contractors," believe the DHCCP Planning Phase is necessary to facilitate the assessment and planning of likely conservation measures of the BDCP, analyze responses to the multiple threats to the State's economic well being posed by the current Delta water conveyance system's vulnerability to seismic risk, climate change, and ongoing regulatory prescriptions, and to consider prudent funding sources for species conservation and improved Delta water conveyance facilities in order to achieve related benefits to water supply, water supply reliability, and ecosystem health and resiliency; and

E. **WHEREAS**, subject to any adjustments provided for in the MOA, DWR will fund fifty percent (50%) of the total cost for the DHCCP Planning Phase and will collect that amount from Contractor and other Participating SWP Contractors, pursuant to this and similar Agreements; and

F. **WHEREAS**, subject to any adjustments provided for in the MOA, certain federal Central Valley Project contractors have agreed to fund the remaining 50 percent of the total DHCCP Planning Phase costs and Reclamation, as allowed under federal appropriations law, via in-kind services and a financial assistance agreement, will provide some portion of this 50 percent; and

G. **WHEREAS**, DWR and the Participating SWP Contractors are endeavoring to increase DWR's flexibility to perform work on the DHCCP Planning Phase by modifying the funding practices and providing funds so the DHCCP Planning Phase work may start as soon as possible; and

H. **WHEREAS**, because DWR must have a source of funding to repay and fund the costs of the DHCCP Planning Phase starting in 2008 until its expected completion by 2010, the Contractor, along with the other Participating SWP Contractors, is willing to provide such funds under the terms of this Agreement through the DHCCP charge; and

I. **WHEREAS**, DWR is willing to credit the Contractor and the other Participating SWP Contractors from 2008 excess revenue bond reserve funds, an amount equal to the Contractor's allocation of the 2008 DHCCP Planning Phase costs, and to credit additional reserve funds in 2009 as provided by Article 50 of the Water Supply Contract; and

J. **WHEREAS**, Contractor is willing to enter into this Agreement to pay a share of the DHCCP Planning Phase costs, and, in consideration therefore, DWR is willing to consult with Contractor and other Participating SWP Contractors on decisions related to the budget, scope, schedule, and activities of the Program's Planning Phase to ensure its timely completion in a cost-efficient manner, and

K. **WHEREAS,** it is DWR's intent that all funds needed to meet DWR's Share of the Program's Costs will be collected through this and all other SWP DHCCP Funding Agreements.

AGREEMENT

NOW THEREFORE, it is mutually agreed by DWR and Contractor as follows:

1. **Definitions**

When used in this Agreement, the definitions in the Water Supply Contract shall apply. In addition, the following definitions shall apply:

a. "**DHCCP**" or "**Program**" means the proposed development of possible BDCP conservation measures, including Delta conveyance options as described in the MOA.

b. "**DHCCP Planning Phase**" or "**Program's Planning Phase**" means the proposed development of environmental documents, planning, engineering designs, and other necessary information for possible BDCP conservation measures, including Delta conveyance options as described in the MOA. It does not include construction activity for any BDCP conservation measure, including any Delta Conveyance option.

c. "**MOA**" means the "Memorandum of Agreement Regarding Collaboration on the Planning, Preliminary Design and Environmental Compliance for the Delta Habitat Conservation and Conveyance Program in Connection with the Development of the Bay Delta Conservation Plan," a copy of which is attached hereto as Exhibit 1.

d. "**SWP**" means the State Water Project operated by DWR. The SWP generally includes the State Water Facilities, as defined in California Water Code section 12934(d), and certain facilities found in the Central Valley Project Act at section 11100 et. seq.

e. "**Water Supply Contract**" means the long-term water supply contract between Contractor and DWR, and similar contracts entered into by DWR and other Participating SWP Contractors.

f. "**Water Supply Contractor**" means one of the contractors that signed a Water Supply Contract which is still in effect.

g. "**DHCCP SWP Funding Agreement**" means this Agreement and agreements substantially the same as this Agreement signed by Participating SWP Contractors and DWR.

h. "**Participating SWP Contractor**" means a SWP Water Supply Contractor that has executed a DHCCP SWP Funding Agreement.

i. "**Calendar Year**" means the period January 1 through December 31.

j. "**DHCCP Table A Amount**" means, for Contractor, the maximum Table A amount as listed in its Water Supply Contract. The DHCCP Table A Amount will be used each year to calculate the Contractor's share of the DHCCP Planning Phase charges as a percentage of the sum of all the DHCCP Table A Amounts of the Participating SWP Contractors.

k. "**2008 DHCCP Charge**" means a charge to Contractor included in its annual statement of charges for 2008 that reflects the estimated costs for DHCCP in 2008.

l. "**Department's Share of the Program's Costs**" means fifty percent (50%) of the total DHCCP Planning Phase costs.

m. "**DHCCP Pay-Go Charge**" means the charge to the Contractor pursuant to this Agreement included in its Annual Statement of Charges to recover the Contractor's allocation of Department's Share of the Program's Costs beginning in 2009 and continuing until the Program's Planning Phase is completed or December 31, 2011, which ever is earlier.

n. "**Reclamation**" means the United States Department of the Interior, Bureau of Reclamation.

o. "**Central Valley Project contractors**" means the Central Valley Project contractors that are involved in funding the DHCCP Planning Phase, which are a subset of the total Central Valley Project contractors group.

2. **Purpose of the Agreement**

a. The purpose of this Agreement is to establish the terms and conditions under which Contractor will provide funding to DWR that, along with funding from the other Participating SWP Contractors, will provide all funds needed to pay the actual costs of DWR's Share of the Program's costs.

b. Funding pursuant to this Agreement addresses only the DHCCP Planning Phase. After completing the DHCCP Planning Phase, if the Parties determine to proceed with actions beyond the DHCCP Planning Phase, including the implementation and construction phases of the DHCCP, the Parties may enter into additional funding agreements.

3. **Term of Agreement**

This Agreement will take effect upon execution of the Parties and will remain in effect until the DHCCP Planning Phase is completed or until December 31, 2011, whichever comes first, unless extended by written amendment.

4. **DHCCP Planning Phase Costs**

Should the funding procedures established by this and all other DHCCP SWP Funding Agreements, or funding procedures established by Funding Agreements between DWR and Reclamation or federal contractors, terminate, DWR and the Participating Contractors, other than the Participating Contractors that have withdrawn pursuant to Section 9(a), shall use their best efforts to develop a funding plan that will allow for the timely completion of the DHCCP Planning Phase. Any subsequent funding plan for completion of the DHCCP Planning Phase shall include provisions that ensure that Participating Contractors that have withdrawn do not incur any additional charges related to the completion of the DHCCP Planning Phase. For purposes of this paragraph, "charges" shall mean 1) costs chargeable to the contractor or 2) revenues and/or cash available to pay rate management credits to the contractor. This provision shall survive termination of this Agreement. After one year from the termination of the MOA, nothing in this provision would prevent DWR from charging the Contractor in accordance with its Water Supply Contract to fund other and new Delta conveyance planning activities that are distinct and independent of the DHCCP and BDCP.

5. **2008 DHCCP Charge**

a. Before DWR may implement this section and to obtain funding for DWR's Share of the Program Costs incurred before December 31, 2008, the following must be satisfied: (i) this Agreement is fully executed by the Parties, and (ii) the SWP DHCCP Funding Agreements and the MOA are signed by DWR and the SWP Contractors who are also parties to the MOA. Once DWR and the Participating SWP Contractors who are parties to the MOA have signed the MOA, the Parties agree to abide by the terms and conditions of the MOA, notwithstanding that the Parties recognize the MOA may not have been fully executed.

b. DWR will submit a revised 2008 Statement of Charges to the Contractor that includes Contractor's estimated 2008 DHCCP Charge. The 2008 DHCCP Charge shall be based on actual costs incurred in 2008, pursuant to Paragraph 7 (Program Cost, Budgeting and Allocation). At the time the revised 2008 Statement of Charges is transmitted to the Contractor, DWR shall submit to the Contractor a revised invoice for the month of July 2008 reflecting credits resulting from the release of excess revenue bond reserve funds against Contractor's Transportation Capital charges in an amount equal to the amount of the revised 2008 Statement of Charges, as provided by the Water Supply Contract.

c. Should the funding from Contractor for the estimated costs be insufficient to cover the actual costs incurred by DWR through December 31, 2008, DWR shall include the Contractor's additional 2008 costs in its 2009

Statement of Charges. After the actual costs incurred up to and including December 31, 2008, have been finally determined, a table reflecting the actual funding advanced by each Participating SWP Contractor in 2008 will be attached hereto as Exhibit 2, without constituting an amendment of this Agreement. All 2008 DHCCP Planning Phase costs will be allocated to each Participating SWP Contractor in proportion to the ratio of its DHCCP Table A Amount to the sum of all Participating SWP Contractors' 2008 DHCCP Table A Amounts. Attached hereto as Exhibit 3A and 3B is a table of each Participating SWP Contractor's estimated share of the 2008 DHCCP Charge.

6. **DHCCP Pay-Go Charge**

a. Before DWR may implement this section to seek funding for costs incurred after December 31, 2008, the following must be completed: (a) this Agreement is fully executed by the Parties and is in full force and effect, (b) the MOA is executed by all of its parties and in effect, and (c) DWR has executed a binding agreement or agreements with Reclamation and certain Central Valley Project contractors which will establish funding procedures that ensure 50 percent of the DHCCP Planning Phase costs are paid by federal interests. The agreements with the Central Valley Project contractors shall also include provisions that (i) require the Central Valley Project contractors to pay 50 percent of the DHCCP Planning Phase costs incurred prior to October 1, 2008 within 14 days of execution of those agreements; and (ii) provide assurances that 50 percent of all costs incurred after October 1, 2008, and until completion of the Program are paid on a schedule and in amounts, similar to the payment schedule and amounts for the Participating SWP Contractors.

b. Except for those costs described in Section 5 above, DWR shall recover DWR's Share of Program Costs through the DHCCP Pay-Go Charge. The DHCCP Pay-Go Charge shall recover these costs incurred or to be incurred by DWR for the DHCCP Planning Phase beginning on January 1, 2009, and, unless sooner terminated pursuant to Article 9 of this Agreement, continuing until the Program's Planning Phase is completed or December 31, 2011, which ever is earlier.

c. To facilitate billing on a calendar year basis, the DHCCP Pay-Go Charge will be computed and included in Contractor's and other Participating SWP Contractor's Annual Statements of Charges for 2009 and thereafter as long as this Agreement is in effect under the Transportation Minimum Component and shall be collected in 12 equal monthly payments as described in Contractor's Water Supply Contract. The DHCCP Pay-Go Charges shall initially be based on estimates of costs determined pursuant to Section 7 (Program Cost, Budgeting and Allocation). These charges

shall be adjusted after the end of each Calendar Year to accurately reflect DWR's Share of Program Costs during that Calendar Year. Such adjustments shall be reflected in the charges in the following calendar year.

d. The DHCCP Pay-Go Charge will be allocated to each Participating SWP Contractor in proportion to the ratio of its DHCCP Table A Amount to the sum of all Participating SWP Contractors' DHCCP Table A Amounts. Attached hereto as Exhibit 4A and 4B is a table of each Participating SWP Contractor's estimated share of the DHCCP Planning Phase Charges for 2009 and 2010. As these charges are adjusted, or should charges be estimated for 2011, or should there be a change in the ratio due to a withdrawal of a Contractor from the Program's Planning Phase, revised versions of Exhibit 4B Contractor shall be attached hereto, without constituting an amendment of this Agreement.

e. DWR prepared a revision to the calendar year 2009 Statement of Charges in mid–December 2008, which includes an estimated allocation of the DHCCP costs among the anticipated participating Contractors. Execution of this Agreement, even if occurring after January 1, 2009, shall constitute agreement by the Contractor to pay the full amount of the Contractor's share of the 2009 DHCCP charge. The full amount of all prior months unpaid payments for 2009 shall be paid by the Contractor on the first monthly payment to DWR following execution of this Agreement.

f. Once the final participation level in the DHCCP Program is known by DWR, DWR shall prepare an amended 2009 DHCCP cost allocation and invoice and the Contractor shall pay the revised amount, if any, over the remaining months in calendar year 2009. This revised invoice is anticipated to be distributed within the first four months of calendar year 2009.

g. The parties recognize that DWR intends to retain approximately $12 million of the excess revenue bond reserve funds to be applied as a credit against the 2008 Transportation Capital charges. DWR also intends to apply approximately $30 million of excess revenue bond reserve fund credits against the January 2009 Transportation Capital payments from the Contractors, with the remaining excess revenue bond reserve fund credits to be applied as a credit against the July 2009 Transportation Capital payments.

7. **Program Cost, Budget and Allocation**

a. As described in the MOA, DWR will work collaboratively with the DHCCP Executive Committee to determine the budget, schedules, and activities of the DHCCP Planning Phase.

b. The total cost for the DHCCP Planning Phase is currently estimated at $140 million. This estimate may change in the future as more information is developed about the costs of planning and designing the potential BDCP conservation measures and water conveyance facilities.

c. DWR is responsible for formulating the DHCCP Planning Phase Budget with specific DHCCP Planning Phase elements and will work collaboratively through the MOA to develop the budget.

d. The Parties to the MOA have committed to an initial, three-year budget. A copy of the initial budget is attached hereto as Exhibit 5. DWR, in collaboration with the Executive Committee, will consider and approve revised budgets for work as necessary. Revised budget(s) shall be attached hereto as subsequent exhibits, without constituting an amendment of this Agreement, provided they do not exceed the funding limit set forth in Section 7(e).

e. Notwithstanding anything set forth in this Agreement or decided through the MOA process, the maximum amount of DWR's Share of Program Costs that shall be funded through this Agreement and all other DHCCP SWP Funding Agreements shall not exceed $70,000,000.

8. **Reimbursement for DHCCP Planning Phase**

a. If the DHCCP is approved to proceed with construction, DWR intends to issue Revenue Bonds to pay for such construction. DWR shall include in the first issue of Revenue Bonds, pursuant to and consistent with Treasury Regulation 1.150-2, an amount sufficient to reimburse the Contractor and all other Participating SWP Contractors for all planning costs paid through the 2008 DHCCP Charge and the DHCCP Pay-Go Charges. DWR, within 10 days of the effective date of this Agreement, shall adopt the necessary documents to conform to the IRS requirements to allow these costs to be included in a future revenue bond issue.

b. If the DHCCP is not approved to proceed with construction or a revenue bond sale does not occur, no reimbursements will occur. Contractor recognizes that, should the DHCCP not be approved to proceed with construction, Contractor may pay costs for the DHCCP Planning Phase that are greater than the amount it would have paid if other means of funding the Program, including under the Water Supply Contract, had

been utilized. Contractor waives any claims it may have with respect to the greater amount that may be paid by it under this Agreement.

c. The provisions of this Section 8 shall survive termination of this Agreement and/or the MOA.

9. **Withdrawal and Termination**

a. Contractor may withdraw from this Agreement at any time. However, Contractor shall provide 30 days advanced written notice to DWR, all other Participating SWP Contractors, and all Parties to the MOA. The notice of the effective date of its withdrawal shall include a detailed written explanation of why it intends to withdraw.

b. If the MOA terminates, this Agreement shall terminate. However, notwithstanding anything to the contrary set forth in the MOA, DWR agrees that it will not withdraw from the MOA as long as DWR's Share of the Program's Costs remains fully funded. DWR shall remain responsible for administering the provisions of this Agreement that survive termination or withdrawal.

c. If Contractor is a signatory to the MOA, Contractor's withdrawal from the MOA shall be deemed as withdrawal from this Agreement.

d. If any Participating SWP Contractor or Contractors withdraws from its DHCCP SWP Funding Agreement, Contractor, if not a withdrawing party, shall notify DWR within seven days after the effective date of such withdrawal as to whether it intends to continue operating under this Agreement. Failure to provide such notice shall be deemed an agreement to continue as a Party to this Agreement.

e. If one or more Participating SWP Contractors withdraw from their DHCCP SWP Funding Agreements and Contractor decides to continue operating under this Agreement, then Contractor's cost allocation share and the cost allocation shares of all other remaining Participating SWP Contractors will be changed to reflect the new ratios of their DHCCP Table A Amounts to the sum of the remaining Participating SWP Contractors' DHCCP Table A Amounts. Such adjustment shall be made through a revised billing payable in equal installments over the remainder of the then current calendar year or six months from the date the revised billing is received by Contractor, whichever is longer. DWR shall transmit the revised billing to Contractor within 60 days of the effective date of the withdrawal that triggered the revised cost allocation.

f. In the event of Contractor's noticed withdrawal from this Agreement, Contractor shall no longer be obligated to fund any costs related to DHCCP Planning Phase task orders that are subsequently approved by DWR or that were approved by DWR less than 60 days prior to the date the notice of withdrawal was transmitted to DWR pursuant to Section 9(a). However, Contractor shall remain responsible for its share of the costs of completing any DHCCP Planning Phase task orders approved 60 days prior to the date the notice of withdrawal was transmitted.

g. If termination of the MOA occurs concurrent with or after Contractor's notice of withdrawal from this Agreement but prior to the effective date of the Contractor's withdrawal, or the Contractor has not withdrawn, Contractor is obligated to pay its share of the reasonable termination costs incurred in fulfillment of the DHCCP Planning Phase or the objectives of the MOA, such as costs associated with early termination of consultant contracts. The total termination costs will be shared on a 50-50 basis between the State and federal interests. The Contractor's share of termination costs shall be determined using the same ratio as described in Section 6(d) of this Agreement.

h. The provisions of paragraphs (b), (d), (e), (f) and (g) of this Section 9 shall survive termination of this Agreement and/or the MOA

10. **Invoices, Notices Or Other Communications**

a. All invoices, notices, or other communications required under this Agreement will be in writing, and will be deemed to have been duly given upon the date of service, if: (i.) served personally on the Party to whom notice is to be given; (ii.) sent by electronic mail, and the Party to whom notice is to be given confirms receipt; or (iii.) on the third day after mailing, if mailed to the Party to whom invoice, notice or other communication is directed, by first-class mail, postage prepaid, and properly addressed to the designated representative(s) of the Party set forth below.

DWR: Chief, State Water Project Analysis Office
Department of Water Resources
State Water Project Analysis Office
Department of Water Resources
1416 Ninth Street, Room 1620
Post Office Box 942836
Sacramento, California 94236-0001

DWA: Mr. David K. Luker
General Manager
Desert Water Agency
Post Office Box 1710
Palm Springs, California 92263-1710

b. The time for providing any payments, notices, or other communications specified in this Agreement may be extended within the term of this Agreement with the consent of the Parties, confirmed in writing, without requiring an amendment to this Agreement.

11. **No Amendment to Water Supply Contract**
This Agreement does not amend, abridge, or modify the Water Supply Contract in any way.

12. **Amendments**
Except for the addition of exhibits as authorized herein, this Agreement may be amended or modified only by a subsequent written agreement approved and executed by the Parties.

13. **Agreement Conformity**
All Agreements to fund the DHCCP Planning Phase entered into by DWR and Participating SWP Contractors shall be substantially uniform.

14. **Applicable Law**
This Agreement will be construed under and will be deemed to be governed by the laws of the United States and the State of California.

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

16. **Execution in Counterpart**
This Agreement may be executed in counterpart, each of which shall constitute an original, but all of which shall constitute one and the same agreement. Each signing Party shall have received a copy of the signature page signed by every other Party.

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

Approved as to legal form
and Sufficiency

Chief Counsel
Department of Water Resources

MAR 12 2009
Date

State of California
Department of Water Resources

Director

3/12/09
Date

Approved as to legal form
and Sufficiency

Counsel for DWA

Date

Desert Water Agency

General Manager

Date

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

Approved as to legal form
and Sufficiency

Chief Counsel
Department of Water Resources

MAR 12 2009
Date

State of California
Department of Water Resources

Director

3/12/09
Date

Approved as to legal form
and Sufficiency

Counsel for DWA

5/5/09
Date

Desert Water Agency

Thomas Kirkpatrick
General Manager
BOARD PRESIDENT

5/5/09
Date

List of Exhibits to be Attached

Exhibit 1: Memorandum of Agreement Regarding Collaboration on the Planning, Preliminary Design and Environmental Compliance for the Delta Habitat Conservation and Conveyance Program in Connection with the Development of the Bay Delta Conservation Plan (Paragraph 1.a)

Exhibit 2: Table of Participating SWP Contractors Actual Advanced Costs for 2008 (Paragraph 5.c)

Exhibit 3: Participating SWP Contractors Share of 2008 Costs (Paragraph 5.c)

Exhibit 4: Participating SWP Contractors Estimated Share of 2009 and 2010 DHCCP Planning Phase Costs (Paragraph 6.d)

Exhibit 5: Initial 3 Year Budget (Paragraph 7.d)

Exhibit 1

(Memorandum of Agreement)

Exhibit 2

(Actual 2008 DHCCP Costs by participating SWP Contractor)
(To be provided once final 2008 costs have been determined)

Exhibit 3A
Estimated 2008 DHCCP Planning Phase Costs
by
All Participating SWP Contractor's

2008 CY Projection	**$**	**23,039,000**
SWPC 50 Percent	**$**	**11,519,500**

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	SWP Contractor Share
Metropolitan WD Of SC	1,911,500	45.81%	$ 5,276,936
Kern County Water Agency	998,730	23.93%	$ 2,757,120
Antelope Valley-East Kern WA	141,400	3.39%	$ 390,352
Coachella Valley WD	121,100	2.90%	$ 334,312
San Bernardino Valley MWD	102,600	2.46%	$ 283,240
Santa Clara Valley WD	100,000	2.40%	$ 276,063
Tulare Lake Basin WSD	95,922	2.30%	$ 264,805
Castaic Lake WA	95,200	2.28%	$ 262,812
Alameda Co FC&WCD - Zone 7	80,619	1.93%	$ 222,559
Mojave Water Agency	75,800	1.82%	$ 209,255
Dudley Ridge WD	57,343	1.37%	$ 158,303
Desert Water Agency	50,000	1.20%	$ 138,031
Solano County WA	47,756	1.14%	$ 131,836
Santa Barbara County FCWCD	45,486	1.09%	$ 125,570
Alameda County WD	42,000	1.01%	$ 115,946
Napa County FC&WCD	29,025	0.70%	$ 80,127
San Gabriel Valley MWD	28,800	0.69%	$ 79,506
Butte County	27,500	0.66%	$ 75,917
San Luis Obispo Co. FC&WCD	25,000	0.60%	$ 69,016
Palmdale WD	21,300	0.51%	$ 58,801
Casitas Municipal WD	20,000	0.48%	$ 55,213
San Gorgonio Pass WA	17,300	0.41%	$ 47,759
City Of Yuba City	9,600	0.23%	$ 26,502
County Of Kings	9,305	0.22%	$ 25,688
Crestline-Lake Arrowhead WA	5,800	0.14%	$ 16,012
Oak Flat WD	5,700	0.14%	$ 15,736
Empire - West Side ID	3,000	0.07%	$ 8,282
Plumas County	2,700	0.06%	$ 7,454
Littlerock Creek ID	2,300	0.06%	$ 6,349
Total Table A	**4,172,786**	**100%**	**11,519,500**

Exhibit 3B
Estimated 2008 DHCCP Planning Phase Costs
by
Estimated Participating SWP Contractor's

2008 CY Projection	**$**	**23,039,000**
SWPC 50 Percent	**$**	**11,519,500**

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	SWP Contractor Share
Metropolitan WD Of SC	1,911,500	47.37%	$ 5,456,674
Kern County Water Agency	998,730	24.75%	$ 2,851,030
Antelope Valley-East Kern WA	141,400	3.50%	$ 403,648
Coachella Valley WD	121,100	3.00%	$ 345,699
San Bernardino Valley MWD	102,600	2.54%	$ 292,888
Santa Clara Valley WD	100,000	2.48%	$ 285,466
Tulare Lake Basin WSD	95,922	2.38%	$ 273,824
Castaic Lake WA	95,200	2.36%	$ 271,763
Alameda Co FC&WCD - Zone 7	80,619	2.00%	$ 230,139
Mojave Water Agency	75,800	1.88%	$ 216,383
Desert Water Agency	50,000	1.24%	$ 142,733
Solano County WA	47,756	1.18%	$ 136,327
Santa Barbara County FCWCD	45,486	1.13%	$ 129,847
Alameda County WD	42,000	1.04%	$ 119,896
Napa County FC&WCD	29,025	0.72%	$ 82,856
San Gabriel Valley MWD	28,800	0.71%	$ 82,214
San Luis Obispo Co. FC&WCD	25,000	0.62%	$ 71,366
Palmdale WD	21,300	0.53%	$ 60,804
San Gorgonio Pass WA	17,300	0.43%	$ 49,386
Crestline-Lake Arrowhead WA	5,800	0.14%	$ 16,557
Total Table A	**4,035,338**	**100.00%**	**$ 11,519,500**

Exhibit 4A
Estimated 2009-2010 DHCCP Planning Phase Costs
by
All Participating SWP Contractor's

Cal Year	2009	2010
CY Projection	$ 55,242,000	$ 61,368,000
SWPC 50 Percent	$ 27,621,000	$ 30,684,000

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	2009 SWP Contractor Projct'd Share	2010 SWP Contractor Projct'd Share
Metropolitan WD Of SC	1,911,500	45.81%	$ 12,652,828	$ 14,055,949
Kern County Water Agency	998,730	23.93%	$ 6,610,912	$ 7,344,022
Antelope Valley-East Kern WA	141,400	3.39%	$ 935,972	$ 1,039,765
Coachella Valley WD	121,100	2.90%	$ 801,599	$ 890,492
San Bernardino Valley MWD	102,600	2.46%	$ 679,142	$ 754,455
Santa Clara Valley WD	100,000	2.40%	$ 661,932	$ 735,336
Tulare Lake Basin WSD	95,922	2.30%	$ 634,938	$ 705,349
Castaic Lake WA	95,200	2.28%	$ 630,159	$ 700,040
Alameda Co FC&WCD - Zone 7	80,619	1.93%	$ 533,643	$ 592,821
Mojave Water Agency	75,800	1.82%	$ 501,744	$ 557,385
Dudley Ridge WD	57,343	1.37%	$ 379,572	$ 421,664
Desert Water Agency	50,000	1.20%	$ 330,966	$ 367,668
Solano County WA	47,756	1.14%	$ 316,112	$ 351,167
Santa Barbara County FCWCD	45,486	1.09%	$ 301,086	$ 334,475
Alameda County WD	42,000	1.01%	$ 278,011	$ 308,841
Napa County FC&WCD	29,025	0.70%	$ 192,126	$ 213,431
San Gabriel Valley MWD	28,800	0.69%	$ 190,636	$ 211,777
Butte County	27,500	0.66%	$ 182,031	$ 202,217
San Luis Obispo Co. FC&WCD	25,000	0.60%	$ 165,483	$ 183,834
Palmdale WD	21,300	0.51%	$ 140,991	$ 156,627
Casitas Municipal WD	20,000	0.48%	$ 132,386	$ 147,067
San Gorgonio Pass WA	17,300	0.41%	$ 114,514	$ 127,213
City Of Yuba City	9,600	0.23%	$ 63,545	$ 70,592
County Of Kings	9,305	0.22%	$ 61,593	$ 68,423
Crestline-Lake Arrowhead WA	5,800	0.14%	$ 38,392	$ 42,649
Oak Flat WD	5,700	0.14%	$ 37,730	$ 41,914
Empire - West Side ID	3,000	0.07%	$ 19,858	$ 22,060
Plumas County	2,700	0.06%	$ 17,872	$ 19,854
Littlerock Creek ID	2,300	0.06%	$ 15,224	$ 16,913
Total Table A	**4,172,786**	**100%**	**27,621,000**	**30,684,000**

Exhibit 4B
Estimated 2009-2010 DHCCP Planning Phase Costs
by
Estimated Participating SWP Contractor's

Cal Year	2009	2010
CY Projection	$ 55,242,000	$ 61,368,000
SWPC 50 Percent	$ 27,621,000	$ 30,684,000

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	2009 SWP Contractor Projct'd Share	2010 SWP Contractor Projct'd Share
Metropolitan WD Of SC	1,911,500	47.37%	$ 13,083,797	$ 14,534,710
Kern County Water Agency	998,730	24.75%	$ 6,836,087	$ 7,594,167
Antelope Valley-East Kern WA	141,400	3.50%	$ 967,852	$ 1,075,181
Coachella Valley WD	121,100	3.00%	$ 828,903	$ 920,823
San Bernardino Valley MWD	102,600	2.54%	$ 702,274	$ 780,152
Santa Clara Valley WD	100,000	2.48%	$ 684,478	$ 760,382
Tulare Lake Basin WSD	95,922	2.38%	$ 656,565	$ 729,374
Castaic Lake WA	95,200	2.36%	$ 651,623	$ 723,884
Alameda Co FC&WCD - Zone 7	80,619	2.00%	$ 551,819	$ 613,013
Mojave Water Agency	75,800	1.88%	$ 518,834	$ 576,370
Desert Water Agency	50,000	1.24%	$ 342,239	$ 380,191
Solano County WA	47,756	1.18%	$ 326,879	$ 363,128
Santa Barbara County FCWCD	45,486	1.13%	$ 311,342	$ 345,868
Alameda County WD	42,000	1.04%	$ 287,481	$ 319,361
Napa County FC&WCD	29,025	0.72%	$ 198,670	$ 220,701
San Gabriel Valley MWD	28,800	0.71%	$ 197,130	$ 218,990
San Luis Obispo Co. FC&WCD	25,000	0.62%	$ 171,119	$ 190,096
Palmdale WD	21,300	0.53%	$ 145,794	$ 161,961
San Gorgonio Pass WA	17,300	0.43%	$ 118,415	$ 131,546
Crestline-Lake Arrowhead WA	5,800	0.14%	$ 39,700	$ 44,102
Total Table A	**4,035,338**	**100%**	**27,621,000**	**30,684,000**

Exhibit 5
Initial DHCCP Planning Phase Budget
(In 1000)

	2008		2009		2010	
Program Element	Jan-Jun	Jul-Dec	Jan-Jun	Jul-Dec	Jan-Jun	Jul-Dec
Management, Planning, & Administration	$ 0	$ 3,134	$ 2,885	$ 2,915	$ 2,995	$ 2,995
Right of Way	$ 611	$ 3,155	$ 2,818	$ 3,568	$ 3,817	$ 3,817
Preliminary Engineering	$ 476	$ 7,840	$11,115	$11,523	$15,903	$15,903
Environmental Services	$ 178	$ 5,645	$ 6,554	$ 11,390	$ 7,141	$ 6,895
Legal Services	$ 0	$ 455	$ 767	$ 767	$ 518	$ 518
General Operating Expenses	$ 5	$ 1,540	$ 438	$ 502	$ 389	$ 477
Six Month Total	$ 1,270	$21,769	$24,577	$30,665	$30,763	$30,605
Calendar Year Total	$ 23,039		$ 55,242		$ 61,368	

State of California
California Natural Resources Agency
DEPARTMENT OF WATER RESOURCES

AGREEMENT FOR FUNDING BETWEEN THE DEPARTMENT OF WATER RESOURCES AND KERN COUNTY WATER AGENCY

FOR THE COSTS OF ENVIRONMENTAL ANALYSIS, PLANNING AND DESIGN OF DELTA CONSERVATION MEASURES, INCLUDING DELTA CONVEYANCE OPTIONS

(SWPAO #09901)

THIS AGREEMENT is made this 12th day of March, 2009, pursuant to the provisions of all applicable laws of the State of California, between the State of California, acting by and through its Department of Water Resources ("DWR"), and Kern County Water Agency ("Contractor"). DWR and the Contractor may also be referred to individually as "Party" or collectively as "Parties."

Recitals

A. **WHEREAS**, DWR and Contractor have entered into and subsequently amended a long-term water supply contract, herein referred to as the "Water Supply Contract," providing that DWR will supply certain quantities of water to Contractor, and providing that Contractor shall make certain payments to DWR, and setting forth the terms and conditions of such supply and such payment; and

B. **WHEREAS**, DWR and several State Water Project (SWP) Contractors are parties to a Memorandum of Agreement ("MOA"), providing that they will collaborate to develop the environmental documents, engineering designs, and other necessary information for possible conservation measures, particularly Delta water conveyance options; and

C. **WHEREAS**, the MOA is intended to support and complement the certain activities of the Bay-Delta Conservation Plan ("BDCP") Steering Committee by establishing procedures to facilitate the funding and planning for the Delta water conveyance and habitat conservation studies, which the Parties refer to as the "Planning Phase" of the Delta Habitat Conservation and Conveyance Program ("DHCCP" or "Program"); and

D. **WHEREAS**, DWR and a group of SWP Contractors, collectively known as the "Participating SWP Contractors," believe the DHCCP Planning Phase is necessary to facilitate the assessment and planning of likely conservation measures of the BDCP, analyze responses to the multiple threats to the State's economic well being posed by the current Delta water conveyance system's vulnerability to seismic risk, climate change, and ongoing regulatory prescriptions, and to consider prudent funding sources for species conservation and improved Delta water conveyance facilities in order to achieve related benefits to water supply, water supply reliability, and ecosystem health and resiliency; and

E. **WHEREAS**, subject to any adjustments provided for in the MOA, DWR will fund fifty percent (50%) of the total cost for the DHCCP Planning Phase and will collect that amount from Contractor and other Participating SWP Contractors, pursuant to this and similar Agreements; and

F. **WHEREAS**, subject to any adjustments provided for in the MOA, certain federal Central Valley Project contractors have agreed to fund the remaining 50 percent of the total DHCCP Planning Phase costs and Reclamation, as allowed under federal appropriations law, via in-kind services and a financial assistance agreement, will provide some portion of this 50 percent; and

G. **WHEREAS**, DWR and the Participating SWP Contractors are endeavoring to increase DWR's flexibility to perform work on the DHCCP Planning Phase by

modifying the funding practices and providing funds so the DHCCP Planning Phase work may start as soon as possible; and

H. **WHEREAS**, because DWR must have a source of funding to repay and fund the costs of the DHCCP Planning Phase starting in 2008 until its expected completion by 2010, the Contractor, along with the other Participating SWP Contractors, is willing to provide such funds under the terms of this Agreement through the DHCCP charge; and

I. **WHEREAS**, DWR is willing to credit the Contractor and the other Participating SWP Contractors from 2008 excess revenue bond reserve funds, an amount equal to the Contractor's allocation of the 2008 DHCCP Planning Phase costs, and to credit additional reserve funds in 2009 as provided by Article 50 of the Water Supply Contract; and

J. **WHEREAS**, Contractor is willing to enter into this Agreement to pay a share of the DHCCP Planning Phase costs, and, in consideration therefore, DWR is willing to consult with Contractor and other Participating SWP Contractors on decisions related to the budget, scope, schedule, and activities of the Program's Planning Phase to ensure its timely completion in a cost-efficient manner, and

K. **WHEREAS**, it is DWR's intent that all funds needed to meet DWR's Share of the Program's Costs will be collected through this and all other SWP DHCCP Funding Agreements.

AGREEMENT

NOW THEREFORE, it is mutually agreed by DWR and Contractor as follows:

1. **Definitions**

When used in this Agreement, the definitions in the Water Supply Contract shall apply. In addition, the following definitions shall apply:

a. **"DHCCP"** or **"Program"** means the Delta Habitat Conservation and Conveyance Program that will develop possible BDCP conservation measures, including Delta conveyance options as described in the MOA.

b. **"DHCCP Planning Phase"** or **"Program's Planning Phase"** means the proposed development of environmental documents, planning, engineering designs, and other necessary information for possible BDCP conservation measures, including Delta conveyance options as described in the MOA. It does not include construction activity for any BDCP conservation measure, including any Delta Conveyance option.

c. **"MOA"** means the "Memorandum of Agreement Regarding Collaboration on the Planning, Preliminary Design and Environmental Compliance for the Delta Habitat Conservation and Conveyance Program in Connection with the Development of the Bay Delta Conservation Plan," a copy of which is attached hereto as Exhibit 1.

d. **"SWP"** means the State Water Project operated by DWR. The SWP generally includes the State Water Facilities, as defined in California Water Code section 12934(d), and certain facilities found in the Central Valley Project Act at section 11100 et. seq.

e. **"Water Supply Contract"** means the long-term water supply contract between Contractor and DWR, and similar contracts entered into by DWR and other Participating SWP Contractors.

f. **"Water Supply Contractor"** means one of the contractors that signed a Water Supply Contract which is still in effect.

g. **"DHCCP SWP Funding Agreement"** means this Agreement and agreements substantially the same as this Agreement signed by Participating SWP Contractors and DWR.

h. **"Participating SWP Contractor"** means a SWP Water Supply Contractor that has executed a DHCCP SWP Funding Agreement.

i. **"Calendar Year"** means the period January 1 through December 31.

j. "**DHCCP Table A Amount**" means, for Contractor, the maximum Table A amount as listed in its Water Supply Contract. The DHCCP Table A Amount will be used each year to calculate the Contractor's share of the DHCCP Planning Phase charges as a percentage of the sum of all the DHCCP Table A Amounts of the Participating SWP Contractors.

k. "**2008 DHCCP Charge**" means a charge to Contractor included in its annual statement of charges for 2008 that reflects the estimated costs for DHCCP in 2008.

l. "**Department's Share of the Program's Costs**" means fifty percent (50%) of the total DHCCP Planning Phase costs.

m. "**DHCCP Pay-Go Charge**" means the charge to the Contractor pursuant to this Agreement included in its Annual Statement of Charges to recover the Contractor's allocation of Department's Share of the Program's Costs beginning in 2009 and continuing until the Program's Planning Phase is completed or December 31, 2011, which ever is earlier.

n. "**Reclamation**" means the United States Department of the Interior, Bureau of Reclamation.

o. "**Central Valley Project contractors**" means the Central Valley Project contractors that are involved in funding the DHCCP Planning Phase, which are a subset of the total Central Valley Project contractors group.

2. **Purpose of the Agreement**

a. The purpose of this Agreement is to establish the terms and conditions under which Contractor will provide funding to DWR that, along with funding from the other Participating SWP Contractors, will provide all funds needed to pay the actual costs of DWR's Share of the Program's costs.

b. Funding pursuant to this Agreement addresses only the DHCCP Planning Phase. After completing the DHCCP Planning Phase, if the Parties determine to proceed with actions beyond the DHCCP Planning Phase, including the implementation and construction phases of the DHCCP, the Parties may enter into additional funding agreements.

3. **Term of Agreement**

This Agreement will take effect upon execution of the Parties and will remain in effect until the DHCCP Planning Phase is completed or until December 31, 2011, whichever comes first, unless extended by written amendment.

4. **DHCCP Planning Phase Costs**

Should the funding procedures established by this and all other DHCCP SWP Funding Agreements, or funding procedures established by Funding Agreements between DWR and Reclamation or federal contractors, terminate, DWR and the Participating Contractors, other than the Participating Contractors that have withdrawn pursuant to Section 9(a), shall use their best efforts to develop a funding plan that will allow for the timely completion of the DHCCP Planning Phase. Any subsequent funding plan for completion of the DHCCP Planning Phase shall include provisions that ensure that Participating Contractors that have withdrawn do not incur any additional charges related to the completion of the DHCCP Planning Phase. For purposes of this paragraph, "charges" shall mean 1) costs chargeable to the contractor or 2) revenues and/or cash available to pay rate management credits to the contractor. This provision shall survive termination of this Agreement. After one year from the termination of the MOA, nothing in this provision would prevent DWR from charging the Contractor in accordance with its Water Supply Contract to fund other and new Delta conveyance planning activities that are distinct and independent of the DHCCP and BDCP.

5. **2008 DHCCP Charge**

a. Before DWR may implement this section and to obtain funding for DWR's Share of the Program Costs incurred before December 31, 2008, the following must be satisfied: (i) this Agreement is fully executed by the Parties, and (ii) the SWP DHCCP Funding Agreements and the MOA are signed by DWR and the SWP Contractors who are also parties to the MOA. Once DWR and the Participating SWP Contractors who are parties to the MOA have signed the MOA, the Parties agree to abide by the terms and conditions of the MOA, notwithstanding that the Parties recognize the MOA may not have been fully executed.

b. DWR will submit a revised 2008 Statement of Charges to the Contractor that includes Contractor's estimated 2008 DHCCP Charge. The 2008 DHCCP Charge shall be based on actual costs incurred in 2008, pursuant to Paragraph 7 (Program Cost, Budgeting and Allocation). At the time the revised 2008 Statement of Charges is transmitted to the Contractor, DWR shall submit to the Contractor a revised invoice for the month of July 2008 reflecting credits resulting from the release of excess revenue bond reserve funds against Contractor's Transportation Capital charges in an amount equal to the amount of the revised 2008 Statement of Charges, as provided by the Water Supply Contract.

c. Should the funding from Contractor for the estimated costs be insufficient to cover the actual costs incurred by DWR through December 31, 2008, DWR shall include the Contractor's additional 2008 costs in its 2009

Statement of Charges. After the actual costs incurred up to and including December 31, 2008, have been finally determined, a table reflecting the actual funding advanced by each Participating SWP Contractor in 2008 will be attached hereto as Exhibit 2, without constituting an amendment of this Agreement. All 2008 DHCCP Planning Phase costs will be allocated to each Participating SWP Contractor in proportion to the ratio of its DHCCP Table A Amount to the sum of all Participating SWP Contractors' 2008 DHCCP Table A Amounts. Attached hereto as Exhibit 3A and 3B is a table of each Participating SWP Contractor's estimated share of the 2008 DHCCP Charge.

6. **DHCCP Pay-Go Charge**

a. Before DWR may implement this section to seek funding for costs incurred after December 31, 2008, the following must be completed: (a) this Agreement is fully executed by the Parties and is in full force and effect, (b) the MOA is executed by all of its parties and in effect, and (c) DWR has executed a binding agreement or agreements with Reclamation and certain Central Valley Project contractors which will establish funding procedures that ensure 50 percent of the DHCCP Planning Phase costs are paid by federal interests. The agreements with the Central Valley Project contractors shall also include provisions that (i) require the Central Valley Project contractors to pay 50 percent of the DHCCP Planning Phase costs incurred prior to October 1, 2008 within 14 days of execution of those agreements; and (ii) provide assurances that 50 percent of all costs incurred after October 1, 2008, and until completion of the Program are paid on a schedule and in amounts, similar to the payment schedule and amounts for the Participating SWP Contractors.

b. Except for those costs described in Section 5 above, DWR shall recover DWR's Share of Program Costs through the DHCCP Pay-Go Charge. The DHCCP Pay-Go Charge shall recover these costs incurred or to be incurred by DWR for the DHCCP Planning Phase beginning on January 1, 2009, and, unless sooner terminated pursuant to Article 9 of this Agreement, continuing until the Program's Planning Phase is completed or December 31, 2011, which ever is earlier.

c. To facilitate billing on a calendar year basis, the DHCCP Pay-Go Charge will be computed and included in Contractor's and other Participating SWP

Contractor's Annual Statements of Charges for 2009 and thereafter as long as this Agreement is in effect under the Transportation Minimum Component and shall be collected in 12 equal monthly payments as described in Contractor's Water Supply Contract. The DHCCP Pay-Go Charges shall initially be based on estimates of costs determined pursuant to Section 7 (Program Cost, Budgeting and Allocation). These charges

shall be adjusted after the end of each Calendar Year to accurately reflect DWR's Share of Program Costs during that Calendar Year. Such adjustments shall be reflected in the charges in the following calendar year.

d. The DHCCP Pay-Go Charge will be allocated to each Participating SWP Contractor in proportion to the ratio of its DHCCP Table A Amount to the sum of all Participating SWP Contractors' DHCCP Table A Amounts. Attached hereto as Exhibit 4A and 4B is a table of each Participating SWP Contractor's estimated share of the DHCCP Planning Phase Charges for 2009 and 2010. As these charges are adjusted, or should charges be estimated for 2011, or should there be a change in the ratio due to a withdrawal of a Contractor from the Program's Planning Phase, revised versions of Exhibit 4B Contractor shall be attached hereto, without constituting an amendment of this Agreement.

e. DWR prepared a revision to the calendar year 2009 Statement of Charges in mid–December 2008, which includes an estimated allocation of the DHCCP costs among the anticipated participating Contractors. Execution of this Agreement, even if occurring after January 1, 2009, shall constitute agreement by the Contractor to pay the full amount of the Contractor's share of the 2009 DHCCP charge. The full amount of all prior months unpaid payments for 2009 shall be paid by the Contractor on the first monthly payment to DWR following execution of this Agreement.

f. Once the final participation level in the DHCCP Program is known by DWR, DWR shall prepare an amended 2009 DHCCP cost allocation and invoice and the Contractor shall pay the revised amount, if any, over the remaining months in calendar year 2009. This revised invoice is anticipated to be distributed within the first four months of calendar year 2009.

g. The parties recognize that DWR intends to retain approximately $12 million of the excess revenue bond reserve funds to be applied as a credit against the 2008 Transportation Capital charges. DWR also intends to apply approximately $30 million of excess revenue bond reserve fund credits against the January 2009 Transportation Capital payments from the Contractors, with the remaining excess revenue bond reserve fund credits to be applied as a credit against the July 2009 Transportation Capital payments.

7. **Program Cost, Budget and Allocation**

a. As described in the MOA, DWR will work collaboratively with the DHCCP Executive Committee to determine the budget, schedules, and activities of the DHCCP Planning Phase.

b. The total cost for the DHCCP Planning Phase is currently estimated at $140 million. This estimate may change in the future as more information is developed about the costs of planning and designing the potential BDCP conservation measures and water conveyance facilities.

c. DWR is responsible for formulating the DHCCP Planning Phase Budget with specific DHCCP Planning Phase elements and will work collaboratively through the MOA to develop the budget.

d. The Parties to the MOA have committed to an initial, three-year budget. A copy of the initial budget is attached hereto as Exhibit 5. DWR, in collaboration with the Executive Committee, will consider and approve revised budgets for work as necessary. Revised budget(s) shall be attached hereto as subsequent exhibits, without constituting an amendment of this Agreement, provided they do not exceed the funding limit set forth in Section 7(e).

e. Notwithstanding anything set forth in this Agreement or decided through the MOA process, the maximum amount of DWR's Share of Program Costs that shall be funded through this Agreement and all other DHCCP SWP Funding Agreements shall not exceed $70,000,000.

8. **Reimbursement for DHCCP Planning Phase**

a. If the DHCCP is approved to proceed with construction, DWR intends to issue Revenue Bonds to pay for such construction. DWR shall include in the first issue of Revenue Bonds, pursuant to and consistent with Treasury Regulation 1.150-2, an amount sufficient to reimburse the Contractor and all other Participating SWP Contractors for all planning costs paid through the 2008 DHCCP Charge and the DHCCP Pay-Go Charges. DWR, within 10 days of the effective date of this Agreement, shall adopt the necessary documents to conform to the IRS requirements to allow these costs to be included in a future revenue bond issue.

b. If the DHCCP is not approved to proceed with construction or a revenue bond sale does not occur, no reimbursements will occur. Contractor recognizes that, should the DHCCP not be approved to proceed with construction, Contractor may pay costs for the DHCCP Planning Phase that are greater than the amount it would have paid if other means of funding the Program, including under the Water Supply Contract, had

been utilized. Contractor waives any claims it may have with respect to the greater amount that may be paid by it under this Agreement.

c. The provisions of this Section 8 shall survive termination of this Agreement and/or the MOA.

9. **Withdrawal and Termination**

a. Contractor may withdraw from this Agreement at any time. However, Contractor shall provide 30 days advanced written notice to DWR, all other Participating SWP Contractors, and all Parties to the MOA. The notice of the effective date of its withdrawal shall include a detailed written explanation of why it intends to withdraw.

b. If the MOA terminates, this Agreement shall terminate. However, notwithstanding anything to the contrary set forth in the MOA, DWR agrees that it will not withdraw from the MOA as long as DWR's Share of the Program's Costs remains fully funded. DWR shall remain responsible for administering the provisions of this Agreement that survive termination or withdrawal.

c. If Contractor is a signatory to the MOA, Contractor's withdrawal from the MOA shall be deemed as withdrawal from this Agreement.

d. If any Participating SWP Contractor or Contractors withdraws from its DHCCP SWP Funding Agreement, Contractor, if not a withdrawing party, shall notify DWR within seven days after the effective date of such withdrawal as to whether it intends to continue operating under this Agreement. Failure to provide such notice shall be deemed an agreement to continue as a Party to this Agreement.

e. If one or more Participating SWP Contractors withdraw from their DHCCP SWP Funding Agreements and Contractor decides to continue operating under this Agreement, then Contractor's cost allocation share and the cost allocation shares of all other remaining Participating SWP Contractors will be changed to reflect the new ratios of their DHCCP Table A Amounts to the sum of the remaining Participating SWP Contractors' DHCCP Table A Amounts. Such adjustment shall be made through a revised billing payable in equal installments over the remainder of the then current calendar year or six months from the date the revised billing is received by Contractor, whichever is longer. DWR shall transmit the revised billing to Contractor within 60 days of the effective date of the withdrawal that triggered the revised cost allocation.

f. In the event of Contractor's noticed withdrawal from this Agreement, Contractor shall no longer be obligated to fund any costs related to DHCCP Planning Phase task orders that are subsequently approved by DWR or that were approved by DWR less than 60 days prior to the date the notice of withdrawal was transmitted to DWR pursuant to Section 9(a). However, Contractor shall remain responsible for its share of the costs of completing any DHCCP Planning Phase task orders approved 60 days prior to the date the notice of withdrawal was transmitted.

g. If termination of the MOA occurs concurrent with or after Contractor's notice of withdrawal from this Agreement but prior to the effective date of the Contractor's withdrawal, or the Contractor has not withdrawn, Contractor is obligated to pay its share of the reasonable termination costs incurred in fulfillment of the DHCCP Planning Phase or the objectives of the MOA, such as costs associated with early termination of consultant contracts. The total termination costs will be shared on a 50-50 basis between the State and federal interests. The Contractor's share of termination costs shall be determined using the same ratio as described in Section 6(d) of this Agreement.

h. The provisions of paragraphs (b), (d), (e), (f) and (g) of this Section 9 shall survive termination of this Agreement and/or the MOA

10. <u>Invoices, Notices Or Other Communications</u>

a. All invoices, notices, or other communications required under this Agreement will be in writing, and will be deemed to have been duly given upon the date of service, if: (i.) served personally on the Party to whom notice is to be given; (ii.) sent by electronic mail, and the Party to whom notice is to be given confirms receipt; or (iii.) on the third day after mailing, if mailed to the Party to whom invoice, notice or other communication is directed, by first-class mail, postage prepaid, and properly addressed to the designated representative(s) of the Party set forth below.

DWR: Chief, State Water Project Analysis Office
Department of Water Resources
State Water Project Analysis Office
Department of Water Resources
1416 Ninth Street, Room 1620
Post Office Box 942836
Sacramento, California 94236-0001

KCWA: Mr. James Beck
General Manager
Kern County Water Agency
Post Office Box 58
Bakersfield, California 93302-0058

b. The time for providing any payments, notices, or other communications specified in this Agreement may be extended within the term of this Agreement with the consent of the Parties, confirmed in writing, without requiring an amendment to this Agreement.

11. **No Amendment to Water Supply Contract**
This Agreement does not amend, abridge, or modify the Water Supply Contract in any way.

12. **Amendments**
Except for the addition of exhibits as authorized herein, this Agreement may be amended or modified only by a subsequent written agreement approved and executed by the Parties.

13. **Agreement Conformity**
All Agreements to fund the DHCCP Planning Phase entered into by DWR and Participating SWP Contractors shall be substantially uniform.

14. **Applicable Law**
This Agreement will be construed under and will be deemed to be governed by the laws of the United States and the State of California.

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

16. **Execution in Counterpart**
This Agreement may be executed in counterpart, each of which shall constitute an original, but all of which shall constitute one and the same agreement. Each signing Party shall have received a copy of the signature page signed by every other Party.

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

Approved as to legal form
and Sufficiency

Chief Counsel
Department of Water Resources

MAR 12 2009
Date

State of California
Department of Water Resources

Director

3/12/09
Date

Approved as to legal form
and Sufficiency

Counsel for KCWA

3/12/2009
Date

Kern County Water Agency

General Manager

Date

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

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Chief Counsel
Department of Water Resources

MAR 12 2009
Date

State of California
Department of Water Resources

Director

3/12/09
Date

Approved as to legal form
and Sufficiency

Counsel for KCWA

Date

Kern County Water Agency

General Manager

3/12/09
Date

List of Exhibits to be Attached

Exhibit 1: Memorandum of Agreement Regarding Collaboration on the Planning, Preliminary Design and Environmental Compliance for the Delta Habitat Conservation and Conveyance Program in Connection with the Development of the Bay Delta Conservation Plan (Paragraph 1.a)

Exhibit 2: Table of Participating SWP Contractors Actual Advanced Costs for 2008 (Paragraph 5.c)

Exhibit 3: Participating SWP Contractors Share of 2008 Costs (Paragraph 5.c)

Exhibit 4: Participating SWP Contractors Estimated Share of 2009 and 2010 DHCCP Planning Phase Costs (Paragraph 6.d)

Exhibit 5: Initial 3 Year Budget (Paragraph 7.d)

Exhibit 1

(Memorandum of Agreement)

Exhibit 2

(Actual 2008 DHCCP Costs by participating SWP Contractor)
(To be provided once final 2008 costs have been determined)

Exhibit 3A
Estimated 2008 DHCCP Planning Phase Costs
by
All Participating SWP Contractor's

2008 CY Projection	$	23,039,000
SWPC 50 Percent	$	11,519,500

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	SWP Contractor Share
Metropolitan WD Of SC	1,911,500	45.81%	$ 5,276,936
Kern County Water Agency	998,730	23.93%	$ 2,757,120
Antelope Valley-East Kern WA	141,400	3.39%	$ 390,352
Coachella Valley WD	121,100	2.90%	$ 334,312
San Bernardino Valley MWD	102,600	2.46%	$ 283,240
Santa Clara Valley WD	100,000	2.40%	$ 276,063
Tulare Lake Basin WSD	95,922	2.30%	$ 264,805
Castaic Lake WA	95,200	2.28%	$ 262,812
Alameda Co FC&WCD - Zone 7	80,619	1.93%	$ 222,559
Mojave Water Agency	75,800	1.82%	$ 209,255
Dudley Ridge WD	57,343	1.37%	$ 158,303
Desert Water Agency	50,000	1.20%	$ 138,031
Solano County WA	47,756	1.14%	$ 131,836
Santa Barbara County FCWCD	45,486	1.09%	$ 125,570
Alameda County WD	42,000	1.01%	$ 115,946
Napa County FC&WCD	29,025	0.70%	$ 80,127
San Gabriel Valley MWD	28,800	0.69%	$ 79,506
Butte County	27,500	0.66%	$ 75,917
San Luis Obispo Co. FC&WCD	25,000	0.60%	$ 69,016
Palmdale WD	21,300	0.51%	$ 58,801
Casitas Municipal WD	20,000	0.48%	$ 55,213
San Gorgonio Pass WA	17,300	0.41%	$ 47,759
City Of Yuba City	9,600	0.23%	$ 26,502
County Of Kings	9,305	0.22%	$ 25,688
Crestline-Lake Arrowhead WA	5,800	0.14%	$ 16,012
Oak Flat WD	5,700	0.14%	$ 15,736
Empire - West Side ID	3,000	0.07%	$ 8,282
Plumas County	2,700	0.06%	$ 7,454
Littlerock Creek ID	2,300	0.06%	$ 6,349
Total Table A	**4,172,786**	**100%**	**11,519,500**

Exhibit 3B
Estimated 2008 DHCCP Planning Phase Costs
by
Estimated Participating SWP Contractor's

2008 CY Projection	$	23,039,000
SWPC 50 Percent	$	11,519,500

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	SWP Contractor Share
Metropolitan WD Of SC	1,911,500	47.37%	$ 5,456,674
Kern County Water Agency	998,730	24.75%	$ 2,851,030
Antelope Valley-East Kern WA	141,400	3.50%	$ 403,648
Coachella Valley WD	121,100	3.00%	$ 345,699
San Bernardino Valley MWD	102,600	2.54%	$ 292,888
Santa Clara Valley WD	100,000	2.48%	$ 285,466
Tulare Lake Basin WSD	95,922	2.38%	$ 273,824
Castaic Lake WA	95,200	2.36%	$ 271,763
Alameda Co FC&WCD - Zone 7	80,619	2.00%	$ 230,139
Mojave Water Agency	75,800	1.88%	$ 216,383
Desert Water Agency	50,000	1.24%	$ 142,733
Solano County WA	47,756	1.18%	$ 136,327
Santa Barbara County FCWCD	45,486	1.13%	$ 129,847
Alameda County WD	42,000	1.04%	$ 119,896
Napa County FC&WCD	29,025	0.72%	$ 82,856
San Gabriel Valley MWD	28,800	0.71%	$ 82,214
San Luis Obispo Co. FC&WCD	25,000	0.62%	$ 71,366
Palmdale WD	21,300	0.53%	$ 60,804
San Gorgonio Pass WA	17,300	0.43%	$ 49,386
Crestline-Lake Arrowhead WA	5,800	0.14%	$ 16,557
Total Table A	**4,035,338**	**100.00%**	**$ 11,519,500**

Exhibit 4A

Estimated 2009-2010 DHCCP Planning Phase Costs
by
All Participating SWP Contractor's

Cal Year	2009	2010
CY Projection	$ 55,242,000	$ 61,368,000
SWPC 50 Percent	$ 27,621,000	$ 30,684,000

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	2009 SWP Contractor Projct'd Share	2010 SWP Contractor Projct'd Share
Metropolitan WD Of SC	1,911,500	45.81%	$ 12,652,828	$ 14,055,949
Kern County Water Agency	998,730	23.93%	$ 6,610,912	$ 7,344,022
Antelope Valley-East Kern WA	141,400	3.39%	$ 935,972	$ 1,039,765
Coachella Valley WD	121,100	2.90%	$ 801,599	$ 890,492
San Bernardino Valley MWD	102,600	2.46%	$ 679,142	$ 754,455
Santa Clara Valley WD	100,000	2.40%	$ 661,932	$ 735,336
Tulare Lake Basin WSD	95,922	2.30%	$ 634,938	$ 705,349
Castaic Lake WA	95,200	2.28%	$ 630,159	$ 700,040
Alameda Co FC&WCD - Zone 7	80,619	1.93%	$ 533,643	$ 592,821
Mojave Water Agency	75,800	1.82%	$ 501,744	$ 557,385
Dudley Ridge WD	57,343	1.37%	$ 379,572	$ 421,664
Desert Water Agency	50,000	1.20%	$ 330,966	$ 367,668
Solano County WA	47,756	1.14%	$ 316,112	$ 351,167
Santa Barbara County FCWCD	45,486	1.09%	$ 301,086	$ 334,475
Alameda County WD	42,000	1.01%	$ 278,011	$ 308,841
Napa County FC&WCD	29,025	0.70%	$ 192,126	$ 213,431
San Gabriel Valley MWD	28,800	0.69%	$ 190,636	$ 211,777
Butte County	27,500	0.66%	$ 182,031	$ 202,217
San Luis Obispo Co. FC&WCD	25,000	0.60%	$ 165,483	$ 183,834
Palmdale WD	21,300	0.51%	$ 140,991	$ 156,627
Casitas Municipal WD	20,000	0.48%	$ 132,386	$ 147,067
San Gorgonio Pass WA	17,300	0.41%	$ 114,514	$ 127,213
City Of Yuba City	9,600	0.23%	$ 63,545	$ 70,592
County Of Kings	9,305	0.22%	$ 61,593	$ 68,423
Crestline-Lake Arrowhead WA	5,800	0.14%	$ 38,392	$ 42,649
Oak Flat WD	5,700	0.14%	$ 37,730	$ 41,914
Empire - West Side ID	3,000	0.07%	$ 19,858	$ 22,060
Plumas County	2,700	0.06%	$ 17,872	$ 19,854
Littlerock Creek ID	2,300	0.06%	$ 15,224	$ 16,913
Total Table A	**4,172,786**	**100%**	**27,621,000**	**30,684,000**

Exhibit 4B

Estimated 2009-2010 DHCCP Planning Phase Costs
by
Estimated Participating SWP Contractor's

Cal Year	2009	2010
CY Projection	$ 55,242,000	$ 61,368,000
SWPC 50 Percent	$ 27,621,000	$ 30,684,000

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	2009 SWP Contractor Projct'd Share	2010 SWP Contractor Projct'd Share
Metropolitan WD Of SC	1,911,500	47.37%	$ 13,083,797	$ 14,534,710
Kern County Water Agency	998,730	24.75%	$ 6,836,087	$ 7,594,167
Antelope Valley-East Kern WA	141,400	3.50%	$ 967,852	$ 1,075,181
Coachella Valley WD	121,100	3.00%	$ 828,903	$ 920,823
San Bernardino Valley MWD	102,600	2.54%	$ 702,274	$ 780,152
Santa Clara Valley WD	100,000	2.48%	$ 684,478	$ 760,382
Tulare Lake Basin WSD	95,922	2.38%	$ 656,565	$ 729,374
Castaic Lake WA	95,200	2.36%	$ 651,623	$ 723,884
Alameda Co FC&WCD - Zone 7	80,619	2.00%	$ 551,819	$ 613,013
Mojave Water Agency	75,800	1.88%	$ 518,834	$ 576,370
Desert Water Agency	50,000	1.24%	$ 342,239	$ 380,191
Solano County WA	47,756	1.18%	$ 326,879	$ 363,128
Santa Barbara County FCWCD	45,486	1.13%	$ 311,342	$ 345,868
Alameda County WD	42,000	1.04%	$ 287,481	$ 319,361
Napa County FC&WCD	29,025	0.72%	$ 198,670	$ 220,701
San Gabriel Valley MWD	28,800	0.71%	$ 197,130	$ 218,990
San Luis Obispo Co. FC&WCD	25,000	0.62%	$ 171,119	$ 190,096
Palmdale WD	21,300	0.53%	$ 145,794	$ 161,961
San Gorgonio Pass WA	17,300	0.43%	$ 118,415	$ 131,546
Crestline-Lake Arrowhead WA	5,800	0.14%	$ 39,700	$ 44,102
Total Table A	**4,035,338**	**100%**	**27,621,000**	**30,684,000**

Exhibit 5
Initial DHCCP Planning Phase Budget
(In 1000)

	2008		2009		2010	
Program Element	Jan-Jun	Jul-Dec	Jan-Jun	Jul-Dec	Jan-Jun	Jul-Dec
Management, Planning, & Administration	$ 0	$ 3,134	$ 2,885	$ 2,915	$ 2,995	$ 2,995
Right of Way	$ 611	$ 3,155	$ 2,818	$ 3,568	$ 3,817	$ 3,817
Preliminary Engineering	$ 476	$ 7,840	$11,115	$11,523	$15,903	$15,903
Environmental Services	$ 178	$ 5,645	$ 6,554	$ 11,390	$ 7,141	$ 6,895
Legal Services	$ 0	$ 455	$ 767	$ 767	$ 518	$ 518
General Operating Expenses	$ 5	$ 1,540	$ 438	$ 502	$ 389	$ 477
Six Month Total	$ 1,270	$21,769	$24,577	$30,665	$30,763	$30,605
Calendar Year Total	$ 23,039		$ 55,242		$ 61,368	

State of California
California Natural Resources Agency
DEPARTMENT OF WATER RESOURCES

AGREEMENT FOR FUNDING BETWEEN THE DEPARTMENT OF WATER RESOURCES AND METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

FOR THE COSTS OF ENVIRONMENTAL ANALYSIS, PLANNING AND DESIGN OF DELTA CONSERVATION MEASURES, INCLUDING DELTA CONVEYANCE OPTIONS

(SWPAO #09900)

THIS AGREEMENT is made this 12th day of March, 2009, pursuant to the provisions of all applicable laws of the State of California, between the State of California, acting by and through its Department of Water Resources ("DWR"), and Metropolitan Water District of Southern California ("Contractor"). DWR and the Contractor may also be referred to individually as "Party" or collectively as "Parties."

Recitals

A. **WHEREAS**, DWR and Contractor have entered into and subsequently amended a long-term water supply contract, herein referred to as the "Water Supply Contract," providing that DWR will supply certain quantities of water to Contractor, and providing that Contractor shall make certain payments to DWR, and setting forth the terms and conditions of such supply and such payment; and

B. **WHEREAS**, DWR and several State Water Project (SWP) Contractors are parties to a Memorandum of Agreement ("MOA"), providing that they will collaborate to develop the environmental documents, engineering designs, and other necessary information for possible conservation measures, particularly Delta water conveyance options; and

C. **WHEREAS**, the MOA is intended to support and complement the certain activities of the Bay-Delta Conservation Plan ("BDCP") Steering Committee by establishing procedures to facilitate the funding and planning for the Delta water conveyance and habitat conservation studies, which the Parties refer to as the "Planning Phase" of the Delta Habitat Conservation and Conveyance Program ("DHCCP" or "Program"); and

D. **WHEREAS**, DWR and a group of SWP Contractors, collectively known as the "Participating SWP Contractors," believe the DHCCP Planning Phase is necessary to facilitate the assessment and planning of likely conservation measures of the BDCP, analyze responses to the multiple threats to the State's economic well being posed by the current Delta water conveyance system's vulnerability to seismic risk, climate change, and ongoing regulatory prescriptions, and to consider prudent funding sources for species conservation and improved Delta water conveyance facilities in order to achieve related benefits to water supply, water supply reliability, and ecosystem health and resiliency; and

E. **WHEREAS**, subject to any adjustments provided for in the MOA, DWR will fund fifty percent (50%) of the total cost for the DHCCP Planning Phase and will collect that amount from Contractor and other Participating SWP Contractors, pursuant to this and similar Agreements; and

F. **WHEREAS**, subject to any adjustments provided for in the MOA, certain federal Central Valley Project contractors have agreed to fund the remaining 50 percent of the total DHCCP Planning Phase costs and Reclamation, as allowed under federal appropriations law, via in-kind services and a financial assistance agreement, will provide some portion of this 50 percent; and

G. **WHEREAS**, DWR and the Participating SWP Contractors are endeavoring to increase DWR's flexibility to perform work on the DHCCP Planning Phase by modifying the funding practices and providing funds so the DHCCP Planning Phase work may start as soon as possible; and

H. **WHEREAS**, because DWR must have a source of funding to repay and fund the costs of the DHCCP Planning Phase starting in 2008 until its expected completion by 2010, the Contractor, along with the other Participating SWP Contractors, is willing to provide such funds under the terms of this Agreement through the DHCCP charge; and

I. **WHEREAS**, DWR is willing to credit the Contractor and the other Participating SWP Contractors from 2008 excess revenue bond reserve funds, an amount equal to the Contractor's allocation of the 2008 DHCCP Planning Phase costs, and to credit additional reserve funds in 2009 as provided by Article 50 of the Water Supply Contract; and

J. **WHEREAS**, Contractor is willing to enter into this Agreement to pay a share of the DHCCP Planning Phase costs, and, in consideration therefore, DWR is willing to consult with Contractor and other Participating SWP Contractors on decisions related to the budget, scope, schedule, and activities of the Program's Planning Phase to ensure its timely completion in a cost-efficient manner, and

K. **WHEREAS**, it is DWR's intent that all funds needed to meet DWR's Share of the Program's Costs will be collected through this and all other SWP DHCCP Funding Agreements.

AGREEMENT

NOW THEREFORE, it is mutually agreed by DWR and Contractor as follows:

1. **Definitions**

When used in this Agreement, the definitions in the Water Supply Contract shall apply. In addition, the following definitions shall apply:

a. "**DHCCP**" or "**Program**" means the proposed development of possible BDCP conservation measures, including Delta conveyance options as described in the MOA.

b. "**DHCCP Planning Phase**" or "**Program's Planning Phase**" means the proposed development of environmental documents, planning, engineering designs, and other necessary information for possible BDCP conservation measures, including Delta conveyance options as described in the MOA. It does not include construction activity for any BDCP conservation measure, including any Delta Conveyance option.

c. "**MOA**" means the "Memorandum of Agreement Regarding Collaboration on the Planning, Preliminary Design and Environmental Compliance for the Delta Habitat Conservation and Conveyance Program in Connection with the Development of the Bay Delta Conservation Plan," a copy of which is attached hereto as Exhibit 1.

d. "**SWP**" means the State Water Project operated by DWR. The SWP generally includes the State Water Facilities, as defined in California Water Code section 12934(d), and certain facilities found in the Central Valley Project Act at section 11100 et. seq.

e. "**Water Supply Contract**" means the long-term water supply contract between Contractor and DWR, and similar contracts entered into by DWR and other Participating SWP Contractors.

f. "**Water Supply Contractor**" means one of the contractors that signed a Water Supply Contract which is still in effect.

g. "**DHCCP SWP Funding Agreement**" means this Agreement and agreements substantially the same as this Agreement signed by Participating SWP Contractors and DWR.

h. "**Participating SWP Contractor**" means a SWP Water Supply Contractor that has executed a DHCCP SWP Funding Agreement.

i. "**Calendar Year**" means the period January 1 through December 31.

j. "**DHCCP Table A Amount**" means, for Contractor, the maximum Table A amount as listed in its Water Supply Contract. The DHCCP Table A Amount will be used each year to calculate the Contractor's share of the DHCCP Planning Phase charges as a percentage of the sum of all the DHCCP Table A Amounts of the Participating SWP Contractors.

k. "**2008 DHCCP Charge**" means a charge to Contractor included in its annual statement of charges for 2008 that reflects the estimated costs for DHCCP in 2008.

l. "**Department's Share of the Program's Costs**" means fifty percent (50%) of the total DHCCP Planning Phase costs.

m. "**DHCCP Pay-Go Charge**" means the charge to the Contractor pursuant to this Agreement included in its Annual Statement of Charges to recover the Contractor's allocation of Department's Share of the Program's Costs beginning in 2009 and continuing until the Program's Planning Phase is completed or December 31, 2011, which ever is earlier.

n. "**Reclamation**" means the United States Department of the Interior, Bureau of Reclamation.

o. "**Central Valley Project contractors**" means the Central Valley Project contractors that are involved in funding the DHCCP Planning Phase, which are a subset of the total Central Valley Project contractors group.

2. **Purpose of the Agreement**

a. The purpose of this Agreement is to establish the terms and conditions under which Contractor will provide funding to DWR that, along with funding from the other Participating SWP Contractors, will provide all funds needed to pay the actual costs of DWR's Share of the Program's costs.

b. Funding pursuant to this Agreement addresses only the DHCCP Planning Phase. After completing the DHCCP Planning Phase, if the Parties determine to proceed with actions beyond the DHCCP Planning Phase, including the implementation and construction phases of the DHCCP, the Parties may enter into additional funding agreements.

3. **Term of Agreement**

This Agreement will take effect upon execution of the Parties and will remain in effect until the DHCCP Planning Phase is completed or until December 31, 2011, whichever comes first, unless extended by written amendment.

4. **DHCCP Planning Phase Costs**

Should the funding procedures established by this and all other DHCCP SWP Funding Agreements, or funding procedures established by funding agreements between DWR and Reclamation or federal contractors, terminate, DWR and the Participating Contractors, other than the Participating Contractors that have withdrawn pursuant to Section 9(a), shall use their best efforts to develop a funding plan that will allow for the timely completion of the DHCCP Planning Phase. Any subsequent funding plan for completion of the DHCCP Planning Phase shall include provisions that ensure that Participating Contractors that have withdrawn do not incur any additional charges related to the completion of the DHCCP Planning Phase. For purposes of this paragraph, "charges" shall mean 1) costs chargeable to the contractor or 2) revenues and/or cash available to pay rate management credits to the contractor. This provision shall survive termination of this Agreement. After one year from the termination of the MOA, nothing in this provision would prevent DWR from charging the Contractor in accordance with its Water Supply Contract to fund other and new Delta conveyance planning activities that are distinct and independent of the DHCCP and BDCP.

5. **2008 DHCCP Charge**

a. Before DWR may implement this section and to obtain funding for DWR's Share of the Program Costs incurred before December 31, 2008, the following must be satisfied: (i) this Agreement is fully executed by the Parties, and (ii) the SWP DHCCP Funding Agreements and the MOA are signed by DWR and the SWP Contractors who are also parties to the MOA. Once DWR and the Participating SWP Contractors who are parties to the MOA have signed the MOA, the Parties agree to abide by the terms and conditions of the MOA, notwithstanding that the Parties recognize the MOA may not have been fully executed.

b. DWR will submit a revised 2008 Statement of Charges to the Contractor that includes Contractor's estimated 2008 DHCCP Charge. The 2008 DHCCP Charge shall be based on actual costs incurred in 2008, pursuant to Paragraph 7 (Program Cost, Budgeting and Allocation). At the time the revised 2008 Statement of Charges is transmitted to the Contractor, DWR shall submit to the Contractor a revised invoice for the month of July 2008 reflecting credits resulting from the release of excess revenue bond reserve funds against Contractor's Transportation Capital charges in an amount equal to the amount of the revised 2008 Statement of Charges, as provided by the Water Supply Contract.

c. Should the funding from Contractor for the estimated costs be insufficient to cover the actual costs incurred by DWR through December 31, 2008, DWR shall include the Contractor's additional 2008 costs in its 2009

Statement of Charges. After the actual costs incurred up to and including December 31, 2008, have been finally determined, a table reflecting the actual funding advanced by each Participating SWP Contractor in 2008 will be attached hereto as Exhibit 2, without constituting an amendment of this Agreement. All 2008 DHCCP Planning Phase costs will be allocated to each Participating SWP Contractor in proportion to the ratio of its DHCCP Table A Amount to the sum of all Participating SWP Contractors' 2008 DHCCP Table A Amounts. Attached hereto as Exhibit 3A and 3B is a table of each Participating SWP Contractor's estimated share of the 2008 DHCCP Charge.

6. **DHCCP Pay-Go Charge**

a. Before DWR may implement this section to seek funding for costs incurred after December 31, 2008, the following must be completed: (a) this Agreement is fully executed by the Parties and is in full force and effect, (b) the MOA is executed by all of its parties and in effect, and (c) DWR has executed a binding agreement or agreements with Reclamation and certain Central Valley Project contractors which will establish funding procedures that ensure 50 percent of the DHCCP Planning Phase costs are paid by federal interests. The agreements with the Central Valley Project contractors shall also include provisions that (i) require the Central Valley Project contractors to pay 50 percent of the DHCCP Planning Phase costs incurred prior to October 1, 2008 within 14 days of execution of those agreements; and (ii) provide assurances that 50 percent of all costs incurred after October 1, 2008, and until completion of the Program are paid on a schedule and in amounts, similar to the payment schedule and amounts for the Participating SWP Contractors.

b. Except for those costs described in Section 5 above, DWR shall recover DWR's Share of Program Costs through the DHCCP Pay-Go Charge. The DHCCP Pay-Go Charge shall recover these costs incurred or to be incurred by DWR for the DHCCP Planning Phase beginning on January 1, 2009, and, unless sooner terminated pursuant to Article 9 of this Agreement, continuing until the Program's Planning Phase is completed or December 31, 2011, which ever is earlier.

c. To facilitate billing on a calendar year basis, the DHCCP Pay-Go Charge will be computed and included in Contractor's and other Participating SWP Contractor's Annual Statements of Charges for 2009 and thereafter as long as this Agreement is in effect under the Transportation Minimum Component and shall be collected in 12 equal monthly payments as described in Contractor's Water Supply Contract. The DHCCP Pay-Go Charges shall initially be based on estimates of costs determined pursuant to Section 7 (Program Cost, Budgeting and Allocation). These charges

shall be adjusted after the end of each Calendar Year to accurately reflect DWR's Share of Program Costs during that Calendar Year. Such adjustments shall be reflected in the charges in the following calendar year.

d. The DHCCP Pay-Go Charge will be allocated to each Participating SWP Contractor in proportion to the ratio of its DHCCP Table A Amount to the sum of all Participating SWP Contractors' DHCCP Table A Amounts. Attached hereto as Exhibit 4A and 4B is a table of each Participating SWP Contractor's estimated share of the DHCCP Planning Phase Charges for 2009 and 2010. As these charges are adjusted, or should charges be estimated for 2011, or should there be a change in the ratio due to a withdrawal of a Contractor from the Program's Planning Phase, revised versions of Exhibit 4B Contractor shall be attached hereto, without constituting an amendment of this Agreement.

e. DWR prepared a revision to the calendar year 2009 Statement of Charges in mid–December 2008, which includes an estimated allocation of the DHCCP costs among the anticipated participating Contractors. Execution of this Agreement, even if occurring after January 1, 2009, shall constitute agreement by the Contractor to pay the full amount of the Contractor's share of the 2009 DHCCP charge. The full amount of all prior months unpaid payments for 2009 shall be paid by the Contractor on the first monthly payment to DWR following execution of this Agreement.

f. Once the final participation level in the DHCCP Program is known by DWR, DWR shall prepare an amended 2009 DHCCP cost allocation and invoice and the Contractor shall pay the revised amount, if any, over the remaining months in calendar year 2009. This revised invoice is anticipated to be distributed within the first four months of calendar year 2009.

g. The parties recognize that DWR intends to retain approximately $12 million of the excess revenue bond reserve funds to be applied as a credit against the 2008 Transportation Capital charges. DWR also intends to apply approximately $30 million of excess revenue bond reserve fund credits against the January 2009 Transportation Capital payments from the Contractors, with the remaining excess revenue bond reserve fund credits to be applied as a credit against the July 2009 Transportation Capital payments.

7. **Program Cost, Budget and Allocation**

a. As described in the MOA, DWR will work collaboratively with the DHCCP Executive Committee to determine the budget, schedules, and activities of the DHCCP Planning Phase.

b. The total cost for the DHCCP Planning Phase is currently estimated at $140 million. This estimate may change in the future as more information is developed about the costs of planning and designing the potential BDCP conservation measures and water conveyance facilities.

c. DWR is responsible for formulating the DHCCP Planning Phase Budget with specific DHCCP Planning Phase elements and will work collaboratively through the MOA to develop the budget.

d. The Parties to the MOA have committed to an initial, three-year budget. A copy of the initial budget is attached hereto as Exhibit 5. DWR, in collaboration with the Executive Committee, will consider and approve revised budgets for work as necessary. Revised budget(s) shall be attached hereto as subsequent exhibits, without constituting an amendment of this Agreement, provided they do not exceed the funding limit set forth in Section 7(e).

e. Notwithstanding anything set forth in this Agreement or decided through the MOA process, the maximum amount of DWR's Share of Program Costs that shall be funded through this Agreement and all other DHCCP SWP Funding Agreements shall not exceed $70,000,000.

8. **Reimbursement for DHCCP Planning Phase**

a. If the DHCCP is approved to proceed with construction, DWR intends to issue Revenue Bonds to pay for such construction. DWR shall include in the first issue of Revenue Bonds, pursuant to and consistent with Treasury Regulation 1.150-2, an amount sufficient to reimburse the Contractor and all other Participating SWP Contractors for all planning costs paid through the 2008 DHCCP Charge and the DHCCP Pay-Go Charges. DWR, within 10 days of the effective date of this Agreement, shall adopt the necessary documents to conform to the IRS requirements to allow these costs to be included in a future revenue bond issue.

b. If the DHCCP is not approved to proceed with construction or a revenue bond sale does not occur, no reimbursements will occur. Contractor recognizes that, should the DHCCP not be approved to proceed with construction, Contractor may pay costs for the DHCCP Planning Phase that are greater than the amount it would have paid if other means of funding the Program, including under the Water Supply Contract, had

been utilized. Contractor waives any claims it may have with respect to the greater amount that may be paid by it under this Agreement.

c. The provisions of this Section 8 shall survive termination of this Agreement and/or the MOA.

9. **Withdrawal and Termination**

a. Contractor may withdraw from this Agreement at any time. However, Contractor shall provide 30 days advanced written notice to DWR, all other Participating SWP Contractors, and all Parties to the MOA. The notice of the effective date of its withdrawal shall include a detailed written explanation of why it intends to withdraw.

b. If the MOA terminates, this Agreement shall terminate. However, notwithstanding anything to the contrary set forth in the MOA, DWR agrees that it will not withdraw from the MOA as long as DWR's Share of the Program's Costs remains fully funded. DWR shall remain responsible for administering the provisions of this Agreement that survive termination or withdrawal.

c. If Contractor is a signatory to the MOA, Contractor's withdrawal from the MOA shall be deemed as withdrawal from this Agreement.

d. If any Participating SWP Contractor or Contractors withdraws from its DHCCP SWP Funding Agreement, Contractor, if not a withdrawing party, shall notify DWR within seven days after the effective date of such withdrawal as to whether it intends to continue operating under this Agreement. Failure to provide such notice shall be deemed an agreement to continue as a Party to this Agreement.

e. If one or more Participating SWP Contractors withdraw from their DHCCP SWP Funding Agreements and Contractor decides to continue operating under this Agreement, then Contractor's cost allocation share and the cost allocation shares of all other remaining Participating SWP Contractors will be changed to reflect the new ratios of their DHCCP Table A Amounts to the sum of the remaining Participating SWP Contractors' DHCCP Table A Amounts. Such adjustment shall be made through a revised billing payable in equal installments over the remainder of the then current calendar year or six months from the date the revised billing is received by Contractor, whichever is longer. DWR shall transmit the revised billing to Contractor within 60 days of the effective date of the withdrawal that triggered the revised cost allocation.

f. In the event of Contractor's noticed withdrawal from this Agreement, Contractor shall no longer be obligated to fund any costs related to DHCCP Planning Phase task orders that are subsequently approved by DWR or that were approved by DWR less than 60 days prior to the date the notice of withdrawal was transmitted to DWR pursuant to Section 9(a). However, Contractor shall remain responsible for its share of the costs of completing any DHCCP Planning Phase task orders approved 60 days prior to the date the notice of withdrawal was transmitted.

g. If termination of the MOA occurs concurrent with or after Contractor's notice of withdrawal from this Agreement but prior to the effective date of the Contractor's withdrawal, or the Contractor has not withdrawn, Contractor is obligated to pay its share of the reasonable termination costs incurred in fulfillment of the DHCCP Planning Phase or the objectives of the MOA, such as costs associated with early termination of consultant contracts. The total termination costs will be shared on a 50-50 basis between the State and federal interests. The Contractor's share of termination costs shall be determined using the same ratio as described in Section 6(d) of this Agreement.

h. The provisions of paragraphs (b), (d), (e), (f) and (g) of this Section 9 shall survive termination of this Agreement and/or the MOA

10. **Invoices, Notices Or Other Communications**

a. All invoices, notices, or other communications required under this Agreement will be in writing, and will be deemed to have been duly given upon the date of service, if: (i.) served personally on the Party to whom notice is to be given; (ii.) sent by electronic mail, and the Party to whom notice is to be given confirms receipt; or (iii.) on the third day after mailing, if mailed to the Party to whom invoice, notice or other communication is directed, by first-class mail, postage prepaid, and properly addressed to the designated representative(s) of the Party set forth below.

DWR: Chief, State Water Project Analysis Office
Department of Water Resources
State Water Project Analysis Office
Department of Water Resources
1416 Ninth Street, Room 1620
Post Office Box 942836
Sacramento, California 94236-0001

MWDSC: Mr. Stephen N. Arakawa, Group Manager
Water Resource Management Group
The Metropolitan Water District of
Southern California
700 North Alameda Street
Box 54153, Terminal Annex
Los Angeles, California 90054-0153

b. The time for providing any payments, notices, or other communications specified in this Agreement may be extended within the term of this Agreement with the consent of the Parties, confirmed in writing, without requiring an amendment to this Agreement.

11. **No Amendment to Water Supply Contract**
This Agreement does not amend, abridge, or modify the Water Supply Contract in any way.

12. **Amendments**
Except for the addition of exhibits as authorized herein, this Agreement may be amended or modified only by a subsequent written agreement approved and executed by the Parties.

13. **Agreement Conformity**
All Agreements to fund the DHCCP Planning Phase entered into by DWR and Participating SWP Contractors shall be substantially uniform.

14. **Applicable Law**
This Agreement will be construed under and will be deemed to be governed by the laws of the United States and the State of California.

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

16. **Execution in Counterpart**
This Agreement may be executed in counterpart, each of which shall constitute an original, but all of which shall constitute one and the same agreement. Each signing Party shall have received a copy of the signature page signed by every other Party.

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

Approved as to legal form
and Sufficiency

Chief Counsel
Department of Water Resources

MAR 12 2009
Date

State of California
Department of Water Resources

Director

3/12/09
Date

Approved as to legal form
and Sufficiency

Counsel for MWDSC

Date

Metropolitan Water District of
Southern California

Group Manager

Date

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Approved as to legal form
and Sufficiency

Chief Counsel
Department of Water Resources

MAR 12 2009
Date

State of California
Department of Water Resources

Director

3/12/09
Date

Approved as to legal form
and Sufficiency

General Counsel

3/12/09
Date

Metropolitan Water District of
Southern California

General Manager

3/12/09
Date

List of Exhibits to be Attached

Exhibit 1: Memorandum of Agreement Regarding Collaboration on the Planning, Preliminary Design and Environmental Compliance for the Delta Habitat Conservation and Conveyance Program in Connection with the Development of the Bay Delta Conservation Plan (Paragraph 1.a)

Exhibit 2: Table of Participating SWP Contractors Actual Advanced Costs for 2008 (Paragraph 5.c)

Exhibit 3: Participating SWP Contractors Share of 2008 Costs (Paragraph 5.c)

Exhibit 4: Participating SWP Contractors Estimated Share of 2009 and 2010 DHCCP Planning Phase Costs (Paragraph 6.d)

Exhibit 5: Initial 3 Year Budget (Paragraph 7.d)

Exhibit 1

(Memorandum of Agreement)

Exhibit 2

(Actual 2008 DHCCP Costs by participating SWP Contractor)
(To be provided once final 2008 costs have been determined)

Exhibit 3A
Estimated 2008 DHCCP Planning Phase Costs
by
All Participating SWP Contractor's

2008 CY Projection	$	23,039,000
SWPC 50 Percent	$	11,519,500

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	SWP Contractor Share
Metropolitan WD Of SC	1,911,500	45.81%	$ 5,276,936
Kern County Water Agency	998,730	23.93%	$ 2,757,120
Antelope Valley-East Kern WA	141,400	3.39%	$ 390,352
Coachella Valley WD	121,100	2.90%	$ 334,312
San Bernardino Valley MWD	102,600	2.46%	$ 283,240
Santa Clara Valley WD	100,000	2.40%	$ 276,063
Tulare Lake Basin WSD	95,922	2.30%	$ 264,805
Castaic Lake WA	95,200	2.28%	$ 262,812
Alameda Co FC&WCD - Zone 7	80,619	1.93%	$ 222,559
Mojave Water Agency	75,800	1.82%	$ 209,255
Dudley Ridge WD	57,343	1.37%	$ 158,303
Desert Water Agency	50,000	1.20%	$ 138,031
Solano County WA	47,756	1.14%	$ 131,836
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Plumas County	2,700	0.06%	$ 7,454
Littlerock Creek ID	2,300	0.06%	$ 6,349
Total Table A	**4,172,786**	**100%**	**11,519,500**

Exhibit 3B
Estimated 2008 DHCCP Planning Phase Costs
by
Estimated Participating SWP Contractor's

2008 CY Projection	$	23,039,000
SWPC 50 Percent	$	11,519,500

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	SWP Contractor Share
Metropolitan WD Of SC	1,911,500	47.37%	$ 5,456,674
Kern County Water Agency	998,730	24.75%	$ 2,851,030
Antelope Valley-East Kern WA	141,400	3.50%	$ 403,648
Coachella Valley WD	121,100	3.00%	$ 345,699
San Bernardino Valley MWD	102,600	2.54%	$ 292,888
Santa Clara Valley WD	100,000	2.48%	$ 285,466
Tulare Lake Basin WSD	95,922	2.38%	$ 273,824
Castaic Lake WA	95,200	2.36%	$ 271,763
Alameda Co FC&WCD - Zone 7	80,619	2.00%	$ 230,139
Mojave Water Agency	75,800	1.88%	$ 216,383
Desert Water Agency	50,000	1.24%	$ 142,733
Solano County WA	47,756	1.18%	$ 136,327
Santa Barbara County FCWCD	45,486	1.13%	$ 129,847
Alameda County WD	42,000	1.04%	$ 119,896
Napa County FC&WCD	29,025	0.72%	$ 82,856
San Gabriel Valley MWD	28,800	0.71%	$ 82,214
San Luis Obispo Co. FC&WCD	25,000	0.62%	$ 71,366
Palmdale WD	21,300	0.53%	$ 60,804
San Gorgonio Pass WA	17,300	0.43%	$ 49,386
Crestline-Lake Arrowhead WA	5,800	0.14%	$ 16,557
Total Table A	**4,035,338**	**100.00%**	**$ 11,519,500**

Exhibit 4A
Estimated 2009-2010 DHCCP Planning Phase Costs
by
All Participating SWP Contractor's

Cal Year	2009	2010
CY Projection	$ 55,242,000	$ 61,368,000
SWPC 50 Percent	$ 27,621,000	$ 30,684,000

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	2009 SWP Contractor Projct'd Share	2010 SWP Contractor Projct'd Share
Metropolitan WD Of SC	1,911,500	45.81%	$ 12,652,828	$ 14,055,949
Kern County Water Agency	998,730	23.93%	$ 6,610,912	$ 7,344,022
Antelope Valley-East Kern WA	141,400	3.39%	$ 935,972	$ 1,039,765
Coachella Valley WD	121,100	2.90%	$ 801,599	$ 890,492
San Bernardino Valley MWD	102,600	2.46%	$ 679,142	$ 754,455
Santa Clara Valley WD	100,000	2.40%	$ 661,932	$ 735,336
Tulare Lake Basin WSD	95,922	2.30%	$ 634,938	$ 705,349
Castaic Lake WA	95,200	2.28%	$ 630,159	$ 700,040
Alameda Co FC&WCD - Zone 7	80,619	1.93%	$ 533,643	$ 592,821
Mojave Water Agency	75,800	1.82%	$ 501,744	$ 557,385
Dudley Ridge WD	57,343	1.37%	$ 379,572	$ 421,664
Desert Water Agency	50,000	1.20%	$ 330,966	$ 367,668
Solano County WA	47,756	1.14%	$ 316,112	$ 351,167
Santa Barbara County FCWCD	45,486	1.09%	$ 301,086	$ 334,475
Alameda County WD	42,000	1.01%	$ 278,011	$ 308,841
Napa County FC&WCD	29,025	0.70%	$ 192,126	$ 213,431
San Gabriel Valley MWD	28,800	0.69%	$ 190,636	$ 211,777
Butte County	27,500	0.66%	$ 182,031	$ 202,217
San Luis Obispo Co. FC&WCD	25,000	0.60%	$ 165,483	$ 183,834
Palmdale WD	21,300	0.51%	$ 140,991	$ 156,627
Casitas Municipal WD	20,000	0.48%	$ 132,386	$ 147,067
San Gorgonio Pass WA	17,300	0.41%	$ 114,514	$ 127,213
City Of Yuba City	9,600	0.23%	$ 63,545	$ 70,592
County Of Kings	9,305	0.22%	$ 61,593	$ 68,423
Crestline-Lake Arrowhead WA	5,800	0.14%	$ 38,392	$ 42,649
Oak Flat WD	5,700	0.14%	$ 37,730	$ 41,914
Empire - West Side ID	3,000	0.07%	$ 19,858	$ 22,060
Plumas County	2,700	0.06%	$ 17,872	$ 19,854
Littlerock Creek ID	2,300	0.06%	$ 15,224	$ 16,913
Total Table A	**4,172,786**	**100%**	**27,621,000**	**30,684,000**

Exhibit 4B
Estimated 2009-2010 DHCCP Planning Phase Costs
by
Estimated Participating SWP Contractor's

Cal Year	2009	2010
CY Projection	$ 55,242,000	$ 61,368,000
SWPC 50 Percent	$ 27,621,000	$ 30,684,000

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	2009 SWP Contractor Projct'd Share	2010 SWP Contractor Projct'd Share
Metropolitan WD Of SC	1,911,500	47.37%	$ 13,083,797	$ 14,534,710
Kern County Water Agency	998,730	24.75%	$ 6,836,087	$ 7,594,167
Antelope Valley-East Kern WA	141,400	3.50%	$ 967,852	$ 1,075,181
Coachella Valley WD	121,100	3.00%	$ 828,903	$ 920,823
San Bernardino Valley MWD	102,600	2.54%	$ 702,274	$ 780,152
Santa Clara Valley WD	100,000	2.48%	$ 684,478	$ 760,382
Tulare Lake Basin WSD	95,922	2.38%	$ 656,565	$ 729,374
Castaic Lake WA	95,200	2.36%	$ 651,623	$ 723,884
Alameda Co FC&WCD - Zone 7	80,619	2.00%	$ 551,819	$ 613,013
Mojave Water Agency	75,800	1.88%	$ 518,834	$ 576,370
Desert Water Agency	50,000	1.24%	$ 342,239	$ 380,191
Solano County WA	47,756	1.18%	$ 326,879	$ 363,128
Santa Barbara County FCWCD	45,486	1.13%	$ 311,342	$ 345,868
Alameda County WD	42,000	1.04%	$ 287,481	$ 319,361
Napa County FC&WCD	29,025	0.72%	$ 198,670	$ 220,701
San Gabriel Valley MWD	28,800	0.71%	$ 197,130	$ 218,990
San Luis Obispo Co. FC&WCD	25,000	0.62%	$ 171,119	$ 190,096
Palmdale WD	21,300	0.53%	$ 145,794	$ 161,961
San Gorgonio Pass WA	17,300	0.43%	$ 118,415	$ 131,546
Crestline-Lake Arrowhead WA	5,800	0.14%	$ 39,700	$ 44,102
Total Table A	**4,035,338**	**100%**	**$ 27,621,000**	**$ 30,684,000**

Exhibit 5
Initial DHCCP Planning Phase Budget
(In 1000)

	2008		2009		2010	
Program Element	Jan-Jun	Jul-Dec	Jan-Jun	Jul-Dec	Jan-Jun	Jul-Dec
Management, Planning, & Administration	$ 0	$ 3,134	$ 2,885	$ 2,915	$ 2,995	$ 2,995
Right of Way	$ 611	$ 3,155	$ 2,818	$ 3,568	$ 3,817	$ 3,817
Preliminary Engineering	$ 476	$ 7,840	$11,115	$11,523	$15,903	$15,903
Environmental Services	$ 178	$ 5,645	$ 6,554	$ 11,390	$ 7,141	$ 6,895
Legal Services	$ 0	$ 455	$ 767	$ 767	$ 518	$ 518
General Operating Expenses	$ 5	$ 1,540	$ 438	$ 502	$ 389	$ 477
Six Month Total	$ 1,270	$21,769	$24,577	$30,665	$30,763	$30,605
Calendar Year Total	$ 23,039		$ 55,242		$ 61,368	

State of California
California Natural Resources Agency
DEPARTMENT OF WATER RESOURCES

AGREEMENT FOR FUNDING BETWEEN THE DEPARTMENT OF WATER RESOURCES AND MOJAVE WATER AGENCY

FOR THE COSTS OF ENVIRONMENTAL ANALYSIS, PLANNING AND DESIGN OF DELTA CONSERVATION MEASURES, INCLUDING DELTA CONVEYANCE OPTIONS

(SWPAO #09909)

THIS AGREEMENT is made this 16th day of April, 2009, pursuant to the provisions of all applicable laws of the State of California, between the State of California, acting by and through its Department of Water Resources ("DWR"), and Mojave Water Agency ("Contractor"). DWR and the Contractor may also be referred to individually as "Party" or collectively as "Parties."

Recitals

A. **WHEREAS**, DWR and Contractor have entered into and subsequently amended a long-term water supply contract, herein referred to as the "Water Supply Contract," providing that DWR will supply certain quantities of water to Contractor, and providing that Contractor shall make certain payments to DWR, and setting forth the terms and conditions of such supply and such payment; and

B. **WHEREAS**, DWR and several State Water Project (SWP) Contractors are parties to a Memorandum of Agreement ("MOA"), providing that they will collaborate to develop the environmental documents, engineering designs, and other necessary information for possible conservation measures, particularly Delta water conveyance options; and

C. **WHEREAS**, the MOA is intended to support and complement the certain activities of the Bay-Delta Conservation Plan ("BDCP") Steering Committee by establishing procedures to facilitate the funding and planning for the Delta water conveyance and habitat conservation studies, which the Parties refer to as the "Planning Phase" of the Delta Habitat Conservation and Conveyance Program ("DHCCP" or "Program"); and

D. **WHEREAS**, DWR and a group of SWP Contractors, collectively known as the "Participating SWP Contractors," believe the DHCCP Planning Phase is necessary to facilitate the assessment and planning of likely conservation measures of the BDCP, analyze responses to the multiple threats to the State's economic well being posed by the current Delta water conveyance system's vulnerability to seismic risk, climate change, and ongoing regulatory prescriptions, and to consider prudent funding sources for species conservation and improved Delta water conveyance facilities in order to achieve related benefits to water supply, water supply reliability, and ecosystem health and resiliency; and

E. **WHEREAS**, subject to any adjustments provided for in the MOA, DWR will fund fifty percent (50%) of the total cost for the DHCCP Planning Phase and will collect that amount from Contractor and other Participating SWP Contractors, pursuant to this and similar Agreements; and

F. **WHEREAS**, subject to any adjustments provided for in the MOA, certain federal Central Valley Project contractors have agreed to fund the remaining 50 percent of the total DHCCP Planning Phase costs and Reclamation, as allowed under federal appropriations law, via in-kind services and a financial assistance agreement, will provide some portion of this 50 percent; and

G. **WHEREAS**, DWR and the Participating SWP Contractors are endeavoring to increase DWR's flexibility to perform work on the DHCCP Planning Phase by modifying the funding practices and providing funds so the DHCCP Planning Phase work may start as soon as possible; and

H. **WHEREAS**, because DWR must have a source of funding to repay and fund the costs of the DHCCP Planning Phase starting in 2008 until its expected completion by 2010, the Contractor, along with the other Participating SWP Contractors, is willing to provide such funds under the terms of this Agreement through the DHCCP charge; and

I. **WHEREAS**, DWR is willing to credit the Contractor and the other Participating SWP Contractors from 2008 excess revenue bond reserve funds, an amount equal to the Contractor's allocation of the 2008 DHCCP Planning Phase costs, and to credit additional reserve funds in 2009 as provided by Article 50 of the Water Supply Contract; and

J. **WHEREAS**, Contractor is willing to enter into this Agreement to pay a share of the DHCCP Planning Phase costs, and, in consideration therefore, DWR is willing to consult with Contractor and other Participating SWP Contractors on decisions related to the budget, scope, schedule, and activities of the Program's Planning Phase to ensure its timely completion in a cost-efficient manner, and

K. **WHEREAS,** it is DWR's intent that all funds needed to meet DWR's Share of the Program's Costs will be collected through this and all other SWP DHCCP Funding Agreements.

AGREEMENT

NOW THEREFORE, it is mutually agreed by DWR and Contractor as follows:

1. **Definitions**

When used in this Agreement, the definitions in the Water Supply Contract shall apply. In addition, the following definitions shall apply:

a. "**DHCCP**" or "**Program**" means the proposed development of possible BDCP conservation measures, including Delta conveyance options as described in the MOA.

b. "**DHCCP Planning Phase**" or "**Program's Planning Phase**" means the proposed development of environmental documents, planning, engineering designs, and other necessary information for possible BDCP conservation measures, including Delta conveyance options as described in the MOA. It does not include construction activity for any BDCP conservation measure, including any Delta Conveyance option.

c. "**MOA**" means the "Memorandum of Agreement Regarding Collaboration on the Planning, Preliminary Design and Environmental Compliance for the Delta Habitat Conservation and Conveyance Program in Connection with the Development of the Bay Delta Conservation Plan," a copy of which is attached hereto as Exhibit 1.

d. "**SWP**" means the State Water Project operated by DWR. The SWP generally includes the State Water Facilities, as defined in California Water Code section 12934(d), and certain facilities found in the Central Valley Project Act at section 11100 et. seq.

e. "**Water Supply Contract**" means the long-term water supply contract between Contractor and DWR, and similar contracts entered into by DWR and other Participating SWP Contractors.

f. "**Water Supply Contractor**" means one of the contractors that signed a Water Supply Contract which is still in effect.

g. "**DHCCP SWP Funding Agreement**" means this Agreement and agreements substantially the same as this Agreement signed by Participating SWP Contractors and DWR.

h. "**Participating SWP Contractor**" means a SWP Water Supply Contractor that has executed a DHCCP SWP Funding Agreement.

i. "**Calendar Year**" means the period January 1 through December 31.

j. "**DHCCP Table A Amount**" means, for Contractor, the maximum Table A amount as listed in its Water Supply Contract. The DHCCP Table A Amount will be used each year to calculate the Contractor's share of the DHCCP Planning Phase charges as a percentage of the sum of all the DHCCP Table A Amounts of the Participating SWP Contractors.

k. "**2008 DHCCP Charge**" means a charge to Contractor included in its annual statement of charges for 2008 that reflects the estimated costs for DHCCP in 2008.

l. "**Department's Share of the Program's Costs**" means fifty percent (50%) of the total DHCCP Planning Phase costs.

m. "**DHCCP Pay-Go Charge**" means the charge to the Contractor pursuant to this Agreement included in its Annual Statement of Charges to recover the Contractor's allocation of Department's Share of the Program's Costs beginning in 2009 and continuing until the Program's Planning Phase is completed or December 31, 2011, which ever is earlier.

n. "**Reclamation**" means the United States Department of the Interior, Bureau of Reclamation.

o. "**Central Valley Project contractors**" means the Central Valley Project contractors that are involved in funding the DHCCP Planning Phase, which are a subset of the total Central Valley Project contractors group.

2. **Purpose of the Agreement**

a. The purpose of this Agreement is to establish the terms and conditions under which Contractor will provide funding to DWR that, along with funding from the other Participating SWP Contractors, will provide all funds needed to pay the actual costs of DWR's Share of the Program's costs.

b. Funding pursuant to this Agreement addresses only the DHCCP Planning Phase. After completing the DHCCP Planning Phase, if the Parties determine to proceed with actions beyond the DHCCP Planning Phase, including the implementation and construction phases of the DHCCP, the Parties may enter into additional funding agreements.

3. **Term of Agreement**

This Agreement will take effect upon execution of the Parties and will remain in effect until the DHCCP Planning Phase is completed or until December 31, 2011, whichever comes first, unless extended by written amendment.

4. **DHCCP Planning Phase Costs**

Should the funding procedures established by this and all other DHCCP SWP Funding Agreements, or funding procedures established by Funding Agreements between DWR and Reclamation or federal contractors, terminate, DWR and the Participating Contractors, other than the Participating Contractors that have withdrawn pursuant to Section 9(a), shall use their best efforts to develop a funding plan that will allow for the timely completion of the DHCCP Planning Phase. Any subsequent funding plan for completion of the DHCCP Planning Phase shall include provisions that ensure that Participating Contractors that have withdrawn do not incur any additional charges related to the completion of the DHCCP Planning Phase. For purposes of this paragraph, "charges" shall mean 1) costs chargeable to the contractor or 2) revenues and/or cash available to pay rate management credits to the contractor. This provision shall survive termination of this Agreement. After one year from the termination of the MOA, nothing in this provision would prevent DWR from charging the Contractor in accordance with its Water Supply Contract to fund other and new Delta conveyance planning activities that are distinct and independent of the DHCCP and BDCP.

5. **2008 DHCCP Charge**

a. Before DWR may implement this section and to obtain funding for DWR's Share of the Program Costs incurred before December 31, 2008, the following must be satisfied: (i) this Agreement is fully executed by the Parties, and (ii) the SWP DHCCP Funding Agreements and the MOA are signed by DWR and the SWP Contractors who are also parties to the MOA. Once DWR and the Participating SWP Contractors who are parties to the MOA have signed the MOA, the Parties agree to abide by the terms and conditions of the MOA, notwithstanding that the Parties recognize the MOA may not have been fully executed.

b. DWR will submit a revised 2008 Statement of Charges to the Contractor that includes Contractor's estimated 2008 DHCCP Charge. The 2008 DHCCP Charge shall be based on actual costs incurred in 2008, pursuant to Paragraph 7 (Program Cost, Budgeting and Allocation). At the time the revised 2008 Statement of Charges is transmitted to the Contractor, DWR shall submit to the Contractor a revised invoice for the month of July 2008 reflecting credits resulting from the release of excess revenue bond reserve funds against Contractor's Transportation Capital charges in an amount equal to the amount of the revised 2008 Statement of Charges, as provided by the Water Supply Contract.

c. Should the funding from Contractor for the estimated costs be insufficient to cover the actual costs incurred by DWR through December 31, 2008, DWR shall include the Contractor's additional 2008 costs in its 2009

Statement of Charges. After the actual costs incurred up to and including December 31, 2008, have been finally determined, a table reflecting the actual funding advanced by each Participating SWP Contractor in 2008 will be attached hereto as Exhibit 2, without constituting an amendment of this Agreement. All 2008 DHCCP Planning Phase costs will be allocated to each Participating SWP Contractor in proportion to the ratio of its DHCCP Table A Amount to the sum of all Participating SWP Contractors' 2008 DHCCP Table A Amounts. Attached hereto as Exhibit 3A and 3B is a table of each Participating SWP Contractor's estimated share of the 2008 DHCCP Charge.

6. **DHCCP Pay-Go Charge**

a. Before DWR may implement this section to seek funding for costs incurred after December 31, 2008, the following must be completed: (a) this Agreement is fully executed by the Parties and is in full force and effect, (b) the MOA is executed by all of its parties and in effect, and (c) DWR has executed a binding agreement or agreements with Reclamation and certain Central Valley Project contractors which will establish funding procedures that ensure 50 percent of the DHCCP Planning Phase costs are paid by federal interests. The agreements with the Central Valley Project contractors shall also include provisions that (i) require the Central Valley Project contractors to pay 50 percent of the DHCCP Planning Phase costs incurred prior to October 1, 2008 within 14 days of execution of those agreements; and (ii) provide assurances that 50 percent of all costs incurred after October 1, 2008, and until completion of the Program are paid on a schedule and in amounts, similar to the payment schedule and amounts for the Participating SWP Contractors.

b. Except for those costs described in Section 5 above, DWR shall recover DWR's Share of Program Costs through the DHCCP Pay-Go Charge. The DHCCP Pay-Go Charge shall recover these costs incurred or to be incurred by DWR for the DHCCP Planning Phase beginning on January 1, 2009, and, unless sooner terminated pursuant to Article 9 of this Agreement, continuing until the Program's Planning Phase is completed or December 31, 2011, which ever is earlier.

c. To facilitate billing on a calendar year basis, the DHCCP Pay-Go Charge will be computed and included in Contractor's and other Participating SWP Contractor's Annual Statements of Charges for 2009 and thereafter as long as this Agreement is in effect under the Transportation Minimum Component and shall be collected in 12 equal monthly payments as described in Contractor's Water Supply Contract. The DHCCP Pay-Go Charges shall initially be based on estimates of costs determined pursuant to Section 7 (Program Cost, Budgeting and Allocation). These charges

shall be adjusted after the end of each Calendar Year to accurately reflect DWR's Share of Program Costs during that Calendar Year. Such adjustments shall be reflected in the charges in the following calendar year.

d. The DHCCP Pay-Go Charge will be allocated to each Participating SWP Contractor in proportion to the ratio of its DHCCP Table A Amount to the sum of all Participating SWP Contractors' DHCCP Table A Amounts. Attached hereto as Exhibit 4A and 4B is a table of each Participating SWP Contractor's estimated share of the DHCCP Planning Phase Charges for 2009 and 2010. As these charges are adjusted, or should charges be estimated for 2011, or should there be a change in the ratio due to a withdrawal of a Contractor from the Program's Planning Phase, revised versions of Exhibit 4B Contractor shall be attached hereto, without constituting an amendment of this Agreement.

e. DWR prepared a revision to the calendar year 2009 Statement of Charges in mid–December 2008, which includes an estimated allocation of the DHCCP costs among the anticipated participating Contractors. Execution of this Agreement, even if occurring after January 1, 2009, shall constitute agreement by the Contractor to pay the full amount of the Contractor's share of the 2009 DHCCP charge. The full amount of all prior months unpaid payments for 2009 shall be paid by the Contractor on the first monthly payment to DWR following execution of this Agreement.

f. Once the final participation level in the DHCCP Program is known by DWR, DWR shall prepare an amended 2009 DHCCP cost allocation and invoice and the Contractor shall pay the revised amount, if any, over the remaining months in calendar year 2009. This revised invoice is anticipated to be distributed within the first four months of calendar year 2009.

g. The parties recognize that DWR intends to retain approximately $12 million of the excess revenue bond reserve funds to be applied as a credit against the 2008 Transportation Capital charges. DWR also intends to apply approximately $30 million of excess revenue bond reserve fund credits against the January 2009 Transportation Capital payments from the Contractors, with the remaining excess revenue bond reserve fund credits to be applied as a credit against the July 2009 Transportation Capital payments.

7. **Program Cost, Budget and Allocation**

a. As described in the MOA, DWR will work collaboratively with the DHCCP Executive Committee to determine the budget, schedules, and activities of the DHCCP Planning Phase.

b. The total cost for the DHCCP Planning Phase is currently estimated at $140 million. This estimate may change in the future as more information is developed about the costs of planning and designing the potential BDCP conservation measures and water conveyance facilities.

c. DWR is responsible for formulating the DHCCP Planning Phase Budget with specific DHCCP Planning Phase elements and will work collaboratively through the MOA to develop the budget.

d. The Parties to the MOA have committed to an initial, three-year budget. A copy of the initial budget is attached hereto as Exhibit 5. DWR, in collaboration with the Executive Committee, will consider and approve revised budgets for work as necessary. Revised budget(s) shall be attached hereto as subsequent exhibits, without constituting an amendment of this Agreement, provided they do not exceed the funding limit set forth in Section 7(e).

e. Notwithstanding anything set forth in this Agreement or decided through the MOA process, the maximum amount of DWR's Share of Program Costs that shall be funded through this Agreement and all other DHCCP SWP Funding Agreements shall not exceed $70,000,000.

8. **Reimbursement for DHCCP Planning Phase**

a. If the DHCCP is approved to proceed with construction, DWR intends to issue Revenue Bonds to pay for such construction. DWR shall include in the first issue of Revenue Bonds, pursuant to and consistent with Treasury Regulation 1.150-2, an amount sufficient to reimburse the Contractor and all other Participating SWP Contractors for all planning costs paid through the 2008 DHCCP Charge and the DHCCP Pay-Go Charges. DWR, within 10 days of the effective date of this Agreement, shall adopt the necessary documents to conform to the IRS requirements to allow these costs to be included in a future revenue bond issue.

b. If the DHCCP is not approved to proceed with construction or a revenue bond sale does not occur, no reimbursements will occur. Contractor recognizes that, should the DHCCP not be approved to proceed with construction, Contractor may pay costs for the DHCCP Planning Phase that are greater than the amount it would have paid if other means of funding the Program, including under the Water Supply Contract, had

been utilized. Contractor waives any claims it may have with respect to the greater amount that may be paid by it under this Agreement.

c. The provisions of this Section 8 shall survive termination of this Agreement and/or the MOA.

9. Withdrawal and Termination

a. Contractor may withdraw from this Agreement at any time. However, Contractor shall provide 30 days advanced written notice to DWR, all other Participating SWP Contractors, and all Parties to the MOA. The notice of the effective date of its withdrawal shall include a detailed written explanation of why it intends to withdraw.

b. If the MOA terminates, this Agreement shall terminate. However, notwithstanding anything to the contrary set forth in the MOA, DWR agrees that it will not withdraw from the MOA as long as DWR's Share of the Program's Costs remains fully funded. DWR shall remain responsible for administering the provisions of this Agreement that survive termination or withdrawal.

c. If Contractor is a signatory to the MOA, Contractor's withdrawal from the MOA shall be deemed as withdrawal from this Agreement.

d. If any Participating SWP Contractor or Contractors withdraws from its DHCCP SWP Funding Agreement, Contractor, if not a withdrawing party, shall notify DWR within seven days after the effective date of such withdrawal as to whether it intends to continue operating under this Agreement. Failure to provide such notice shall be deemed an agreement to continue as a Party to this Agreement.

e. If one or more Participating SWP Contractors withdraw from their DHCCP SWP Funding Agreements and Contractor decides to continue operating under this Agreement, then Contractor's cost allocation share and the cost allocation shares of all other remaining Participating SWP Contractors will be changed to reflect the new ratios of their DHCCP Table A Amounts to the sum of the remaining Participating SWP Contractors' DHCCP Table A Amounts. Such adjustment shall be made through a revised billing payable in equal installments over the remainder of the then current calendar year or six months from the date the revised billing is received by Contractor, whichever is longer. DWR shall transmit the revised billing to Contractor within 60 days of the effective date of the withdrawal that triggered the revised cost allocation.

f. In the event of Contractor's noticed withdrawal from this Agreement, Contractor shall no longer be obligated to fund any costs related to DHCCP Planning Phase task orders that are subsequently approved by DWR or that were approved by DWR less than 60 days prior to the date the notice of withdrawal was transmitted to DWR pursuant to Section 9(a). However, Contractor shall remain responsible for its share of the costs of completing any DHCCP Planning Phase task orders approved 60 days prior to the date the notice of withdrawal was transmitted.

g. If termination of the MOA occurs concurrent with or after Contractor's notice of withdrawal from this Agreement but prior to the effective date of the Contractor's withdrawal, or the Contractor has not withdrawn, Contractor is obligated to pay its share of the reasonable termination costs incurred in fulfillment of the DHCCP Planning Phase or the objectives of the MOA, such as costs associated with early termination of consultant contracts. The total termination costs will be shared on a 50-50 basis between the State and federal interests. The Contractor's share of termination costs shall be determined using the same ratio as described in Section 6(d) of this Agreement.

h. The provisions of paragraphs (b), (d), (e), (f) and (g) of this Section 9 shall survive termination of this Agreement and/or the MOA

10. <u>Invoices, Notices Or Other Communications</u>

a. All invoices, notices, or other communications required under this Agreement will be in writing, and will be deemed to have been duly given upon the date of service, if: (i.) served personally on the Party to whom notice is to be given; (ii.) sent by electronic mail, and the Party to whom notice is to be given confirms receipt; or (iii.) on the third day after mailing, if mailed to the Party to whom invoice, notice or other communication is directed, by first-class mail, postage prepaid, and properly addressed to the designated representative(s) of the Party set forth below.

DWR: Chief, State Water Project Analysis Office
Department of Water Resources
State Water Project Analysis Office
Department of Water Resources
1416 Ninth Street, Room 1620
Post Office Box 942836
Sacramento, California 94236-0001

MWA: Mr. Kirby Brill
General Manager
Mojave Water Agency
22450 Headquarters Drive
Apple Valley, California 92307-4304

b. The time for providing any payments, notices, or other communications specified in this Agreement may be extended within the term of this Agreement with the consent of the Parties, confirmed in writing, without requiring an amendment to this Agreement.

11. No Amendment to Water Supply Contract
This Agreement does not amend, abridge, or modify the Water Supply Contract in any way.

12. Amendments
Except for the addition of exhibits as authorized herein, this Agreement may be amended or modified only by a subsequent written agreement approved and executed by the Parties.

13. Agreement Conformity
All Agreements to fund the DHCCP Planning Phase entered into by DWR and Participating SWP Contractors shall be substantially uniform.

14. Applicable Law
This Agreement will be construed under and will be deemed to be governed by the laws of the United States and the State of California.

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

16. Execution in Counterpart
This Agreement may be executed in counterpart, each of which shall constitute an original, but all of which shall constitute one and the same agreement. Each signing Party shall have received a copy of the signature page signed by every other Party.

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

Approved as to legal form
and Sufficiency

Chief Counsel
Department of Water Resources

MAR 12 2009
Date

State of California
Department of Water Resources

Director

3/12/09
Date

Approved as to legal form
and Sufficiency

Counsel for MWA

4-9-09
Date

Mojave Water Agency

General Manager

April 16, 2009
Date

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

Approved as to legal form
and Sufficiency

Chief Counsel
Department of Water Resources

MAR 12 2009
Date

State of California
Department of Water Resources

Director

3/12/09
Date

Approved as to legal form
and Sufficiency

Counsel for MWA

Date

Mojave Water Agency

General Manager

Date

List of Exhibits to be Attached

Exhibit 1: Memorandum of Agreement Regarding Collaboration on the Planning, Preliminary Design and Environmental Compliance for the Delta Habitat Conservation and Conveyance Program in Connection with the Development of the Bay Delta Conservation Plan (Paragraph 1.a)

Exhibit 2: Table of Participating SWP Contractors Actual Advanced Costs for 2008 (Paragraph 5.c)

Exhibit 3: Participating SWP Contractors Share of 2008 Costs (Paragraph 5.c)

Exhibit 4: Participating SWP Contractors Estimated Share of 2009 and 2010 DHCCP Planning Phase Costs (Paragraph 6.d)

Exhibit 5: Initial 3 Year Budget (Paragraph 7.d)

Exhibit 1

(Memorandum of Agreement)

Exhibit 2

(Actual 2008 DHCCP Costs by participating SWP Contractor)
(To be provided once final 2008 costs have been determined)

Exhibit 3A
Estimated 2008 DHCCP Planning Phase Costs
by
All Participating SWP Contractor's

2008 CY Projection	$	23,039,000
SWPC 50 Percent	$	11,519,500

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	SWP Contractor Share
Metropolitan WD Of SC	1,911,500	45.81%	$ 5,276,936
Kern County Water Agency	998,730	23.93%	$ 2,757,120
Antelope Valley-East Kern WA	141,400	3.39%	$ 390,352
Coachella Valley WD	121,100	2.90%	$ 334,312
San Bernardino Valley MWD	102,600	2.46%	$ 283,240
Santa Clara Valley WD	100,000	2.40%	$ 276,063
Tulare Lake Basin WSD	95,922	2.30%	$ 264,805
Castaic Lake WA	95,200	2.28%	$ 262,812
Alameda Co FC&WCD - Zone 7	80,619	1.93%	$ 222,559
Mojave Water Agency	75,800	1.82%	$ 209,255
Dudley Ridge WD	57,343	1.37%	$ 158,303
Desert Water Agency	50,000	1.20%	$ 138,031
Solano County WA	47,756	1.14%	$ 131,836
Santa Barbara County FCWCD	45,486	1.09%	$ 125,570
Alameda County WD	42,000	1.01%	$ 115,946
Napa County FC&WCD	29,025	0.70%	$ 80,127
San Gabriel Valley MWD	28,800	0.69%	$ 79,506
Butte County	27,500	0.66%	$ 75,917
San Luis Obispo Co. FC&WCD	25,000	0.60%	$ 69,016
Palmdale WD	21,300	0.51%	$ 58,801
Casitas Municipal WD	20,000	0.48%	$ 55,213
San Gorgonio Pass WA	17,300	0.41%	$ 47,759
City Of Yuba City	9,600	0.23%	$ 26,502
County Of Kings	9,305	0.22%	$ 25,688
Crestline-Lake Arrowhead WA	5,800	0.14%	$ 16,012
Oak Flat WD	5,700	0.14%	$ 15,736
Empire - West Side ID	3,000	0.07%	$ 8,282
Plumas County	2,700	0.06%	$ 7,454
Littlerock Creek ID	2,300	0.06%	$ 6,349
Total Table A	**4,172,786**	**100%**	**11,519,500**

Exhibit 3B
Estimated 2008 DHCCP Planning Phase Costs
by
Estimated Participating SWP Contractor's

2008 CY Projection	$	23,039,000
SWPC 50 Percent	$	11,519,500

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	SWP Contractor Share
Metropolitan WD Of SC	1,911,500	47.37%	$ 5,456,674
Kern County Water Agency	998,730	24.75%	$ 2,851,030
Antelope Valley-East Kern WA	141,400	3.50%	$ 403,648
Coachella Valley WD	121,100	3.00%	$ 345,699
San Bernardino Valley MWD	102,600	2.54%	$ 292,888
Santa Clara Valley WD	100,000	2.48%	$ 285,466
Tulare Lake Basin WSD	95,922	2.38%	$ 273,824
Castaic Lake WA	95,200	2.36%	$ 271,763
Alameda Co FC&WCD - Zone 7	80,619	2.00%	$ 230,139
Mojave Water Agency	75,800	1.88%	$ 216,383
Desert Water Agency	50,000	1.24%	$ 142,733
Solano County WA	47,756	1.18%	$ 136,327
Santa Barbara County FCWCD	45,486	1.13%	$ 129,847
Alameda County WD	42,000	1.04%	$ 119,896
Napa County FC&WCD	29,025	0.72%	$ 82,856
San Gabriel Valley MWD	28,800	0.71%	$ 82,214
San Luis Obispo Co. FC&WCD	25,000	0.62%	$ 71,366
Palmdale WD	21,300	0.53%	$ 60,804
San Gorgonio Pass WA	17,300	0.43%	$ 49,386
Crestline-Lake Arrowhead WA	5,800	0.14%	$ 16,557
Total Table A	**4,035,338**	**100.00%**	**$ 11,519,500**

Exhibit 4A
Estimated 2009-2010 DHCCP Planning Phase Costs
by
All Participating SWP Contractor's

Cal Year	2009	2010
CY Projection	$ 55,242,000	$ 61,368,000
SWPC 50 Percent	$ 27,621,000	$ 30,684,000

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	2009 SWP Contractor Projct'd Share	2010 SWP Contractor Projct'd Share
Metropolitan WD Of SC	1,911,500	45.81%	$ 12,652,828	$ 14,055,949
Kern County Water Agency	998,730	23.93%	$ 6,610,912	$ 7,344,022
Antelope Valley-East Kern WA	141,400	3.39%	$ 935,972	$ 1,039,765
Coachella Valley WD	121,100	2.90%	$ 801,599	$ 890,492
San Bernardino Valley MWD	102,600	2.46%	$ 679,142	$ 754,455
Santa Clara Valley WD	100,000	2.40%	$ 661,932	$ 735,336
Tulare Lake Basin WSD	95,922	2.30%	$ 634,938	$ 705,349
Castaic Lake WA	95,200	2.28%	$ 630,159	$ 700,040
Alameda Co FC&WCD - Zone 7	80,619	1.93%	$ 533,643	$ 592,821
Mojave Water Agency	75,800	1.82%	$ 501,744	$ 557,385
Dudley Ridge WD	57,343	1.37%	$ 379,572	$ 421,664
Desert Water Agency	50,000	1.20%	$ 330,966	$ 367,668
Solano County WA	47,756	1.14%	$ 316,112	$ 351,167
Santa Barbara County FCWCD	45,486	1.09%	$ 301,086	$ 334,475
Alameda County WD	42,000	1.01%	$ 278,011	$ 308,841
Napa County FC&WCD	29,025	0.70%	$ 192,126	$ 213,431
San Gabriel Valley MWD	28,800	0.69%	$ 190,636	$ 211,777
Butte County	27,500	0.66%	$ 182,031	$ 202,217
San Luis Obispo Co. FC&WCD	25,000	0.60%	$ 165,483	$ 183,834
Palmdale WD	21,300	0.51%	$ 140,991	$ 156,627
Casitas Municipal WD	20,000	0.48%	$ 132,386	$ 147,067
San Gorgonio Pass WA	17,300	0.41%	$ 114,514	$ 127,213
City Of Yuba City	9,600	0.23%	$ 63,545	$ 70,592
County Of Kings	9,305	0.22%	$ 61,593	$ 68,423
Crestline-Lake Arrowhead WA	5,800	0.14%	$ 38,392	$ 42,649
Oak Flat WD	5,700	0.14%	$ 37,730	$ 41,914
Empire - West Side ID	3,000	0.07%	$ 19,858	$ 22,060
Plumas County	2,700	0.06%	$ 17,872	$ 19,854
Littlerock Creek ID	2,300	0.06%	$ 15,224	$ 16,913
Total Table A	**4,172,786**	**100%**	**27,621,000**	**30,684,000**

Exhibit 4B
Estimated 2009-2010 DHCCP Planning Phase Costs
by
Estimated Participating SWP Contractor's

Cal Year	2009	2010
CY Projection	$ 55,242,000	$ 61,368,000
SWPC 50 Percent	$ 27,621,000	$ 30,684,000

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	2009 SWP Contractor Projct'd Share	2010 SWP Contractor Projct'd Share
Metropolitan WD Of SC	1,911,500	47.37%	$ 13,083,797	$ 14,534,710
Kern County Water Agency	998,730	24.75%	$ 6,836,087	$ 7,594,167
Antelope Valley-East Kern WA	141,400	3.50%	$ 967,852	$ 1,075,181
Coachella Valley WD	121,100	3.00%	$ 828,903	$ 920,823
San Bernardino Valley MWD	102,600	2.54%	$ 702,274	$ 780,152
Santa Clara Valley WD	100,000	2.48%	$ 684,478	$ 760,382
Tulare Lake Basin WSD	95,922	2.38%	$ 656,565	$ 729,374
Castaic Lake WA	95,200	2.36%	$ 651,623	$ 723,884
Alameda Co FC&WCD - Zone 7	80,619	2.00%	$ 551,819	$ 613,013
Mojave Water Agency	75,800	1.88%	$ 518,834	$ 576,370
Desert Water Agency	50,000	1.24%	$ 342,239	$ 380,191
Solano County WA	47,756	1.18%	$ 326,879	$ 363,128
Santa Barbara County FCWCD	45,486	1.13%	$ 311,342	$ 345,868
Alameda County WD	42,000	1.04%	$ 287,481	$ 319,361
Napa County FC&WCD	29,025	0.72%	$ 198,670	$ 220,701
San Gabriel Valley MWD	28,800	0.71%	$ 197,130	$ 218,990
San Luis Obispo Co. FC&WCD	25,000	0.62%	$ 171,119	$ 190,096
Palmdale WD	21,300	0.53%	$ 145,794	$ 161,961
San Gorgonio Pass WA	17,300	0.43%	$ 118,415	$ 131,546
Crestline-Lake Arrowhead WA	5,800	0.14%	$ 39,700	$ 44,102
Total Table A	**4,035,338**	**100%**	**27,621,000**	**30,684,000**

Exhibit 5
Initial DHCCP Planning Phase Budget
(In 1000)

	2008		2009		2010	
Program Element	Jan-Jun	Jul-Dec	Jan-Jun	Jul-Dec	Jan-Jun	Jul-Dec
Management, Planning, & Administration	$ 0	$ 3,134	$ 2,885	$ 2,915	$ 2,995	$ 2,995
Right of Way	$ 611	$ 3,155	$ 2,818	$ 3,568	$ 3,817	$ 3,817
Preliminary Engineering	$ 476	$ 7,840	$11,115	$11,523	$15,903	$15,903
Environmental Services	$ 178	$ 5,645	$ 6,554	$ 11,390	$ 7,141	$ 6,895
Legal Services	$ 0	$ 455	$ 767	$ 767	$ 518	$ 518
General Operating Expenses	$ 5	$ 1,540	$ 438	$ 502	$ 389	$ 477
Six Month Total	$ 1,270	$21,769	$24,577	$30,665	$30,763	$30,605
Calendar Year Total	$ 23,039		$ 55,242		$ 61,368	

State of California
California Natural Resources Agency
DEPARTMENT OF WATER RESOURCES

AGREEMENT FOR FUNDING BETWEEN THE DEPARTMENT OF WATER RESOURCES AND SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT

FOR THE COSTS OF ENVIRONMENTAL ANALYSIS, PLANNING AND DESIGN OF DELTA CONSERVATION MEASURES, INCLUDING DELTA CONVEYANCE OPTIONS

(SWPAO #09904)

THIS AGREEMENT is made this 13th day of March, 2009, pursuant to the provisions of all applicable laws of the State of California, between the State of California, acting by and through its Department of Water Resources ("DWR"), and Santa Clara Valley Water District ("Contractor"). DWR and the Contractor may also be referred to individually as "Party" or collectively as "Parties."

Recitals

A. **WHEREAS**, DWR and Contractor have entered into and subsequently amended a long-term water supply contract, herein referred to as the "Water Supply Contract," providing that DWR will supply certain quantities of water to Contractor, and providing that Contractor shall make certain payments to DWR, and setting forth the terms and conditions of such supply and such payment; and

B. **WHEREAS**, DWR and several State Water Project (SWP) Contractors are parties to a Memorandum of Agreement ("MOA"), providing that they will collaborate to develop the environmental documents, engineering designs, and other necessary information for possible conservation measures, particularly Delta water conveyance options; and

C. **WHEREAS**, the MOA is intended to support and complement the certain activities of the Bay-Delta Conservation Plan ("BDCP") Steering Committee by establishing procedures to facilitate the funding and planning for the Delta water conveyance and habitat conservation studies, which the Parties refer to as the "Planning Phase" of the Delta Habitat Conservation and Conveyance Program ("DHCCP" or "Program"); and

D. **WHEREAS**, DWR and a group of SWP Contractors, collectively known as the "Participating SWP Contractors," believe the DHCCP Planning Phase is necessary to facilitate the assessment and planning of likely conservation measures of the BDCP, analyze responses to the multiple threats to the State's economic well being posed by the current Delta water conveyance system's vulnerability to seismic risk, climate change, and ongoing regulatory prescriptions, and to consider prudent funding sources for species conservation and improved Delta water conveyance facilities in order to achieve related benefits to water supply, water supply reliability, and ecosystem health and resiliency; and

E. **WHEREAS**, subject to any adjustments provided for in the MOA, DWR will fund fifty percent (50%) of the total cost for the DHCCP Planning Phase and will collect that amount from Contractor and other Participating SWP Contractors, pursuant to this and similar Agreements; and

F. **WHEREAS**, subject to any adjustments provided for in the MOA, certain federal Central Valley Project contractors have agreed to fund the remaining 50 percent of the total DHCCP Planning Phase costs and Reclamation, as allowed under federal appropriations law, via in-kind services and a financial assistance agreement, will provide some portion of this 50 percent; and

G. **WHEREAS**, DWR and the Participating SWP Contractors are endeavoring to increase DWR's flexibility to perform work on the DHCCP Planning Phase by

modifying the funding practices and providing funds so the DHCCP Planning Phase work may start as soon as possible; and

H. **WHEREAS**, because DWR must have a source of funding to repay and fund the costs of the DHCCP Planning Phase starting in 2008 until its expected completion by 2010, the Contractor, along with the other Participating SWP Contractors, is willing to provide such funds under the terms of this Agreement through the DHCCP charge; and

I. **WHEREAS**, DWR is willing to credit the Contractor and the other Participating SWP Contractors from 2008 excess revenue bond reserve funds, an amount equal to the Contractor's allocation of the 2008 DHCCP Planning Phase costs, and to credit additional reserve funds in 2009 as provided by Article 50 of the Water Supply Contract; and

J. **WHEREAS**, Contractor is willing to enter into this Agreement to pay a share of the DHCCP Planning Phase costs, and, in consideration therefore, DWR is willing to consult with Contractor and other Participating SWP Contractors on decisions related to the budget, scope, schedule, and activities of the Program's Planning Phase to ensure its timely completion in a cost-efficient manner, and

K. **WHEREAS,** it is DWR's intent that all funds needed to meet DWR's Share of the Program's Costs will be collected through this and all other SWP DHCCP Funding Agreements.

AGREEMENT

NOW THEREFORE, it is mutually agreed by DWR and Contractor as follows:

1. **Definitions**

When used in this Agreement, the definitions in the Water Supply Contract shall apply. In addition, the following definitions shall apply:

a. "**DHCCP**" or "**Program**" means the proposed development of possible BDCP conservation measures, including Delta conveyance options as described in the MOA.

b. "**DHCCP Planning Phase**" or "**Program's Planning Phase**" means the proposed development of environmental documents, planning, engineering designs, and other necessary information for possible BDCP conservation measures, including Delta conveyance options as described in the MOA. It does not include construction activity for any BDCP conservation measure, including any Delta Conveyance option.

c. "**MOA**" means the "Memorandum of Agreement Regarding Collaboration on the Planning, Preliminary Design and Environmental Compliance for the Delta Habitat Conservation and Conveyance Program in Connection with the Development of the Bay Delta Conservation Plan," a copy of which is attached hereto as Exhibit 1.

d. "**SWP**" means the State Water Project operated by DWR. The SWP generally includes the State Water Facilities, as defined in California Water Code section 12934(d), and certain facilities found in the Central Valley Project Act at section 11100 et. seq.

e. "**Water Supply Contract**" means the long-term water supply contract between Contractor and DWR, and similar contracts entered into by DWR and other Participating SWP Contractors.

f. "**Water Supply Contractor**" means one of the contractors that signed a Water Supply Contract which is still in effect.

g. "**DHCCP SWP Funding Agreement**" means this Agreement and agreements substantially the same as this Agreement signed by Participating SWP Contractors and DWR.

h. "**Participating SWP Contractor**" means a SWP Water Supply Contractor that has executed a DHCCP SWP Funding Agreement.

i. "**Calendar Year**" means the period January 1 through December 31.

j. "**DHCCP Table A Amount**" means, for Contractor, the maximum Table A amount as listed in its Water Supply Contract. The DHCCP Table A Amount will be used each year to calculate the Contractor's share of the DHCCP Planning Phase charges as a percentage of the sum of all the DHCCP Table A Amounts of the Participating SWP Contractors.

k. "**2008 DHCCP Charge**" means a charge to Contractor included in its annual statement of charges for 2008 that reflects the estimated costs for DHCCP in 2008.

l. "**Department's Share of the Program's Costs**" means fifty percent (50%) of the total DHCCP Planning Phase costs.

m. "**DHCCP Pay-Go Charge**" means the charge to the Contractor pursuant to this Agreement included in its Annual Statement of Charges to recover the Contractor's allocation of Department's Share of the Program's Costs beginning in 2009 and continuing until the Program's Planning Phase is completed or December 31, 2011, which ever is earlier.

n. "**Reclamation**" means the United States Department of the Interior, Bureau of Reclamation.

o. "**Central Valley Project contractors**" means the Central Valley Project contractors that are involved in funding the DHCCP Planning Phase, which are a subset of the total Central Valley Project contractors group.

2. **Purpose of the Agreement**

a. The purpose of this Agreement is to establish the terms and conditions under which Contractor will provide funding to DWR that, along with funding from the other Participating SWP Contractors, will provide all funds needed to pay the actual costs of DWR's Share of the Program's costs.

b. Funding pursuant to this Agreement addresses only the DHCCP Planning Phase. After completing the DHCCP Planning Phase, if the Parties determine to proceed with actions beyond the DHCCP Planning Phase, including the implementation and construction phases of the DHCCP, the Parties may enter into additional funding agreements.

3. **Term of Agreement**

This Agreement will take effect upon execution of the Parties and will remain in effect until the DHCCP Planning Phase is completed or until December 31, 2011, whichever comes first, unless extended by written amendment.

4. **DHCCP Planning Phase Costs**

Should the funding procedures established by this and all other DHCCP SWP Funding Agreements, or funding procedures established by Funding Agreements between DWR and Reclamation or federal contractors, terminate, DWR and the Participating Contractors, other than the Participating Contractors that have withdrawn pursuant to Section 9(a), shall use their best efforts to develop a funding plan that will allow for the timely completion of the DHCCP Planning Phase. Any subsequent funding plan for completion of the DHCCP Planning Phase shall include provisions that ensure that Participating Contractors that have withdrawn do not incur any additional charges related to the completion of the DHCCP Planning Phase. For purposes of this paragraph, "charges" shall mean 1) costs chargeable to the contractor or 2) revenues and/or cash available to pay rate management credits to the contractor. This provision shall survive termination of this Agreement. After one year from the termination of the MOA, nothing in this provision would prevent DWR from charging the Contractor in accordance with its Water Supply Contract to fund other and new Delta conveyance planning activities that are distinct and independent of the DHCCP and BDCP.

5. **2008 DHCCP Charge**

a. Before DWR may implement this section and to obtain funding for DWR's Share of the Program Costs incurred before December 31, 2008, the following must be satisfied: (i) this Agreement is fully executed by the Parties, and (ii) the SWP DHCCP Funding Agreements and the MOA are signed by DWR and the SWP Contractors who are also parties to the MOA. Once DWR and the Participating SWP Contractors who are parties to the MOA have signed the MOA, the Parties agree to abide by the terms and conditions of the MOA, notwithstanding that the Parties recognize the MOA may not have been fully executed.

b. DWR will submit a revised 2008 Statement of Charges to the Contractor that includes Contractor's estimated 2008 DHCCP Charge. The 2008 DHCCP Charge shall be based on actual costs incurred in 2008, pursuant to Paragraph 7 (Program Cost, Budgeting and Allocation). At the time the revised 2008 Statement of Charges is transmitted to the Contractor, DWR shall submit to the Contractor a revised invoice for the month of July 2008 reflecting credits resulting from the release of excess revenue bond reserve funds against Contractor's Transportation Capital charges in an

amount equal to the amount of the revised 2008 Statement of Charges, as provided by the Water Supply Contract.

c. Should the funding from Contractor for the estimated costs be insufficient to cover the actual costs incurred by DWR through December 31, 2008, DWR shall include the Contractor's additional 2008 costs in its 2009 Statement of Charges. After the actual costs incurred up to and including December 31, 2008, have been finally determined, a table reflecting the actual funding advanced by each Participating SWP Contractor in 2008 will be attached hereto as Exhibit 2, without constituting an amendment of this Agreement. All 2008 DHCCP Planning Phase costs will be allocated to each Participating SWP Contractor in proportion to the ratio of its DHCCP Table A Amount to the sum of all Participating SWP Contractors' 2008 DHCCP Table A Amounts. Attached hereto as Exhibit 3A and 3B is a table of each Participating SWP Contractor's estimated share of the 2008 DHCCP Charge.

6. **DHCCP Pay-Go Charge**

a. Before DWR may implement this section to seek funding for costs incurred after December 31, 2008, the following must be completed: (a) this Agreement is fully executed by the Parties and is in full force and effect, (b) the MOA is executed by all of its parties and in effect, and (c) DWR has executed a binding agreement or agreements with Reclamation and certain Central Valley Project contractors which will establish funding procedures that ensure 50 percent of the DHCCP Planning Phase costs are paid by federal interests. The agreements with the Central Valley Project contractors shall also include provisions that (i) require the Central Valley Project contractors to pay 50 percent of the DHCCP Planning Phase costs incurred prior to October 1, 2008 within 14 days of execution of those agreements; and (ii) provide assurances that 50 percent of all costs incurred after October 1, 2008, and until completion of the Program are paid on a schedule and in amounts, similar to the payment schedule and amounts for the Participating SWP Contractors.

b. Except for those costs described in Section 5 above, DWR shall recover DWR's Share of Program Costs through the DHCCP Pay-Go Charge. The DHCCP Pay-Go Charge shall recover these costs incurred or to be incurred by DWR for the DHCCP Planning Phase beginning on January 1, 2009, and, unless sooner terminated pursuant to Article 9 of this Agreement, continuing until the Program's Planning Phase is completed or December 31, 2011, which ever is earlier.

c. To facilitate billing on a calendar year basis, the DHCCP Pay-Go Charge will be computed and included in Contractor's and other Participating SWP

Contractor's Annual Statements of Charges for 2009 and thereafter as long as this Agreement is in effect under the Transportation Minimum Component and shall be collected in 12 equal monthly payments as described in Contractor's Water Supply Contract. The DHCCP Pay-Go Charges shall initially be based on estimates of costs determined pursuant to Section 7 (Program Cost, Budgeting and Allocation). These charges shall be adjusted after the end of each Calendar Year to accurately reflect DWR's Share of Program Costs during that Calendar Year. Such adjustments shall be reflected in the charges in the following calendar year.

d. The DHCCP Pay-Go Charge will be allocated to each Participating SWP Contractor in proportion to the ratio of its DHCCP Table A Amount to the sum of all Participating SWP Contractors' DHCCP Table A Amounts. Attached hereto as Exhibit 4A and 4B is a table of each Participating SWP Contractor's estimated share of the DHCCP Planning Phase Charges for 2009 and 2010. As these charges are adjusted, or should charges be estimated for 2011, or should there be a change in the ratio due to a withdrawal of a Contractor from the Program's Planning Phase, revised versions of Exhibit 4B Contractor shall be attached hereto, without constituting an amendment of this Agreement.

e. DWR prepared a revision to the calendar year 2009 Statement of Charges in mid–December 2008, which includes an estimated allocation of the DHCCP costs among the anticipated participating Contractors. Execution of this Agreement, even if occurring after January 1, 2009, shall constitute agreement by the Contractor to pay the full amount of the Contractor's share of the 2009 DHCCP charge. The full amount of all prior months unpaid payments for 2009 shall be paid by the Contractor on the first monthly payment to DWR following execution of this Agreement.

f. Once the final participation level in the DHCCP Program is known by DWR, DWR shall prepare an amended 2009 DHCCP cost allocation and invoice and the Contractor shall pay the revised amount, if any, over the remaining months in calendar year 2009. This revised invoice is anticipated to be distributed within the first four months of calendar year 2009.

g. The parties recognize that DWR intends to retain approximately $12 million of the excess revenue bond reserve funds to be applied as a credit against the 2008 Transportation Capital charges. DWR also intends to apply approximately $30 million of excess revenue bond reserve fund credits against the January 2009 Transportation Capital payments from the Contractors, with the remaining excess revenue bond reserve fund

credits to be applied as a credit against the July 2009 Transportation Capital payments.

7. **Program Cost, Budget and Allocation**

a. As described in the MOA, DWR will work collaboratively with the DHCCP Executive Committee to determine the budget, schedules, and activities of the DHCCP Planning Phase.

b. The total cost for the DHCCP Planning Phase is currently estimated at $140 million. This estimate may change in the future as more information is developed about the costs of planning and designing the potential BDCP conservation measures and water conveyance facilities.

c. DWR is responsible for formulating the DHCCP Planning Phase Budget with specific DHCCP Planning Phase elements and will work collaboratively through the MOA to develop the budget.

d. The Parties to the MOA have committed to an initial, three-year budget. A copy of the initial budget is attached hereto as Exhibit 5. DWR, in collaboration with the Executive Committee, will consider and approve revised budgets for work as necessary. Revised budget(s) shall be attached hereto as subsequent exhibits, without constituting an amendment of this Agreement, provided they do not exceed the funding limit set forth in Section 7(e).

e. Notwithstanding anything set forth in this Agreement or decided through the MOA process, the maximum amount of DWR's Share of Program Costs that shall be funded through this Agreement and all other DHCCP SWP Funding Agreements shall not exceed $70,000,000.

8. **Reimbursement for DHCCP Planning Phase**

a. If the DHCCP is approved to proceed with construction, DWR intends to issue Revenue Bonds to pay for such construction. DWR shall include in the first issue of Revenue Bonds, pursuant to and consistent with Treasury Regulation 1.150-2, an amount sufficient to reimburse the Contractor and all other Participating SWP Contractors for all planning costs paid through the 2008 DHCCP Charge and the DHCCP Pay-Go Charges. DWR, within 10 days of the effective date of this Agreement, shall adopt the necessary documents to conform to the IRS requirements to allow these costs to be included in a future revenue bond issue.

b. If the DHCCP is not approved to proceed with construction or a revenue bond sale does not occur, no reimbursements will occur. Contractor recognizes that, should the DHCCP not be approved to proceed with

construction, Contractor may pay costs for the DHCCP Planning Phase that are greater than the amount it would have paid if other means of funding the Program, including under the Water Supply Contract, had been utilized. Contractor waives any claims it may have with respect to the greater amount that may be paid by it under this Agreement.

c. The provisions of this Section 8 shall survive termination of this Agreement and/or the MOA.

9. **Withdrawal and Termination**

a. Contractor may withdraw from this Agreement at any time. However, Contractor shall provide 30 days advanced written notice to DWR, all other Participating SWP Contractors, and all Parties to the MOA. The notice of the effective date of its withdrawal shall include a detailed written explanation of why it intends to withdraw.

b. If the MOA terminates, this Agreement shall terminate. However, notwithstanding anything to the contrary set forth in the MOA, DWR agrees that it will not withdraw from the MOA as long as DWR's Share of the Program's Costs remains fully funded. DWR shall remain responsible for administering the provisions of this Agreement that survive termination or withdrawal.

c. If Contractor is a signatory to the MOA, Contractor's withdrawal from the MOA shall be deemed as withdrawal from this Agreement.

d. If any Participating SWP Contractor or Contractors withdraws from its DHCCP SWP Funding Agreement, Contractor, if not a withdrawing party, shall notify DWR within seven days after the effective date of such withdrawal as to whether it intends to continue operating under this Agreement. Failure to provide such notice shall be deemed an agreement to continue as a Party to this Agreement.

e. If one or more Participating SWP Contractors withdraw from their DHCCP SWP Funding Agreements and Contractor decides to continue operating under this Agreement, then Contractor's cost allocation share and the cost allocation shares of all other remaining Participating SWP Contractors will be changed to reflect the new ratios of their DHCCP Table A Amounts to the sum of the remaining Participating SWP Contractors' DHCCP Table A Amounts. Such adjustment shall be made through a revised billing payable in equal installments over the remainder of the then current calendar year or six months from the date the revised billing is received by Contractor, whichever is longer. DWR shall transmit the revised billing to

Contractor within 60 days of the effective date of the withdrawal that triggered the revised cost allocation.

f. In the event of Contractor's noticed withdrawal from this Agreement, Contractor shall no longer be obligated to fund any costs related to DHCCP Planning Phase task orders that are subsequently approved by DWR or that were approved by DWR less than 60 days prior to the date the notice of withdrawal was transmitted to DWR pursuant to Section 9(a). However, Contractor shall remain responsible for its share of the costs of completing any DHCCP Planning Phase task orders approved 60 days prior to the date the notice of withdrawal was transmitted.

g. If termination of the MOA occurs concurrent with or after Contractor's notice of withdrawal from this Agreement but prior to the effective date of the Contractor's withdrawal, or the Contractor has not withdrawn, Contractor is obligated to pay its share of the reasonable termination costs incurred in fulfillment of the DHCCP Planning Phase or the objectives of the MOA, such as costs associated with early termination of consultant contracts. The total termination costs will be shared on a 50-50 basis between the State and federal interests. The Contractor's share of termination costs shall be determined using the same ratio as described in Section 6(d) of this Agreement.

h. The provisions of paragraphs (b), (d), (e), (f) and (g) of this Section 9 shall survive termination of this Agreement and/or the MOA

10. <u>Invoices, Notices Or Other Communications</u>

a. All invoices, notices, or other communications required under this Agreement will be in writing, and will be deemed to have been duly given upon the date of service, if: (i.) served personally on the Party to whom notice is to be given; (ii.) sent by electronic mail, and the Party to whom notice is to be given confirms receipt; or (iii.) on the third day after mailing, if mailed to the Party to whom invoice, notice or other communication is directed, by first-class mail, postage prepaid, and properly addressed to the designated representative(s) of the Party set forth below.

DWR: Chief, State Water Project Analysis Office
Department of Water Resources
State Water Project Analysis Office
Department of Water Resources
1416 Ninth Street, Room 1620
Post Office Box 942836
Sacramento, California 94236-0001

SBVMWD: Mr. Randy Van Gelder
General Manager
San Bernardino Valley Municipal Water District
Post Office Box 5906
San Bernardino, California 92412-5906

b. The time for providing any payments, notices, or other communications specified in this Agreement may be extended within the term of this Agreement with the consent of the Parties, confirmed in writing, without requiring an amendment to this Agreement.

11. No Amendment to Water Supply Contract

This Agreement does not amend, abridge, or modify the Water Supply Contract in any way.

12. Amendments

Except for the addition of exhibits as authorized herein, this Agreement may be amended or modified only by a subsequent written agreement approved and executed by the Parties.

13. Agreement Conformity

All Agreements to fund the DHCCP Planning Phase entered into by DWR and Participating SWP Contractors shall be substantially uniform.

14. Applicable Law

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

15. Complete Contract

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

16. Execution in Counterpart

This Agreement may be executed in counterpart, each of which shall constitute an original, but all of which shall constitute one and the same agreement. Each signing Party shall have received a copy of the signature page signed by every other Party.

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

Approved as to legal form
and Sufficiency

Chief Counsel
Department of Water Resources

MAR 12 2009
Date

State of California
Department of Water Resources

Director

3/12/09
Date

Approved as to legal form
and Sufficiency

Counsel for SBVMWD

Date

San Bernardino Valley Municipal
Water District

General Manager

Date

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

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Chief Counsel
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Date

State of California
Department of Water Resources

Director

3/12/09
Date

Approved as to legal form
and Sufficiency

Counsel for SBVMWD

3-13-2009
Date

San Bernardino Valley Municipal
Water District

General Manager

3/13/2009
Date

List of Exhibits to be Attached

Exhibit 1: Memorandum of Agreement Regarding Collaboration on the Planning, Preliminary Design and Environmental Compliance for the Delta Habitat Conservation and Conveyance Program in Connection with the Development of the Bay Delta Conservation Plan (Paragraph 1.a)

Exhibit 2: Table of Participating SWP Contractors Actual Advanced Costs for 2008 (Paragraph 5.c)

Exhibit 3: Participating SWP Contractors Share of 2008 Costs (Paragraph 5.c)

Exhibit 4: Participating SWP Contractors Estimated Share of 2009 and 2010 DHCCP Planning Phase Costs (Paragraph 6.d)

Exhibit 5: Initial 3 Year Budget (Paragraph 7.d)

Exhibit 1

(Memorandum of Agreement)

Exhibit 2

(Actual 2008 DHCCP Costs by participating SWP Contractor)
(To be provided once final 2008 costs have been determined)

Exhibit 3A
Estimated 2008 DHCCP Planning Phase Costs
by
All Participating SWP Contractor's

2008 CY Projection	$	23,039,000
SWPC 50 Percent	$	11,519,500

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	SWP Contractor Share
Metropolitan WD Of SC	1,911,500	45.81%	$ 5,276,936
Kern County Water Agency	998,730	23.93%	$ 2,757,120
Antelope Valley-East Kern WA	141,400	3.39%	$ 390,352
Coachella Valley WD	121,100	2.90%	$ 334,312
San Bernardino Valley MWD	102,600	2.46%	$ 283,240
Santa Clara Valley WD	100,000	2.40%	$ 276,063
Tulare Lake Basin WSD	95,922	2.30%	$ 264,805
Castaic Lake WA	95,200	2.28%	$ 262,812
Alameda Co FC&WCD - Zone 7	80,619	1.93%	$ 222,559
Mojave Water Agency	75,800	1.82%	$ 209,255
Dudley Ridge WD	57,343	1.37%	$ 158,303
Desert Water Agency	50,000	1.20%	$ 138,031
Solano County WA	47,756	1.14%	$ 131,836
Santa Barbara County FCWCD	45,486	1.09%	$ 125,570
Alameda County WD	42,000	1.01%	$ 115,946
Napa County FC&WCD	29,025	0.70%	$ 80,127
San Gabriel Valley MWD	28,800	0.69%	$ 79,506
Butte County	27,500	0.66%	$ 75,917
San Luis Obispo Co. FC&WCD	25,000	0.60%	$ 69,016
Palmdale WD	21,300	0.51%	$ 58,801
Casitas Municipal WD	20,000	0.48%	$ 55,213
San Gorgonio Pass WA	17,300	0.41%	$ 47,759
City Of Yuba City	9,600	0.23%	$ 26,502
County Of Kings	9,305	0.22%	$ 25,688
Crestline-Lake Arrowhead WA	5,800	0.14%	$ 16,012
Oak Flat WD	5,700	0.14%	$ 15,736
Empire - West Side ID	3,000	0.07%	$ 8,282
Plumas County	2,700	0.06%	$ 7,454
Littlerock Creek ID	2,300	0.06%	$ 6,349
Total Table A	**4,172,786**	**100%**	**11,519,500**

Exhibit 3B
Estimated 2008 DHCCP Planning Phase Costs
by
Estimated Participating SWP Contractor's

2008 CY Projection	$	23,039,000
SWPC 50 Percent	$	11,519,500

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	SWP Contractor Share
Metropolitan WD Of SC	1,911,500	47.37%	$ 5,456,674
Kern County Water Agency	998,730	24.75%	$ 2,851,030
Antelope Valley-East Kern WA	141,400	3.50%	$ 403,648
Coachella Valley WD	121,100	3.00%	$ 345,699
San Bernardino Valley MWD	102,600	2.54%	$ 292,888
Santa Clara Valley WD	100,000	2.48%	$ 285,466
Tulare Lake Basin WSD	95,922	2.38%	$ 273,824
Castaic Lake WA	95,200	2.36%	$ 271,763
Alameda Co FC&WCD - Zone 7	80,619	2.00%	$ 230,139
Mojave Water Agency	75,800	1.88%	$ 216,383
Desert Water Agency	50,000	1.24%	$ 142,733
Solano County WA	47,756	1.18%	$ 136,327
Santa Barbara County FCWCD	45,486	1.13%	$ 129,847
Alameda County WD	42,000	1.04%	$ 119,896
Napa County FC&WCD	29,025	0.72%	$ 82,856
San Gabriel Valley MWD	28,800	0.71%	$ 82,214
San Luis Obispo Co. FC&WCD	25,000	0.62%	$ 71,366
Palmdale WD	21,300	0.53%	$ 60,804
San Gorgonio Pass WA	17,300	0.43%	$ 49,386
Crestline-Lake Arrowhead WA	5,800	0.14%	$ 16,557
Total Table A	**4,035,338**	**100.00%**	**$ 11,519,500**

Exhibit 4A
Estimated 2009-2010 DHCCP Planning Phase Costs
by
All Participating SWP Contractor's

Cal Year	2009	2010
CY Projection	$ 55,242,000	$ 61,368,000
SWPC 50 Percent	$ 27,621,000	$ 30,684,000

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	2009 SWP Contractor Projct'd Share	2010 SWP Contractor Projct'd Share
Metropolitan WD Of SC	1,911,500	45.81%	$ 12,652,828	$ 14,055,949
Kern County Water Agency	998,730	23.93%	$ 6,610,912	$ 7,344,022
Antelope Valley-East Kern WA	141,400	3.39%	$ 935,972	$ 1,039,765
Coachella Valley WD	121,100	2.90%	$ 801,599	$ 890,492
San Bernardino Valley MWD	102,600	2.46%	$ 679,142	$ 754,455
Santa Clara Valley WD	100,000	2.40%	$ 661,932	$ 735,336
Tulare Lake Basin WSD	95,922	2.30%	$ 634,938	$ 705,349
Castaic Lake WA	95,200	2.28%	$ 630,159	$ 700,040
Alameda Co FC&WCD - Zone 7	80,619	1.93%	$ 533,643	$ 592,821
Mojave Water Agency	75,800	1.82%	$ 501,744	$ 557,385
Dudley Ridge WD	57,343	1.37%	$ 379,572	$ 421,664
Desert Water Agency	50,000	1.20%	$ 330,966	$ 367,668
Solano County WA	47,756	1.14%	$ 316,112	$ 351,167
Santa Barbara County FCWCD	45,486	1.09%	$ 301,086	$ 334,475
Alameda County WD	42,000	1.01%	$ 278,011	$ 308,841
Napa County FC&WCD	29,025	0.70%	$ 192,126	$ 213,431
San Gabriel Valley MWD	28,800	0.69%	$ 190,636	$ 211,777
Butte County	27,500	0.66%	$ 182,031	$ 202,217
San Luis Obispo Co. FC&WCD	25,000	0.60%	$ 165,483	$ 183,834
Palmdale WD	21,300	0.51%	$ 140,991	$ 156,627
Casitas Municipal WD	20,000	0.48%	$ 132,386	$ 147,067
San Gorgonio Pass WA	17,300	0.41%	$ 114,514	$ 127,213
City Of Yuba City	9,600	0.23%	$ 63,545	$ 70,592
County Of Kings	9,305	0.22%	$ 61,593	$ 68,423
Crestline-Lake Arrowhead WA	5,800	0.14%	$ 38,392	$ 42,649
Oak Flat WD	5,700	0.14%	$ 37,730	$ 41,914
Empire - West Side ID	3,000	0.07%	$ 19,858	$ 22,060
Plumas County	2,700	0.06%	$ 17,872	$ 19,854
Littlerock Creek ID	2,300	0.06%	$ 15,224	$ 16,913
Total Table A	**4,172,786**	**100%**	**27,621,000**	**30,684,000**

Exhibit 4B
Estimated 2009-2010 DHCCP Planning Phase Costs
by
Estimated Participating SWP Contractor's

Cal Year	2009	2010
CY Projection	$ 55,242,000	$ 61,368,000
SWPC 50 Percent	$ 27,621,000	$ 30,684,000

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	2009 SWP Contractor Projct'd Share	2010 SWP Contractor Projct'd Share
Metropolitan WD Of SC	1,911,500	47.37%	$ 13,083,797	$ 14,534,710
Kern County Water Agency	998,730	24.75%	$ 6,836,087	$ 7,594,167
Antelope Valley-East Kern WA	141,400	3.50%	$ 967,852	$ 1,075,181
Coachella Valley WD	121,100	3.00%	$ 828,903	$ 920,823
San Bernardino Valley MWD	102,600	2.54%	$ 702,274	$ 780,152
Santa Clara Valley WD	100,000	2.48%	$ 684,478	$ 760,382
Tulare Lake Basin WSD	95,922	2.38%	$ 656,565	$ 729,374
Castaic Lake WA	95,200	2.36%	$ 651,623	$ 723,884
Alameda Co FC&WCD - Zone 7	80,619	2.00%	$ 551,819	$ 613,013
Mojave Water Agency	75,800	1.88%	$ 518,834	$ 576,370
Desert Water Agency	50,000	1.24%	$ 342,239	$ 380,191
Solano County WA	47,756	1.18%	$ 326,879	$ 363,128
Santa Barbara County FCWCD	45,486	1.13%	$ 311,342	$ 345,868
Alameda County WD	42,000	1.04%	$ 287,481	$ 319,361
Napa County FC&WCD	29,025	0.72%	$ 198,670	$ 220,701
San Gabriel Valley MWD	28,800	0.71%	$ 197,130	$ 218,990
San Luis Obispo Co. FC&WCD	25,000	0.62%	$ 171,119	$ 190,096
Palmdale WD	21,300	0.53%	$ 145,794	$ 161,961
San Gorgonio Pass WA	17,300	0.43%	$ 118,415	$ 131,546
Crestline-Lake Arrowhead WA	5,800	0.14%	$ 39,700	$ 44,102
Total Table A	**4,035,338**	**100%**	**27,621,000**	**30,684,000**

Exhibit 5
Initial DHCCP Planning Phase Budget
(In 1000)

	2008		2009		2010	
Program Element	Jan-Jun	Jul-Dec	Jan-Jun	Jul-Dec	Jan-Jun	Jul-Dec
Management, Planning, & Administration	$ 0	$ 3,134	$ 2,885	$ 2,915	$ 2,995	$ 2,995
Right of Way	$ 611	$ 3,155	$ 2,818	$ 3,568	$ 3,817	$ 3,817
Preliminary Engineering	$ 476	$ 7,840	$11,115	$11,523	$15,903	$15,903
Environmental Services	$ 178	$ 5,645	$ 6,554	$ 11,390	$ 7,141	$ 6,895
Legal Services	$ 0	$ 455	$ 767	$ 767	$ 518	$ 518
General Operating Expenses	$ 5	$ 1,540	$ 438	$ 502	$ 389	$ 477
Six Month Total	$ 1,270	$21,769	$24,577	$30,665	$30,763	$30,605
Calendar Year Total	$ 23,039		$ 55,242		$ 61,368	

State of California
California Natural Resources Agency
DEPARTMENT OF WATER RESOURCES

AGREEMENT FOR FUNDING BETWEEN THE DEPARTMENT OF WATER RESOURCES AND NAPA COUNTY FLOOD CONTROL & WATER CONSERVATION DISTRICT

FOR THE COSTS OF ENVIRONMENTAL ANALYSIS, PLANNING AND DESIGN OF DELTA CONSERVATION MEASURES, INCLUDING DELTA CONVEYANCE OPTIONS

(SWPAO #09915)

THIS AGREEMENT is made this _____ day of _____, _____, pursuant to the provisions of all applicable laws of the State of California, between the State of California, acting by and through its Department of Water Resources ("DWR"), and Napa County Flood Control and Water Conservation District ("Contractor"). DWR and the Contractor may also be referred to individually as "Party" or collectively as "Parties."

Recitals

A. **WHEREAS**, DWR and Contractor have entered into and subsequently amended a long-term water supply contract, herein referred to as the "Water Supply Contract," providing that DWR will supply certain quantities of water to Contractor, and providing that Contractor shall make certain payments to DWR, and setting forth the terms and conditions of such supply and such payment; and

B. **WHEREAS**, DWR and several State Water Project (SWP) Contractors are parties to a Memorandum of Agreement ("MOA"), providing that they will collaborate to develop the environmental documents, engineering designs, and other necessary information for possible conservation measures, particularly Delta water conveyance options; and

C. **WHEREAS**, the MOA is intended to support and complement the certain activities of the Bay-Delta Conservation Plan ("BDCP") Steering Committee by establishing procedures to facilitate the funding and planning for the Delta water conveyance and habitat conservation studies, which the Parties refer to as the "Planning Phase" of the Delta Habitat Conservation and Conveyance Program ("DHCCP" or "Program"); and

D. **WHEREAS**, DWR and a group of SWP Contractors, collectively known as the "Participating SWP Contractors," believe the DHCCP Planning Phase is necessary to facilitate the assessment and planning of likely conservation measures of the BDCP, analyze responses to the multiple threats to the State's economic well being posed by the current Delta water conveyance system's vulnerability to seismic risk, climate change, and ongoing regulatory prescriptions, and to consider prudent funding sources for species conservation and improved Delta water conveyance facilities in order to achieve related benefits to water supply, water supply reliability, and ecosystem health and resiliency; and

E. **WHEREAS**, subject to any adjustments provided for in the MOA, DWR will fund fifty percent (50%) of the total cost for the DHCCP Planning Phase and will collect that amount from Contractor and other Participating SWP Contractors, pursuant to this and similar Agreements; and

F. **WHEREAS**, subject to any adjustments provided for in the MOA, certain federal Central Valley Project contractors have agreed to fund the remaining 50 percent of the total DHCCP Planning Phase costs and Reclamation, as allowed under federal appropriations law, via in-kind services and a financial assistance agreement, will provide some portion of this 50 percent; and

G. **WHEREAS**, DWR and the Participating SWP Contractors are endeavoring to increase DWR's flexibility to perform work on the DHCCP Planning Phase by modifying the funding practices and providing funds so the DHCCP Planning Phase work may start as soon as possible; and

H. **WHEREAS**, because DWR must have a source of funding to repay and fund the costs of the DHCCP Planning Phase starting in 2008 until its expected completion by 2010, the Contractor, along with the other Participating SWP Contractors, is willing to provide such funds under the terms of this Agreement through the DHCCP charge; and

I. **WHEREAS**, DWR is willing to credit the Contractor and the other Participating SWP Contractors from 2008 excess revenue bond reserve funds, an amount equal to the Contractor's allocation of the 2008 DHCCP Planning Phase costs, and to credit additional reserve funds in 2009 as provided by Article 50 of the Water Supply Contract; and

J. **WHEREAS**, Contractor is willing to enter into this Agreement to pay a share of the DHCCP Planning Phase costs, and, in consideration therefore, DWR is willing to consult with Contractor and other Participating SWP Contractors on decisions related to the budget, scope, schedule, and activities of the Program's Planning Phase to ensure its timely completion in a cost-efficient manner, and

K. **WHEREAS,** it is DWR's intent that all funds needed to meet DWR's Share of the Program's Costs will be collected through this and all other SWP DHCCP Funding Agreements.

AGREEMENT

NOW THEREFORE, it is mutually agreed by DWR and Contractor as follows:

1. **Definitions**

When used in this Agreement, the definitions in the Water Supply Contract shall apply. In addition, the following definitions shall apply:

a. "**DHCCP**" or "**Program**" means the proposed development of possible BDCP conservation measures, including Delta conveyance options as described in the MOA.

b. "**DHCCP Planning Phase**" or "**Program's Planning Phase**" means the proposed development of environmental documents, planning, engineering designs, and other necessary information for possible BDCP conservation measures, including Delta conveyance options as described in the MOA. It does not include construction activity for any BDCP conservation measure, including any Delta Conveyance option.

c. "**MOA**" means the "Memorandum of Agreement Regarding Collaboration on the Planning, Preliminary Design and Environmental Compliance for the Delta Habitat Conservation and Conveyance Program in Connection with the Development of the Bay Delta Conservation Plan," a copy of which is attached hereto as Exhibit 1.

d. "**SWP**" means the State Water Project operated by DWR. The SWP generally includes the State Water Facilities, as defined in California Water Code section 12934(d), and certain facilities found in the Central Valley Project Act at section 11100 et. seq.

e. "**Water Supply Contract**" means the long-term water supply contract between Contractor and DWR, and similar contracts entered into by DWR and other Participating SWP Contractors.

f. "**Water Supply Contractor**" means one of the contractors that signed a Water Supply Contract which is still in effect.

g. "**DHCCP SWP Funding Agreement**" means this Agreement and agreements substantially the same as this Agreement signed by Participating SWP Contractors and DWR.

h. "**Participating SWP Contractor**" means a SWP Water Supply Contractor that has executed a DHCCP SWP Funding Agreement.

i. "**Calendar Year**" means the period January 1 through December 31.

j. "**DHCCP Table A Amount**" means, for Contractor, the maximum Table A amount as listed in its Water Supply Contract. The DHCCP Table A Amount will be used each year to calculate the Contractor's share of the DHCCP Planning Phase charges as a percentage of the sum of all the DHCCP Table A Amounts of the Participating SWP Contractors.

k. "**2008 DHCCP Charge**" means a charge to Contractor included in its annual statement of charges for 2008 that reflects the estimated costs for DHCCP in 2008.

l. "**Department's Share of the Program's Costs**" means fifty percent (50%) of the total DHCCP Planning Phase costs.

m. "**DHCCP Pay-Go Charge**" means the charge to the Contractor pursuant to this Agreement included in its Annual Statement of Charges to recover the Contractor's allocation of Department's Share of the Program's Costs beginning in 2009 and continuing until the Program's Planning Phase is completed or December 31, 2011, which ever is earlier.

n. "**Reclamation**" means the United States Department of the Interior, Bureau of Reclamation.

o. "**Central Valley Project contractors**" means the Central Valley Project contractors that are involved in funding the DHCCP Planning Phase, which are a subset of the total Central Valley Project contractors group.

2. Purpose of the Agreement

a. The purpose of this Agreement is to establish the terms and conditions under which Contractor will provide funding to DWR that, along with funding from the other Participating SWP Contractors, will provide all funds needed to pay the actual costs of DWR's Share of the Program's costs.

b. Funding pursuant to this Agreement addresses only the DHCCP Planning Phase. After completing the DHCCP Planning Phase, if the Parties determine to proceed with actions beyond the DHCCP Planning Phase, including the implementation and construction phases of the DHCCP, the Parties may enter into additional funding agreements.

3. Term of Agreement

This Agreement will take effect upon execution of the Parties and will remain in effect until the DHCCP Planning Phase is completed or until December 31, 2011, whichever comes first, unless extended by written amendment.

4. **DHCCP Planning Phase Costs**

Should the funding procedures established by this and all other DHCCP SWP Funding Agreements, or funding procedures established by Funding Agreements between DWR and Reclamation or federal contractors, terminate, DWR and the Participating Contractors, other than the Participating Contractors that have withdrawn pursuant to Section 9(a), shall use their best efforts to develop a funding plan that will allow for the timely completion of the DHCCP Planning Phase. Any subsequent funding plan for completion of the DHCCP Planning Phase shall include provisions that ensure that Participating Contractors that have withdrawn do not incur any additional charges related to the completion of the DHCCP Planning Phase. For purposes of this paragraph, "charges" shall mean 1) costs chargeable to the contractor or 2) revenues and/or cash available to pay rate management credits to the contractor. This provision shall survive termination of this Agreement. After one year from the termination of the MOA, nothing in this provision would prevent DWR from charging the Contractor in accordance with its Water Supply Contract to fund other and new Delta conveyance planning activities that are distinct and independent of the DHCCP and BDCP.

5. **2008 DHCCP Charge**

a. Before DWR may implement this section and to obtain funding for DWR's Share of the Program Costs incurred before December 31, 2008, the following must be satisfied: (i) this Agreement is fully executed by the Parties, and (ii) the SWP DHCCP Funding Agreements and the MOA are signed by DWR and the SWP Contractors who are also parties to the MOA. Once DWR and the Participating SWP Contractors who are parties to the MOA have signed the MOA, the Parties agree to abide by the terms and conditions of the MOA, notwithstanding that the Parties recognize the MOA may not have been fully executed.

b. DWR will submit a revised 2008 Statement of Charges to the Contractor that includes Contractor's estimated 2008 DHCCP Charge. The 2008 DHCCP Charge shall be based on actual costs incurred in 2008, pursuant to Paragraph 7 (Program Cost, Budgeting and Allocation). At the time the revised 2008 Statement of Charges is transmitted to the Contractor, DWR shall submit to the Contractor a revised invoice for the month of July 2008 reflecting credits resulting from the release of excess revenue bond reserve funds against Contractor's Transportation Capital charges in an amount equal to the amount of the revised 2008 Statement of Charges, as provided by the Water Supply Contract.

c. Should the funding from Contractor for the estimated costs be insufficient to cover the actual costs incurred by DWR through December 31, 2008, DWR shall include the Contractor's additional 2008 costs in its 2009

Statement of Charges. After the actual costs incurred up to and including December 31, 2008, have been finally determined, a table reflecting the actual funding advanced by each Participating SWP Contractor in 2008 will be attached hereto as Exhibit 2, without constituting an amendment of this Agreement. All 2008 DHCCP Planning Phase costs will be allocated to each Participating SWP Contractor in proportion to the ratio of its DHCCP Table A Amount to the sum of all Participating SWP Contractors' 2008 DHCCP Table A Amounts. Attached hereto as Exhibit 3A and 3B is a table of each Participating SWP Contractor's estimated share of the 2008 DHCCP Charge.

6. **DHCCP Pay-Go Charge**

a. Before DWR may implement this section to seek funding for costs incurred after December 31, 2008, the following must be completed: (a) this Agreement is fully executed by the Parties and is in full force and effect, (b) the MOA is executed by all of its parties and in effect, and (c) DWR has executed a binding agreement or agreements with Reclamation and certain Central Valley Project contractors which will establish funding procedures that ensure 50 percent of the DHCCP Planning Phase costs are paid by federal interests. The agreements with the Central Valley Project contractors shall also include provisions that (i) require the Central Valley Project contractors to pay 50 percent of the DHCCP Planning Phase costs incurred prior to October 1, 2008 within 14 days of execution of those agreements; and (ii) provide assurances that 50 percent of all costs incurred after October 1, 2008, and until completion of the Program are paid on a schedule and in amounts, similar to the payment schedule and amounts for the Participating SWP Contractors.

b. Except for those costs described in Section 5 above, DWR shall recover DWR's Share of Program Costs through the DHCCP Pay-Go Charge. The DHCCP Pay-Go Charge shall recover these costs incurred or to be incurred by DWR for the DHCCP Planning Phase beginning on January 1, 2009, and, unless sooner terminated pursuant to Article 9 of this Agreement, continuing until the Program's Planning Phase is completed or December 31, 2011, which ever is earlier.

c. To facilitate billing on a calendar year basis, the DHCCP Pay-Go Charge will be computed and included in Contractor's and other Participating SWP Contractor's Annual Statements of Charges for 2009 and thereafter as long as this Agreement is in effect under the Transportation Minimum Component and shall be collected in 12 equal monthly payments as described in Contractor's Water Supply Contract. The DHCCP Pay-Go Charges shall initially be based on estimates of costs determined pursuant to Section 7 (Program Cost, Budgeting and Allocation). These charges

shall be adjusted after the end of each Calendar Year to accurately reflect DWR's Share of Program Costs during that Calendar Year. Such adjustments shall be reflected in the charges in the following calendar year.

d. The DHCCP Pay-Go Charge will be allocated to each Participating SWP Contractor in proportion to the ratio of its DHCCP Table A Amount to the sum of all Participating SWP Contractors' DHCCP Table A Amounts. Attached hereto as Exhibit 4A and 4B is a table of each Participating SWP Contractor's estimated share of the DHCCP Planning Phase Charges for 2009 and 2010. As these charges are adjusted, or should charges be estimated for 2011, or should there be a change in the ratio due to a withdrawal of a Contractor from the Program's Planning Phase, revised versions of Exhibit 4B Contractor shall be attached hereto, without constituting an amendment of this Agreement.

e. DWR prepared a revision to the calendar year 2009 Statement of Charges in mid–December 2008, which includes an estimated allocation of the DHCCP costs among the anticipated participating Contractors. Execution of this Agreement, even if occurring after January 1, 2009, shall constitute agreement by the Contractor to pay the full amount of the Contractor's share of the 2009 DHCCP charge. The full amount of all prior months unpaid payments for 2009 shall be paid by the Contractor on the first monthly payment to DWR following execution of this Agreement.

f. Once the final participation level in the DHCCP Program is known by DWR, DWR shall prepare an amended 2009 DHCCP cost allocation and invoice and the Contractor shall pay the revised amount, if any, over the remaining months in calendar year 2009. This revised invoice is anticipated to be distributed within the first four months of calendar year 2009.

g. The parties recognize that DWR intends to retain approximately $12 million of the excess revenue bond reserve funds to be applied as a credit against the 2008 Transportation Capital charges. DWR also intends to apply approximately $30 million of excess revenue bond reserve fund credits against the January 2009 Transportation Capital payments from the Contractors, with the remaining excess revenue bond reserve fund credits to be applied as a credit against the July 2009 Transportation Capital payments.

7. **Program Cost, Budget and Allocation**

a. As described in the MOA, DWR will work collaboratively with the DHCCP Executive Committee to determine the budget, schedules, and activities of the DHCCP Planning Phase.

b. The total cost for the DHCCP Planning Phase is currently estimated at $140 million. This estimate may change in the future as more information is developed about the costs of planning and designing the potential BDCP conservation measures and water conveyance facilities.

c. DWR is responsible for formulating the DHCCP Planning Phase Budget with specific DHCCP Planning Phase elements and will work collaboratively through the MOA to develop the budget.

d. The Parties to the MOA have committed to an initial, three-year budget. A copy of the initial budget is attached hereto as Exhibit 5. DWR, in collaboration with the Executive Committee, will consider and approve revised budgets for work as necessary. Revised budget(s) shall be attached hereto as subsequent exhibits, without constituting an amendment of this Agreement, provided they do not exceed the funding limit set forth in Section 7(e).

e. Notwithstanding anything set forth in this Agreement or decided through the MOA process, the maximum amount of DWR's Share of Program Costs that shall be funded through this Agreement and all other DHCCP SWP Funding Agreements shall not exceed $70,000,000.

8. **Reimbursement for DHCCP Planning Phase**

a. If the DHCCP is approved to proceed with construction, DWR intends to issue Revenue Bonds to pay for such construction. DWR shall include in the first issue of Revenue Bonds, pursuant to and consistent with Treasury Regulation 1.150-2, an amount sufficient to reimburse the Contractor and all other Participating SWP Contractors for all planning costs paid through the 2008 DHCCP Charge and the DHCCP Pay-Go Charges. DWR, within 10 days of the effective date of this Agreement, shall adopt the necessary documents to conform to the IRS requirements to allow these costs to be included in a future revenue bond issue.

b. If the DHCCP is not approved to proceed with construction or a revenue bond sale does not occur, no reimbursements will occur. Contractor recognizes that, should the DHCCP not be approved to proceed with construction, Contractor may pay costs for the DHCCP Planning Phase that are greater than the amount it would have paid if other means of funding the Program, including under the Water Supply Contract, had

been utilized. Contractor waives any claims it may have with respect to the greater amount that may be paid by it under this Agreement.

c. The provisions of this Section 8 shall survive termination of this Agreement and/or the MOA.

9. **Withdrawal and Termination**

a. Contractor may withdraw from this Agreement at any time. However, Contractor shall provide 30 days advanced written notice to DWR, all other Participating SWP Contractors, and all Parties to the MOA. The notice of the effective date of its withdrawal shall include a detailed written explanation of why it intends to withdraw.

b. If the MOA terminates, this Agreement shall terminate. However, notwithstanding anything to the contrary set forth in the MOA, DWR agrees that it will not withdraw from the MOA as long as DWR's Share of the Program's Costs remains fully funded. DWR shall remain responsible for administering the provisions of this Agreement that survive termination or withdrawal.

c. If Contractor is a signatory to the MOA, Contractor's withdrawal from the MOA shall be deemed as withdrawal from this Agreement.

d. If any Participating SWP Contractor or Contractors withdraws from its DHCCP SWP Funding Agreement, Contractor, if not a withdrawing party, shall notify DWR within seven days after the effective date of such withdrawal as to whether it intends to continue operating under this Agreement. Failure to provide such notice shall be deemed an agreement to continue as a Party to this Agreement.

e. If one or more Participating SWP Contractors withdraw from their DHCCP SWP Funding Agreements and Contractor decides to continue operating under this Agreement, then Contractor's cost allocation share and the cost allocation shares of all other remaining Participating SWP Contractors will be changed to reflect the new ratios of their DHCCP Table A Amounts to the sum of the remaining Participating SWP Contractors' DHCCP Table A Amounts. Such adjustment shall be made through a revised billing payable in equal installments over the remainder of the then current calendar year or six months from the date the revised billing is received by Contractor, whichever is longer. DWR shall transmit the revised billing to Contractor within 60 days of the effective date of the withdrawal that triggered the revised cost allocation.

f. In the event of Contractor's noticed withdrawal from this Agreement, Contractor shall no longer be obligated to fund any costs related to elements of the DHCCP Planning Phase that are subsequently approved by DWR or that were approved by DWR less than 60 days prior to the date the notice of withdrawal was transmitted to DWR pursuant to Section 9(a). However, Contractor shall remain responsible for its share of the costs of completing any DHCCP Planning Phase element approved 60 days prior to the date the notice of withdrawal was transmitted.

g. If termination of the MOA occurs concurrent with or after Contractor's notice of withdrawal from this Agreement but prior to the effective date of the Contractor's withdrawal, or the Contractor has not withdrawn, Contractor is obligated to pay its share of the reasonable termination costs incurred in fulfillment of the DHCCP Planning Phase or the objectives of the MOA, such as costs associated with early termination of consultant contracts. The total termination costs will be shared on a 50-50 basis between the State and federal interests. The Contractor's share of termination costs shall be determined using the same ratio as described in Section 6(d) of this Agreement.

h. The provisions of paragraphs (b), (d), (e), (f) and (g) of this Section 9 shall survive termination of this Agreement and/or the MOA

10. Invoices, Notices Or Other Communications

a. All invoices, notices, or other communications required under this Agreement will be in writing, and will be deemed to have been duly given upon the date of service, if: (i.) served personally on the Party to whom notice is to be given; (ii.) sent by electronic mail, and the Party to whom notice is to be given confirms receipt; or (iii.) on the third day after mailing, if mailed to the Party to whom invoice, notice or other communication is directed, by first-class mail, postage prepaid, and properly addressed to the designated representative(s) of the Party set forth below.

DWR: Chief, State Water Project Analysis Office
Department of Water Resources
State Water Project Analysis Office
Department of Water Resources
1416 Ninth Street, Room 1620
Post Office Box 942836
Sacramento, California 94236-0001

NCFC&WCD: Mr. Robert Peterson
Director of Public Works
Napa County
Department of Public Works
1195 Third Street, Suite 201
Napa, California 94559

b. The time for providing any payments, notices, or other communications specified in this Agreement may be extended within the term of this Agreement with the consent of the Parties, confirmed in writing, without requiring an amendment to this Agreement.

11. **No Amendment to Water Supply Contract**
This Agreement does not amend, abridge, or modify the Water Supply Contract in any way.

12. **Amendments**
Except for the addition of exhibits as authorized herein, this Agreement may be amended or modified only by a subsequent written agreement approved and executed by the Parties.

13. **Agreement Conformity**
All Agreements to fund the DHCCP Planning Phase entered into by DWR and Participating SWP Contractors shall be substantially uniform.

14. **Applicable Law**
This Agreement will be construed under and will be deemed to be governed by the laws of the United States and the State of California.

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

16. **Execution in Counterpart**
This Agreement may be executed in counterpart, each of which shall constitute an original, but all of which shall constitute one and the same agreement. Each signing Party shall have received a copy of the signature page signed by every other Party.

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

Approved as to legal form
and Sufficiency

Chief Counsel
Department of Water Resources

MAR 12 2009
Date

State of California
Department of Water Resources

Director

3/12/09
Date

Approved as to legal form
and Sufficiency

Counsel for NCFC&WCD

Date

Napa County Flood Control and
Water Conservation District

Director of Public Works

Date

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

Approved as to legal form
and Sufficiency

_____
Chief Counsel
Department of Water Resources

_____
Date

State of California
Department of Water Resources

_____
Director

_____
Date

Approved as to legal form
and Sufficiency

_____
Counsel for NCFC&WCD

_____
Date

Napa County Flood Control and
Water Conservation District

_____
Director of Public Works

_____
Date

List of Exhibits to be Attached

Exhibit 1: Memorandum of Agreement Regarding Collaboration on the Planning, Preliminary Design and Environmental Compliance for the Delta Habitat Conservation and Conveyance Program in Connection with the Development of the Bay Delta Conservation Plan (Paragraph 1.a)

Exhibit 2: Table of Participating SWP Contractors Actual Advanced Costs for 2008 (Paragraph 5.c)

Exhibit 3: Participating SWP Contractors Share of 2008 Costs (Paragraph 5.c)

Exhibit 4: Participating SWP Contractors Estimated Share of 2009 and 2010 DHCCP Planning Phase Costs (Paragraph 6.d)

Exhibit 5: Initial 3 Year Budget (Paragraph 7.d)

Exhibit 1

(Memorandum of Agreement)

Exhibit 2

(Actual 2008 DHCCP Costs by participating SWP Contractor)
(To be provided once final 2008 costs have been determined)

Exhibit 3A
Estimated 2008 DHCCP Planning Phase Costs
by
All Participating SWP Contractor's

2008 CY Projection	$	23,039,000
SWPC 50 Percent	$	11,519,500

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	SWP Contractor Share
Metropolitan WD Of SC	1,911,500	45.81%	$ 5,276,936
Kern County Water Agency	998,730	23.93%	$ 2,757,120
Antelope Valley-East Kern WA	141,400	3.39%	$ 390,352
Coachella Valley WD	121,100	2.90%	$ 334,312
San Bernardino Valley MWD	102,600	2.46%	$ 283,240
Santa Clara Valley WD	100,000	2.40%	$ 276,063
Tulare Lake Basin WSD	95,922	2.30%	$ 264,805
Castaic Lake WA	95,200	2.28%	$ 262,812
Alameda Co FC&WCD - Zone 7	80,619	1.93%	$ 222,559
Mojave Water Agency	75,800	1.82%	$ 209,255
Dudley Ridge WD	57,343	1.37%	$ 158,303
Desert Water Agency	50,000	1.20%	$ 138,031
Solano County WA	47,756	1.14%	$ 131,836
Santa Barbara County FCWCD	45,486	1.09%	$ 125,570
Alameda County WD	42,000	1.01%	$ 115,946
Napa County FC&WCD	29,025	0.70%	$ 80,127
San Gabriel Valley MWD	28,800	0.69%	$ 79,506
Butte County	27,500	0.66%	$ 75,917
San Luis Obispo Co. FC&WCD	25,000	0.60%	$ 69,016
Palmdale WD	21,300	0.51%	$ 58,801
Casitas Municipal WD	20,000	0.48%	$ 55,213
San Gorgonio Pass WA	17,300	0.41%	$ 47,759
City Of Yuba City	9,600	0.23%	$ 26,502
County Of Kings	9,305	0.22%	$ 25,688
Crestline-Lake Arrowhead WA	5,800	0.14%	$ 16,012
Oak Flat WD	5,700	0.14%	$ 15,736
Empire - West Side ID	3,000	0.07%	$ 8,282
Plumas County	2,700	0.06%	$ 7,454
Littlerock Creek ID	2,300	0.06%	$ 6,349
Total Table A	**4,172,786**	**100%**	**11,519,500**

Exhibit 3B
Estimated 2008 DHCCP Planning Phase Costs
by
Estimated Participating SWP Contractor's

2008 CY Projection	**$**	**23,039,000**
SWPC 50 Percent	**$**	**11,519,500**

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	SWP Contractor Share
Metropolitan WD Of SC	1,911,500	47.37%	$ 5,456,674
Kern County Water Agency	998,730	24.75%	$ 2,851,030
Antelope Valley-East Kern WA	141,400	3.50%	$ 403,648
Coachella Valley WD	121,100	3.00%	$ 345,699
San Bernardino Valley MWD	102,600	2.54%	$ 292,888
Santa Clara Valley WD	100,000	2.48%	$ 285,466
Tulare Lake Basin WSD	95,922	2.38%	$ 273,824
Castaic Lake WA	95,200	2.36%	$ 271,763
Alameda Co FC&WCD - Zone 7	80,619	2.00%	$ 230,139
Mojave Water Agency	75,800	1.88%	$ 216,383
Desert Water Agency	50,000	1.24%	$ 142,733
Solano County WA	47,756	1.18%	$ 136,327
Santa Barbara County FCWCD	45,486	1.13%	$ 129,847
Alameda County WD	42,000	1.04%	$ 119,896
Napa County FC&WCD	29,025	0.72%	$ 82,856
San Gabriel Valley MWD	28,800	0.71%	$ 82,214
San Luis Obispo Co. FC&WCD	25,000	0.62%	$ 71,366
Palmdale WD	21,300	0.53%	$ 60,804
San Gorgonio Pass WA	17,300	0.43%	$ 49,386
Crestline-Lake Arrowhead WA	5,800	0.14%	$ 16,557
Total Table A	**4,035,338**	**100.00%**	**$ 11,519,500**

Exhibit 4A
Estimated 2009-2010 DHCCP Planning Phase Costs
by
All Participating SWP Contractor's

Cal Year	2009	2010
CY Projection	$ 55,242,000	$ 61,368,000
SWPC 50 Percent	$ 27,621,000	$ 30,684,000

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	2009 SWP Contractor Projct'd Share	2010 SWP Contractor Projct'd Share
Metropolitan WD Of SC	1,911,500	45.81%	$ 12,652,828	$ 14,055,949
Kern County Water Agency	998,730	23.93%	$ 6,610,912	$ 7,344,022
Antelope Valley-East Kern WA	141,400	3.39%	$ 935,972	$ 1,039,765
Coachella Valley WD	121,100	2.90%	$ 801,599	$ 890,492
San Bernardino Valley MWD	102,600	2.46%	$ 679,142	$ 754,455
Santa Clara Valley WD	100,000	2.40%	$ 661,932	$ 735,336
Tulare Lake Basin WSD	95,922	2.30%	$ 634,938	$ 705,349
Castaic Lake WA	95,200	2.28%	$ 630,159	$ 700,040
Alameda Co FC&WCD - Zone 7	80,619	1.93%	$ 533,643	$ 592,821
Mojave Water Agency	75,800	1.82%	$ 501,744	$ 557,385
Dudley Ridge WD	57,343	1.37%	$ 379,572	$ 421,664
Desert Water Agency	50,000	1.20%	$ 330,966	$ 367,668
Solano County WA	47,756	1.14%	$ 316,112	$ 351,167
Santa Barbara County FCWCD	45,486	1.09%	$ 301,086	$ 334,475
Alameda County WD	42,000	1.01%	$ 278,011	$ 308,841
Napa County FC&WCD	29,025	0.70%	$ 192,126	$ 213,431
San Gabriel Valley MWD	28,800	0.69%	$ 190,636	$ 211,777
Butte County	27,500	0.66%	$ 182,031	$ 202,217
San Luis Obispo Co. FC&WCD	25,000	0.60%	$ 165,483	$ 183,834
Palmdale WD	21,300	0.51%	$ 140,991	$ 156,627
Casitas Municipal WD	20,000	0.48%	$ 132,386	$ 147,067
San Gorgonio Pass WA	17,300	0.41%	$ 114,514	$ 127,213
City Of Yuba City	9,600	0.23%	$ 63,545	$ 70,592
County Of Kings	9,305	0.22%	$ 61,593	$ 68,423
Crestline-Lake Arrowhead WA	5,800	0.14%	$ 38,392	$ 42,649
Oak Flat WD	5,700	0.14%	$ 37,730	$ 41,914
Empire - West Side ID	3,000	0.07%	$ 19,858	$ 22,060
Plumas County	2,700	0.06%	$ 17,872	$ 19,854
Littlerock Creek ID	2,300	0.06%	$ 15,224	$ 16,913
Total Table A	**4,172,786**	**100%**	**27,621,000**	**30,684,000**

Exhibit 4B
Estimated 2009-2010 DHCCP Planning Phase Costs
by
Estimated Participating SWP Contractor's

Cal Year	2009	2010
CY Projection	$ 55,242,000	$ 61,368,000
SWPC 50 Percent	$ 27,621,000	$ 30,684,000

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	2009 SWP Contractor Projct'd Share	2010 SWP Contractor Projct'd Share
Metropolitan WD Of SC	1,911,500	47.37%	$ 13,083,797	$ 14,534,710
Kern County Water Agency	998,730	24.75%	$ 6,836,087	$ 7,594,167
Antelope Valley-East Kern WA	141,400	3.50%	$ 967,852	$ 1,075,181
Coachella Valley WD	121,100	3.00%	$ 828,903	$ 920,823
San Bernardino Valley MWD	102,600	2.54%	$ 702,274	$ 780,152
Santa Clara Valley WD	100,000	2.48%	$ 684,478	$ 760,382
Tulare Lake Basin WSD	95,922	2.38%	$ 656,565	$ 729,374
Castaic Lake WA	95,200	2.36%	$ 651,623	$ 723,884
Alameda Co FC&WCD - Zone 7	80,619	2.00%	$ 551,819	$ 613,013
Mojave Water Agency	75,800	1.88%	$ 518,834	$ 576,370
Desert Water Agency	50,000	1.24%	$ 342,239	$ 380,191
Solano County WA	47,756	1.18%	$ 326,879	$ 363,128
Santa Barbara County FCWCD	45,486	1.13%	$ 311,342	$ 345,868
Alameda County WD	42,000	1.04%	$ 287,481	$ 319,361
Napa County FC&WCD	29,025	0.72%	$ 198,670	$ 220,701
San Gabriel Valley MWD	28,800	0.71%	$ 197,130	$ 218,990
San Luis Obispo Co. FC&WCD	25,000	0.62%	$ 171,119	$ 190,096
Palmdale WD	21,300	0.53%	$ 145,794	$ 161,961
San Gorgonio Pass WA	17,300	0.43%	$ 118,415	$ 131,546
Crestline-Lake Arrowhead WA	5,800	0.14%	$ 39,700	$ 44,102
Total Table A	**4,035,338**	**100%**	**27,621,000**	**30,684,000**

Exhibit 5
Initial DHCCP Planning Phase Budget
(In 1000)

	2008		2009		2010	
Program Element	Jan-Jun	Jul-Dec	Jan-Jun	Jul-Dec	Jan-Jun	Jul-Dec
Management, Planning, & Administration	$ 0	$ 3,134	$ 2,885	$ 2,915	$ 2,995	$ 2,995
Right of Way	$ 611	$ 3,155	$ 2,818	$ 3,568	$ 3,817	$ 3,817
Preliminary Engineering	$ 476	$ 7,840	$11,115	$11,523	$15,903	$15,903
Environmental Services	$ 178	$ 5,645	$ 6,554	$ 11,390	$ 7,141	$ 6,895
Legal Services	$ 0	$ 455	$ 767	$ 767	$ 518	$ 518
General Operating Expenses	$ 5	$ 1,540	$ 438	$ 502	$ 389	$ 477
Six Month Total	$ 1,270	$21,769	$24,577	$30,665	$30,763	$30,605
Calendar Year Total	$ 23,039		$ 55,242		$ 61,368	

State of California
California Natural Resources Agency
DEPARTMENT OF WATER RESOURCES

AGREEMENT FOR FUNDING BETWEEN THE DEPARTMENT OF WATER RESOURCES AND SANTA BARBARA COUNTY FLOOD CCONTROL AND WATER CONSERVATION DISTRICT

FOR THE COSTS OF ENVIRONMENTAL ANALYSIS, PLANNING AND DESIGN OF DELTA CONSERVATION MEASURES, INCLUDING DELTA CONVEYANCE OPTIONS

(SWPAO #09913)

THIS AGREEMENT is made this 20th day of March, 2009, pursuant to the provisions of all applicable laws of the State of California, between the State of California, acting by and through its Department of Water Resources ("DWR"), and Central Coast Water Authority ("Contractor"). DWR and the Contractor may also be referred to individually as "Party" or collectively as "Parties."

Recitals

A. **WHEREAS**, DWR and Contractor have entered into and subsequently amended a long-term water supply contract, herein referred to as the "Water Supply Contract," providing that DWR will supply certain quantities of water to Contractor, and providing that Contractor shall make certain payments to DWR, and setting forth the terms and conditions of such supply and such payment; and

B. **WHEREAS**, DWR and several State Water Project (SWP) Contractors are parties to a Memorandum of Agreement ("MOA"), providing that they will collaborate to develop the environmental documents, engineering designs, and other necessary information for possible conservation measures, particularly Delta water conveyance options; and

C. **WHEREAS**, the MOA is intended to support and complement the certain activities of the Bay-Delta Conservation Plan ("BDCP") Steering Committee by establishing procedures to facilitate the funding and planning for the Delta water conveyance and habitat conservation studies, which the Parties refer to as the "Planning Phase" of the Delta Habitat Conservation and Conveyance Program ("DHCCP" or "Program"); and

D. **WHEREAS**, DWR and a group of SWP Contractors, collectively known as the "Participating SWP Contractors," believe the DHCCP Planning Phase is necessary to facilitate the assessment and planning of likely conservation measures of the BDCP, analyze responses to the multiple threats to the State's economic well being posed by the current Delta water conveyance system's vulnerability to seismic risk, climate change, and ongoing regulatory prescriptions, and to consider prudent funding sources for species conservation and improved Delta water conveyance facilities in order to achieve related benefits to water supply, water supply reliability, and ecosystem health and resiliency; and

E. **WHEREAS**, subject to any adjustments provided for in the MOA, DWR will fund fifty percent (50%) of the total cost for the DHCCP Planning Phase and will collect that amount from Contractor and other Participating SWP Contractors, pursuant to this and similar Agreements; and

F. **WHEREAS**, subject to any adjustments provided for in the MOA, certain federal Central Valley Project contractors have agreed to fund the remaining 50 percent of the total DHCCP Planning Phase costs and Reclamation, as allowed under federal appropriations law, via in-kind services and a financial assistance agreement, will provide some portion of this 50 percent; and

G. **WHEREAS**, DWR and the Participating SWP Contractors are endeavoring to increase DWR's flexibility to perform work on the DHCCP Planning Phase by modifying the funding practices and providing funds so the DHCCP Planning Phase work may start as soon as possible; and

H. **WHEREAS**, because DWR must have a source of funding to repay and fund the costs of the DHCCP Planning Phase starting in 2008 until its expected completion by 2010, the Contractor, along with the other Participating SWP Contractors, is willing to provide such funds under the terms of this Agreement through the DHCCP charge; and

I. **WHEREAS**, DWR is willing to credit the Contractor and the other Participating SWP Contractors from 2008 excess revenue bond reserve funds, an amount equal to the Contractor's allocation of the 2008 DHCCP Planning Phase costs, and to credit additional reserve funds in 2009 as provided by Article 50 of the Water Supply Contract; and

J. **WHEREAS**, Contractor is willing to enter into this Agreement to pay a share of the DHCCP Planning Phase costs, and, in consideration therefore, DWR is willing to consult with Contractor and other Participating SWP Contractors on decisions related to the budget, scope, schedule, and activities of the Program's Planning Phase to ensure its timely completion in a cost-efficient manner, and

K. **WHEREAS,** it is DWR's intent that all funds needed to meet DWR's Share of the Program's Costs will be collected through this and all other SWP DHCCP Funding Agreements.

AGREEMENT

NOW THEREFORE, it is mutually agreed by DWR and Contractor as follows:

1. **Definitions**

When used in this Agreement, the definitions in the Water Supply Contract shall apply. In addition, the following definitions shall apply:

a. "**DHCCP**" or "**Program**" means the proposed development of possible BDCP conservation measures, including Delta conveyance options as described in the MOA.

b. "**DHCCP Planning Phase**" or "**Program's Planning Phase**" means the proposed development of environmental documents, planning, engineering designs, and other necessary information for possible BDCP conservation measures, including Delta conveyance options as described in the MOA. It does not include construction activity for any BDCP conservation measure, including any Delta Conveyance option.

c. "**MOA**" means the "Memorandum of Agreement Regarding Collaboration on the Planning, Preliminary Design and Environmental Compliance for the Delta Habitat Conservation and Conveyance Program in Connection with the Development of the Bay Delta Conservation Plan," a copy of which is attached hereto as Exhibit 1.

d. "**SWP**" means the State Water Project operated by DWR. The SWP generally includes the State Water Facilities, as defined in California Water Code section 12934(d), and certain facilities found in the Central Valley Project Act at section 11100 et. seq.

e. "**Water Supply Contract**" means the long-term water supply contract between Contractor and DWR, and similar contracts entered into by DWR and other Participating SWP Contractors.

f. "**Water Supply Contractor**" means one of the contractors that signed a Water Supply Contract which is still in effect.

g. "**DHCCP SWP Funding Agreement**" means this Agreement and agreements substantially the same as this Agreement signed by Participating SWP Contractors and DWR.

h. "**Participating SWP Contractor**" means a SWP Water Supply Contractor that has executed a DHCCP SWP Funding Agreement.

i. "**Calendar Year**" means the period January 1 through December 31.

j. "**DHCCP Table A Amount**" means, for Contractor, the maximum Table A amount as listed in its Water Supply Contract. The DHCCP Table A Amount will be used each year to calculate the Contractor's share of the DHCCP Planning Phase charges as a percentage of the sum of all the DHCCP Table A Amounts of the Participating SWP Contractors.

k. "**2008 DHCCP Charge**" means a charge to Contractor included in its annual statement of charges for 2008 that reflects the estimated costs for DHCCP in 2008.

l. "**Department's Share of the Program's Costs**" means fifty percent (50%) of the total DHCCP Planning Phase costs.

m. "**DHCCP Pay-Go Charge**" means the charge to the Contractor pursuant to this Agreement included in its Annual Statement of Charges to recover the Contractor's allocation of Department's Share of the Program's Costs beginning in 2009 and continuing until the Program's Planning Phase is completed or December 31, 2011, which ever is earlier.

n. "**Reclamation**" means the United States Department of the Interior, Bureau of Reclamation.

o. "**Central Valley Project contractors**" means the Central Valley Project contractors that are involved in funding the DHCCP Planning Phase, which are a subset of the total Central Valley Project contractors group.

2. **Purpose of the Agreement**

a. The purpose of this Agreement is to establish the terms and conditions under which Contractor will provide funding to DWR that, along with funding from the other Participating SWP Contractors, will provide all funds needed to pay the actual costs of DWR's Share of the Program's costs.

b. Funding pursuant to this Agreement addresses only the DHCCP Planning Phase. After completing the DHCCP Planning Phase, if the Parties determine to proceed with actions beyond the DHCCP Planning Phase, including the implementation and construction phases of the DHCCP, the Parties may enter into additional funding agreements.

3. **Term of Agreement**

This Agreement will take effect upon execution of the Parties and will remain in effect until the DHCCP Planning Phase is completed or until December 31, 2011, whichever comes first, unless extended by written amendment.

4. **DHCCP Planning Phase Costs**

Should the funding procedures established by this and all other DHCCP SWP Funding Agreements, or funding procedures established by Funding Agreements between DWR and Reclamation or federal contractors, terminate, DWR and the Participating Contractors, other than the Participating Contractors that have withdrawn pursuant to Section 9(a), shall use their best efforts to develop a funding plan that will allow for the timely completion of the DHCCP Planning Phase. Any subsequent funding plan for completion of the DHCCP Planning Phase shall include provisions that ensure that Participating Contractors that have withdrawn do not incur any additional charges related to the completion of the DHCCP Planning Phase. For purposes of this paragraph, "charges" shall mean 1) costs chargeable to the contractor or 2) revenues and/or cash available to pay rate management credits to the contractor. This provision shall survive termination of this Agreement. After one year from the termination of the MOA, nothing in this provision would prevent DWR from charging the Contractor in accordance with its Water Supply Contract to fund other and new Delta conveyance planning activities that are distinct and independent of the DHCCP and BDCP.

5. **2008 DHCCP Charge**

a. Before DWR may implement this section and to obtain funding for DWR's Share of the Program Costs incurred before December 31, 2008, the following must be satisfied: (i) this Agreement is fully executed by the Parties, and (ii) the SWP DHCCP Funding Agreements and the MOA are signed by DWR and the SWP Contractors who are also parties to the MOA. Once DWR and the Participating SWP Contractors who are parties to the MOA have signed the MOA, the Parties agree to abide by the terms and conditions of the MOA, notwithstanding that the Parties recognize the MOA may not have been fully executed.

b. DWR will submit a revised 2008 Statement of Charges to the Contractor that includes Contractor's estimated 2008 DHCCP Charge. The 2008 DHCCP Charge shall be based on actual costs incurred in 2008, pursuant to Paragraph 7 (Program Cost, Budgeting and Allocation). At the time the revised 2008 Statement of Charges is transmitted to the Contractor, DWR shall submit to the Contractor a revised invoice for the month of July 2008 reflecting credits resulting from the release of excess revenue bond reserve funds against Contractor's Transportation Capital charges in an amount equal to the amount of the revised 2008 Statement of Charges, as provided by the Water Supply Contract.

c. Should the funding from Contractor for the estimated costs be insufficient to cover the actual costs incurred by DWR through December 31, 2008, DWR shall include the Contractor's additional 2008 costs in its 2009

Statement of Charges. After the actual costs incurred up to and including December 31, 2008, have been finally determined, a table reflecting the actual funding advanced by each Participating SWP Contractor in 2008 will be attached hereto as Exhibit 2, without constituting an amendment of this Agreement. All 2008 DHCCP Planning Phase costs will be allocated to each Participating SWP Contractor in proportion to the ratio of its DHCCP Table A Amount to the sum of all Participating SWP Contractors' 2008 DHCCP Table A Amounts. Attached hereto as Exhibit 3A and 3B is a table of each Participating SWP Contractor's estimated share of the 2008 DHCCP Charge.

6. **DHCCP Pay-Go Charge**

a. Before DWR may implement this section to seek funding for costs incurred after December 31, 2008, the following must be completed: (a) this Agreement is fully executed by the Parties and is in full force and effect, (b) the MOA is executed by all of its parties and in effect, and (c) DWR has executed a binding agreement or agreements with Reclamation and certain Central Valley Project contractors which will establish funding procedures that ensure 50 percent of the DHCCP Planning Phase costs are paid by federal interests. The agreements with the Central Valley Project contractors shall also include provisions that (i) require the Central Valley Project contractors to pay 50 percent of the DHCCP Planning Phase costs incurred prior to October 1, 2008 within 14 days of execution of those agreements; and (ii) provide assurances that 50 percent of all costs incurred after October 1, 2008, and until completion of the Program are paid on a schedule and in amounts, similar to the payment schedule and amounts for the Participating SWP Contractors.

b. Except for those costs described in Section 5 above, DWR shall recover DWR's Share of Program Costs through the DHCCP Pay-Go Charge. The DHCCP Pay-Go Charge shall recover these costs incurred or to be incurred by DWR for the DHCCP Planning Phase beginning on January 1, 2009, and, unless sooner terminated pursuant to Article 9 of this Agreement, continuing until the Program's Planning Phase is completed or December 31, 2011, which ever is earlier.

c. To facilitate billing on a calendar year basis, the DHCCP Pay-Go Charge will be computed and included in Contractor's and other Participating SWP Contractor's Annual Statements of Charges for 2009 and thereafter as long as this Agreement is in effect under the Transportation Minimum Component and shall be collected in 12 equal monthly payments as described in Contractor's Water Supply Contract. The DHCCP Pay-Go Charges shall initially be based on estimates of costs determined pursuant to Section 7 (Program Cost, Budgeting and Allocation). These charges

shall be adjusted after the end of each Calendar Year to accurately reflect DWR's Share of Program Costs during that Calendar Year. Such adjustments shall be reflected in the charges in the following calendar year.

d. The DHCCP Pay-Go Charge will be allocated to each Participating SWP Contractor in proportion to the ratio of its DHCCP Table A Amount to the sum of all Participating SWP Contractors' DHCCP Table A Amounts. Attached hereto as Exhibit 4A and 4B is a table of each Participating SWP Contractor's estimated share of the DHCCP Planning Phase Charges for 2009 and 2010. As these charges are adjusted, or should charges be estimated for 2011, or should there be a change in the ratio due to a withdrawal of a Contractor from the Program's Planning Phase, revised versions of Exhibit 4B Contractor shall be attached hereto, without constituting an amendment of this Agreement.

e. DWR prepared a revision to the calendar year 2009 Statement of Charges in mid–December 2008, which includes an estimated allocation of the DHCCP costs among the anticipated participating Contractors. Execution of this Agreement, even if occurring after January 1, 2009, shall constitute agreement by the Contractor to pay the full amount of the Contractor's share of the 2009 DHCCP charge. The full amount of all prior months unpaid payments for 2009 shall be paid by the Contractor on the first monthly payment to DWR following execution of this Agreement.

f. Once the final participation level in the DHCCP Program is known by DWR, DWR shall prepare an amended 2009 DHCCP cost allocation and invoice and the Contractor shall pay the revised amount, if any, over the remaining months in calendar year 2009. This revised invoice is anticipated to be distributed within the first four months of calendar year 2009.

g. The parties recognize that DWR intends to retain approximately $12 million of the excess revenue bond reserve funds to be applied as a credit against the 2008 Transportation Capital charges. DWR also intends to apply approximately $30 million of excess revenue bond reserve fund credits against the January 2009 Transportation Capital payments from the Contractors, with the remaining excess revenue bond reserve fund credits to be applied as a credit against the July 2009 Transportation Capital payments.

7. **Program Cost, Budget and Allocation**

a. As described in the MOA, DWR will work collaboratively with the DHCCP Executive Committee to determine the budget, schedules, and activities of the DHCCP Planning Phase.

b. The total cost for the DHCCP Planning Phase is currently estimated at $140 million. This estimate may change in the future as more information is developed about the costs of planning and designing the potential BDCP conservation measures and water conveyance facilities.

c. DWR is responsible for formulating the DHCCP Planning Phase Budget with specific DHCCP Planning Phase elements and will work collaboratively through the MOA to develop the budget.

d. The Parties to the MOA have committed to an initial, three-year budget. A copy of the initial budget is attached hereto as Exhibit 5. DWR, in collaboration with the Executive Committee, will consider and approve revised budgets for work as necessary. Revised budget(s) shall be attached hereto as subsequent exhibits, without constituting an amendment of this Agreement, provided they do not exceed the funding limit set forth in Section 7(e).

e. Notwithstanding anything set forth in this Agreement or decided through the MOA process, the maximum amount of DWR's Share of Program Costs that shall be funded through this Agreement and all other DHCCP SWP Funding Agreements shall not exceed $70,000,000.

8. **Reimbursement for DHCCP Planning Phase**

a. If the DHCCP is approved to proceed with construction, DWR intends to issue Revenue Bonds to pay for such construction. DWR shall include in the first issue of Revenue Bonds, pursuant to and consistent with Treasury Regulation 1.150-2, an amount sufficient to reimburse the Contractor and all other Participating SWP Contractors for all planning costs paid through the 2008 DHCCP Charge and the DHCCP Pay-Go Charges. DWR, within 10 days of the effective date of this Agreement, shall adopt the necessary documents to conform to the IRS requirements to allow these costs to be included in a future revenue bond issue.

b. If the DHCCP is not approved to proceed with construction or a revenue bond sale does not occur, no reimbursements will occur. Contractor recognizes that, should the DHCCP not be approved to proceed with construction, Contractor may pay costs for the DHCCP Planning Phase that are greater than the amount it would have paid if other means of

funding the Program, including under the Water Supply Contract, had been utilized. Contractor waives any claims it may have with respect to the greater amount that may be paid by it under this Agreement.

c. The provisions of this Section 8 shall survive termination of this Agreement and/or the MOA.

9. **Withdrawal and Termination**

a. Contractor may withdraw from this Agreement at any time. However, Contractor shall provide 30 days advanced written notice to DWR, all other Participating SWP Contractors, and all Parties to the MOA. The notice of the effective date of its withdrawal shall include a detailed written explanation of why it intends to withdraw.

b. If the MOA terminates, this Agreement shall terminate. However, notwithstanding anything to the contrary set forth in the MOA, DWR agrees that it will not withdraw from the MOA as long as DWR's Share of the Program's Costs remains fully funded. DWR shall remain responsible for administering the provisions of this Agreement that survive termination or withdrawal.

c. If Contractor is a signatory to the MOA, Contractor's withdrawal from the MOA shall be deemed as withdrawal from this Agreement.

d. If any Participating SWP Contractor or Contractors withdraws from its DHCCP SWP Funding Agreement, Contractor, if not a withdrawing party, shall notify DWR within seven days after the effective date of such withdrawal as to whether it intends to continue operating under this Agreement. Failure to provide such notice shall be deemed an agreement to continue as a Party to this Agreement.

e. If one or more Participating SWP Contractors withdraw from their DHCCP SWP Funding Agreements and Contractor decides to continue operating under this Agreement, then Contractor's cost allocation share and the cost allocation shares of all other remaining Participating SWP Contractors will be changed to reflect the new ratios of their DHCCP Table A Amounts to the sum of the remaining Participating SWP Contractors' DHCCP Table A Amounts. Such adjustment shall be made through a revised billing payable in equal installments over the remainder of the then current calendar year or six months from the date the revised billing is received by Contractor, whichever is longer. DWR shall transmit the revised billing to Contractor within 60 days of the effective date of the withdrawal that triggered the revised cost allocation.

f. In the event of Contractor's noticed withdrawal from this Agreement, Contractor shall no longer be obligated to fund any costs related to DHCCP Planning Phase task orders that are subsequently approved by DWR or that were approved by DWR less than 60 days prior to the date the notice of withdrawal was transmitted to DWR pursuant to Section 9(a). However, Contractor shall remain responsible for its share of the costs of completing any DHCCP Planning Phase task orders approved 60 days prior to the date the notice of withdrawal was transmitted.

g. If termination of the MOA occurs concurrent with or after Contractor's notice of withdrawal from this Agreement but prior to the effective date of the Contractor's withdrawal, or the Contractor has not withdrawn, Contractor is obligated to pay its share of the reasonable termination costs incurred in fulfillment of the DHCCP Planning Phase or the objectives of the MOA, such as costs associated with early termination of consultant contracts. The total termination costs will be shared on a 50-50 basis between the State and federal interests. The Contractor's share of termination costs shall be determined using the same ratio as described in Section 6(d) of this Agreement.

h. The provisions of paragraphs (b), (d), (e), (f) and (g) of this Section 9 shall survive termination of this Agreement and/or the MOA

10. <u>Invoices, Notices Or Other Communications</u>

a. All invoices, notices, or other communications required under this Agreement will be in writing, and will be deemed to have been duly given upon the date of service, if: (i.) served personally on the Party to whom notice is to be given; (ii.) sent by electronic mail, and the Party to whom notice is to be given confirms receipt; or (iii.) on the third day after mailing, if mailed to the Party to whom invoice, notice or other communication is directed, by first-class mail, postage prepaid, and properly addressed to the designated representative(s) of the Party set forth below.

DWR: Chief, State Water Project Analysis Office
Department of Water Resources
State Water Project Analysis Office
Department of Water Resources
1416 Ninth Street, Room 1620
Post Office Box 942836
Sacramento, California 94236-0001

SBCFC&WCD: Mr. Robert Almy
Water Resources Planning Manager
Santa Barbara County Flood Control
and Water Conservation District
123 East Anapama Street, 2nd Floor
Santa Barbara, California 93101-2058

b. The time for providing any payments, notices, or other communications specified in this Agreement may be extended within the term of this Agreement with the consent of the Parties, confirmed in writing, without requiring an amendment to this Agreement.

11. **No Amendment to Water Supply Contract**
This Agreement does not amend, abridge, or modify the Water Supply Contract in any way.

12. **Amendments**
Except for the addition of exhibits as authorized herein, this Agreement may be amended or modified only by a subsequent written agreement approved and executed by the Parties.

13. **Agreement Conformity**
All Agreements to fund the DHCCP Planning Phase entered into by DWR and Participating SWP Contractors shall be substantially uniform.

14. **Applicable Law**
This Agreement will be construed under and will be deemed to be governed by the laws of the United States and the State of California.

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

16. **Execution in Counterpart**
This Agreement may be executed in counterpart, each of which shall constitute an original, but all of which shall constitute one and the same agreement. Each signing Party shall have received a copy of the signature page signed by every other Party.

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

Approved as to legal form
and Sufficiency

Chief Counsel
Department of Water Resources

MAR 12 2009
Date

State of California
Department of Water Resources

Director

3/12/09
Date

Approved as to legal form
and Sufficiency

Counsel for SBCFC&WCD

Date

Santa Barbara County Flood Control
and Water Conservation District

Water Resources Planning Manager

Date

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

Approved as to legal form
and Sufficiency

Chief Counsel
Department of Water Resources

MAR 12 2009
Date

State of California
Department of Water Resources

Director

3/12/09
Date

Approved as to Form:
Dennis Marshall
County Counsel

By: _____
Deputy County Counsel

3-19-09
Date

Santa Barbara County Flood Control
& Water Conservation District

By: _____
Scott McGolpin, Public Works Director

3-20-09
Date

List of Exhibits to be Attached

Exhibit 1: Memorandum of Agreement Regarding Collaboration on the Planning, Preliminary Design and Environmental Compliance for the Delta Habitat Conservation and Conveyance Program in Connection with the Development of the Bay Delta Conservation Plan (Paragraph 1.a)

Exhibit 2: Table of Participating SWP Contractors Actual Advanced Costs for 2008 (Paragraph 5.c)

Exhibit 3: Participating SWP Contractors Share of 2008 Costs (Paragraph 5.c)

Exhibit 4: Participating SWP Contractors Estimated Share of 2009 and 2010 DHCCP Planning Phase Costs (Paragraph 6.d)

Exhibit 5: Initial 3 Year Budget (Paragraph 7.d)

Exhibit 1

(Memorandum of Agreement)

Exhibit 2

(Actual 2008 DHCCP Costs by participating SWP Contractor)
(To be provided once final 2008 costs have been determined)

Exhibit 3A
Estimated 2008 DHCCP Planning Phase Costs
by
All Participating SWP Contractor's

2008 CY Projection	$	23,039,000
SWPC 50 Percent	$	11,519,500

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	SWP Contractor Share
Metropolitan WD Of SC	1,911,500	45.81%	$ 5,276,936
Kern County Water Agency	998,730	23.93%	$ 2,757,120
Antelope Valley-East Kern WA	141,400	3.39%	$ 390,352
Coachella Valley WD	121,100	2.90%	$ 334,312
San Bernardino Valley MWD	102,600	2.46%	$ 283,240
Santa Clara Valley WD	100,000	2.40%	$ 276,063
Tulare Lake Basin WSD	95,922	2.30%	$ 264,805
Castaic Lake WA	95,200	2.28%	$ 262,812
Alameda Co FC&WCD - Zone 7	80,619	1.93%	$ 222,559
Mojave Water Agency	75,800	1.82%	$ 209,255
Dudley Ridge WD	57,343	1.37%	$ 158,303
Desert Water Agency	50,000	1.20%	$ 138,031
Solano County WA	47,756	1.14%	$ 131,836
Santa Barbara County FCWCD	45,486	1.09%	$ 125,570
Alameda County WD	42,000	1.01%	$ 115,946
Napa County FC&WCD	29,025	0.70%	$ 80,127
San Gabriel Valley MWD	28,800	0.69%	$ 79,506
Butte County	27,500	0.66%	$ 75,917
San Luis Obispo Co. FC&WCD	25,000	0.60%	$ 69,016
Palmdale WD	21,300	0.51%	$ 58,801
Casitas Municipal WD	20,000	0.48%	$ 55,213
San Gorgonio Pass WA	17,300	0.41%	$ 47,759
City Of Yuba City	9,600	0.23%	$ 26,502
County Of Kings	9,305	0.22%	$ 25,688
Crestline-Lake Arrowhead WA	5,800	0.14%	$ 16,012
Oak Flat WD	5,700	0.14%	$ 15,736
Empire - West Side ID	3,000	0.07%	$ 8,282
Plumas County	2,700	0.06%	$ 7,454
Littlerock Creek ID	2,300	0.06%	$ 6,349
Total Table A	**4,172,786**	**100%**	**11,519,500**

Exhibit 3B
Estimated 2008 DHCCP Planning Phase Costs
by
Estimated Participating SWP Contractor's

2008 CY Projection	$	23,039,000
SWPC 50 Percent	$	11,519,500

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	SWP Contractor Share
Metropolitan WD Of SC	1,911,500	47.37%	$ 5,456,674
Kern County Water Agency	998,730	24.75%	$ 2,851,030
Antelope Valley-East Kern WA	141,400	3.50%	$ 403,648
Coachella Valley WD	121,100	3.00%	$ 345,699
San Bernardino Valley MWD	102,600	2.54%	$ 292,888
Santa Clara Valley WD	100,000	2.48%	$ 285,466
Tulare Lake Basin WSD	95,922	2.38%	$ 273,824
Castaic Lake WA	95,200	2.36%	$ 271,763
Alameda Co FC&WCD - Zone 7	80,619	2.00%	$ 230,139
Mojave Water Agency	75,800	1.88%	$ 216,383
Desert Water Agency	50,000	1.24%	$ 142,733
Solano County WA	47,756	1.18%	$ 136,327
Santa Barbara County FCWCD	45,486	1.13%	$ 129,847
Alameda County WD	42,000	1.04%	$ 119,896
Napa County FC&WCD	29,025	0.72%	$ 82,856
San Gabriel Valley MWD	28,800	0.71%	$ 82,214
San Luis Obispo Co. FC&WCD	25,000	0.62%	$ 71,366
Palmdale WD	21,300	0.53%	$ 60,804
San Gorgonio Pass WA	17,300	0.43%	$ 49,386
Crestline-Lake Arrowhead WA	5,800	0.14%	$ 16,557
Total Table A	**4,035,338**	**100.00%**	**$ 11,519,500**

Exhibit 4A
Estimated 2009-2010 DHCCP Planning Phase Costs
by
All Participating SWP Contractor's

Cal Year	2009	2010
CY Projection	$ 55,242,000	$ 61,368,000
SWPC 50 Percent	$ 27,621,000	$ 30,684,000

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	2009 SWP Contractor Projct'd Share	2010 SWP Contractor Projct'd Share
Metropolitan WD Of SC	1,911,500	45.81%	$ 12,652,828	$ 14,055,949
Kern County Water Agency	998,730	23.93%	$ 6,610,912	$ 7,344,022
Antelope Valley-East Kern WA	141,400	3.39%	$ 935,972	$ 1,039,765
Coachella Valley WD	121,100	2.90%	$ 801,599	$ 890,492
San Bernardino Valley MWD	102,600	2.46%	$ 679,142	$ 754,455
Santa Clara Valley WD	100,000	2.40%	$ 661,932	$ 735,336
Tulare Lake Basin WSD	95,922	2.30%	$ 634,938	$ 705,349
Castaic Lake WA	95,200	2.28%	$ 630,159	$ 700,040
Alameda Co FC&WCD - Zone 7	80,619	1.93%	$ 533,643	$ 592,821
Mojave Water Agency	75,800	1.82%	$ 501,744	$ 557,385
Dudley Ridge WD	57,343	1.37%	$ 379,572	$ 421,664
Desert Water Agency	50,000	1.20%	$ 330,966	$ 367,668
Solano County WA	47,756	1.14%	$ 316,112	$ 351,167
Santa Barbara County FCWCD	45,486	1.09%	$ 301,086	$ 334,475
Alameda County WD	42,000	1.01%	$ 278,011	$ 308,841
Napa County FC&WCD	29,025	0.70%	$ 192,126	$ 213,431
San Gabriel Valley MWD	28,800	0.69%	$ 190,636	$ 211,777
Butte County	27,500	0.66%	$ 182,031	$ 202,217
San Luis Obispo Co. FC&WCD	25,000	0.60%	$ 165,483	$ 183,834
Palmdale WD	21,300	0.51%	$ 140,991	$ 156,627
Casitas Municipal WD	20,000	0.48%	$ 132,386	$ 147,067
San Gorgonio Pass WA	17,300	0.41%	$ 114,514	$ 127,213
City Of Yuba City	9,600	0.23%	$ 63,545	$ 70,592
County Of Kings	9,305	0.22%	$ 61,593	$ 68,423
Crestline-Lake Arrowhead WA	5,800	0.14%	$ 38,392	$ 42,649
Oak Flat WD	5,700	0.14%	$ 37,730	$ 41,914
Empire - West Side ID	3,000	0.07%	$ 19,858	$ 22,060
Plumas County	2,700	0.06%	$ 17,872	$ 19,854
Littlerock Creek ID	2,300	0.06%	$ 15,224	$ 16,913
Total Table A	**4,172,786**	**100%**	**27,621,000**	**30,684,000**

Exhibit 4B
Estimated 2009-2010 DHCCP Planning Phase Costs
by
Estimated Participating SWP Contractor's

Cal Year	2009	2010
CY Projection	$ 55,242,000	$ 61,368,000
SWPC 50 Percent	$ 27,621,000	$ 30,684,000

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	2009 SWP Contractor Projct'd Share	2010 SWP Contractor Projct'd Share
Metropolitan WD Of SC	1,911,500	47.37%	$ 13,083,797	$ 14,534,710
Kern County Water Agency	998,730	24.75%	$ 6,836,087	$ 7,594,167
Antelope Valley-East Kern WA	141,400	3.50%	$ 967,852	$ 1,075,181
Coachella Valley WD	121,100	3.00%	$ 828,903	$ 920,823
San Bernardino Valley MWD	102,600	2.54%	$ 702,274	$ 780,152
Santa Clara Valley WD	100,000	2.48%	$ 684,478	$ 760,382
Tulare Lake Basin WSD	95,922	2.38%	$ 656,565	$ 729,374
Castaic Lake WA	95,200	2.36%	$ 651,623	$ 723,884
Alameda Co FC&WCD - Zone 7	80,619	2.00%	$ 551,819	$ 613,013
Mojave Water Agency	75,800	1.88%	$ 518,834	$ 576,370
Desert Water Agency	50,000	1.24%	$ 342,239	$ 380,191
Solano County WA	47,756	1.18%	$ 326,879	$ 363,128
Santa Barbara County FCWCD	45,486	1.13%	$ 311,342	$ 345,868
Alameda County WD	42,000	1.04%	$ 287,481	$ 319,361
Napa County FC&WCD	29,025	0.72%	$ 198,670	$ 220,701
San Gabriel Valley MWD	28,800	0.71%	$ 197,130	$ 218,990
San Luis Obispo Co. FC&WCD	25,000	0.62%	$ 171,119	$ 190,096
Palmdale WD	21,300	0.53%	$ 145,794	$ 161,961
San Gorgonio Pass WA	17,300	0.43%	$ 118,415	$ 131,546
Crestline-Lake Arrowhead WA	5,800	0.14%	$ 39,700	$ 44,102
Total Table A	**4,035,338**	**100%**	**27,621,000**	**30,684,000**

Exhibit 5
Initial DHCCP Planning Phase Budget
(In 1000)

	2008		2009		2010	
Program Element	Jan-Jun	Jul-Dec	Jan-Jun	Jul-Dec	Jan-Jun	Jul-Dec
Management, Planning, & Administration	$ 0	$ 3,134	$ 2,885	$ 2,915	$ 2,995	$ 2,995
Right of Way	$ 611	$ 3,155	$ 2,818	$ 3,568	$ 3,817	$ 3,817
Preliminary Engineering	$ 476	$ 7,840	$11,115	$11,523	$15,903	$15,903
Environmental Services	$ 178	$ 5,645	$ 6,554	$ 11,390	$ 7,141	$ 6,895
Legal Services	$ 0	$ 455	$ 767	$ 767	$ 518	$ 518
General Operating Expenses	$ 5	$ 1,540	$ 438	$ 502	$ 389	$ 477
Six Month Total	$ 1,270	$21,769	$24,577	$30,665	$30,763	$30,605
Calendar Year Total	$ 23,039		$ 55,242		$ 61,368	

ENACTED COPY - Contract Admin. Unit
AGMT. # A32484 File # BT 3283

State of California
California Natural Resources Agency
DEPARTMENT OF WATER RESOURCES

AGREEMENT FOR FUNDING BETWEEN THE DEPARTMENT OF WATER RESOURCES AND SANTA CLARA VALLEY WATER DISTRICT

FOR THE COSTS OF ENVIRONMENTAL ANALYSIS, PLANNING AND DESIGN OF DELTA CONSERVATION MEASURES, INCLUDING DELTA CONVEYANCE OPTIONS

(SWPAO #09905)

THIS AGREEMENT is made this 13th day of March 2009, pursuant to the provisions of all applicable laws of the State of California, between the State of California, acting by and through its Department of Water Resources ("DWR"), and Santa Clara Valley Water District ("Contractor"). DWR and the Contractor may also be referred to individually as "Party" or collectively as "Parties."

Recitals

A. **WHEREAS**, DWR and Contractor have entered into and subsequently amended a long-term water supply contract, herein referred to as the "Water Supply Contract," providing that DWR will supply certain quantities of water to Contractor, and providing that Contractor shall make certain payments to DWR, and setting forth the terms and conditions of such supply and such payment; and

B. **WHEREAS**, DWR and several State Water Project (SWP) Contractors are parties to a Memorandum of Agreement ("MOA"), providing that they will collaborate to develop the environmental documents, engineering designs, and other necessary information for possible conservation measures, particularly Delta water conveyance options; and

C. **WHEREAS**, the MOA is intended to support and complement the certain activities of the Bay-Delta Conservation Plan ("BDCP") Steering Committee by establishing procedures to facilitate the funding and planning for the Delta water conveyance and habitat conservation studies, which the Parties refer to as the "Planning Phase" of the Delta Habitat Conservation and Conveyance Program ("DHCCP" or "Program"); and

D. **WHEREAS**, DWR and a group of SWP Contractors, collectively known as the "Participating SWP Contractors," believe the DHCCP Planning Phase is necessary to facilitate the assessment and planning of likely conservation measures of the BDCP, analyze responses to the multiple threats to the State's economic well being posed by the current Delta water conveyance system's vulnerability to seismic risk, climate change, and ongoing regulatory prescriptions, and to consider prudent funding sources for species conservation and improved Delta water conveyance facilities in order to achieve related benefits to water supply, water supply reliability, and ecosystem health and resiliency; and

E. **WHEREAS**, subject to any adjustments provided for in the MOA, DWR will fund fifty percent (50%) of the total cost for the DHCCP Planning Phase and will collect that amount from Contractor and other Participating SWP Contractors, pursuant to this and similar Agreements; and

F. **WHEREAS**, subject to any adjustments provided for in the MOA, certain federal Central Valley Project contractors have agreed to fund the remaining 50 percent of the total DHCCP Planning Phase costs and Reclamation, as allowed under federal appropriations law, via in-kind services and a financial assistance agreement, will provide some portion of this 50 percent; and

G. **WHEREAS**, DWR and the Participating SWP Contractors are endeavoring to increase DWR's flexibility to perform work on the DHCCP Planning Phase by modifying the funding practices and providing funds so the DHCCP Planning Phase work may start as soon as possible; and

H. **WHEREAS**, because DWR must have a source of funding to repay and fund the costs of the DHCCP Planning Phase starting in 2008 until its expected completion by 2010, the Contractor, along with the other Participating SWP Contractors, is willing to provide such funds under the terms of this Agreement through the DHCCP charge; and

I. **WHEREAS**, DWR is willing to credit the Contractor and the other Participating SWP Contractors from 2008 excess revenue bond reserve funds, an amount equal to the Contractor's allocation of the 2008 DHCCP Planning Phase costs, and to credit additional reserve funds in 2009 as provided by Article 50 of the Water Supply Contract; and

J. **WHEREAS**, Contractor is willing to enter into this Agreement to pay a share of the DHCCP Planning Phase costs, and, in consideration therefore, DWR is willing to consult with Contractor and other Participating SWP Contractors on decisions related to the budget, scope, schedule, and activities of the Program's Planning Phase to ensure its timely completion in a cost-efficient manner, and

K. **WHEREAS,** it is DWR's intent that all funds needed to meet DWR's Share of the Program's Costs will be collected through this and all other SWP DHCCP Funding Agreements.

AGREEMENT

NOW THEREFORE, it is mutually agreed by DWR and Contractor as follows:

1. **Definitions**

When used in this Agreement, the definitions in the Water Supply Contract shall apply. In addition, the following definitions shall apply:

a. "**DHCCP**" or "**Program**" means the proposed development of possible BDCP conservation measures, including Delta conveyance options as described in the MOA.

b. "**DHCCP Planning Phase**" or "**Program's Planning Phase**" means the proposed development of environmental documents, planning, engineering designs, and other necessary information for possible BDCP conservation measures, including Delta conveyance options as described in the MOA. It does not include construction activity for any BDCP conservation measure, including any Delta Conveyance option.

c. "**MOA**" means the "Memorandum of Agreement Regarding Collaboration on the Planning, Preliminary Design and Environmental Compliance for the Delta Habitat Conservation and Conveyance Program in Connection with the Development of the Bay Delta Conservation Plan," a copy of which is attached hereto as Exhibit 1.

d. "**SWP**" means the State Water Project operated by DWR. The SWP generally includes the State Water Facilities, as defined in California Water Code section 12934(d), and certain facilities found in the Central Valley Project Act at section 11100 et. seq.

e. "**Water Supply Contract**" means the long-term water supply contract between Contractor and DWR, and similar contracts entered into by DWR and other Participating SWP Contractors.

f. "**Water Supply Contractor**" means one of the contractors that signed a Water Supply Contract which is still in effect.

g. "**DHCCP SWP Funding Agreement**" means this Agreement and agreements substantially the same as this Agreement signed by Participating SWP Contractors and DWR.

h. "**Participating SWP Contractor**" means a SWP Water Supply Contractor that has executed a DHCCP SWP Funding Agreement.

i. "**Calendar Year**" means the period January 1 through December 31.

j. "**DHCCP Table A Amount**" means, for Contractor, the maximum Table A amount as listed in its Water Supply Contract. The DHCCP Table A Amount will be used each year to calculate the Contractor's share of the DHCCP Planning Phase charges as a percentage of the sum of all the DHCCP Table A Amounts of the Participating SWP Contractors.

k. "**2008 DHCCP Charge**" means a charge to Contractor included in its annual statement of charges for 2008 that reflects the estimated costs for DHCCP in 2008.

l. "**Department's Share of the Program's Costs**" means fifty percent (50%) of the total DHCCP Planning Phase costs.

m. "**DHCCP Pay-Go Charge**" means the charge to the Contractor pursuant to this Agreement included in its Annual Statement of Charges to recover the Contractor's allocation of Department's Share of the Program's Costs beginning in 2009 and continuing until the Program's Planning Phase is completed or December 31, 2011, which ever is earlier.

n. "**Reclamation**" means the United States Department of the Interior, Bureau of Reclamation.

o. "**Central Valley Project contractors**" means the Central Valley Project contractors that are involved in funding the DHCCP Planning Phase, which are a subset of the total Central Valley Project contractors group.

2. **Purpose of the Agreement**

a. The purpose of this Agreement is to establish the terms and conditions under which Contractor will provide funding to DWR that, along with funding from the other Participating SWP Contractors, will provide all funds needed to pay the actual costs of DWR's Share of the Program's costs.

b. Funding pursuant to this Agreement addresses only the DHCCP Planning Phase. After completing the DHCCP Planning Phase, if the Parties determine to proceed with actions beyond the DHCCP Planning Phase, including the implementation and construction phases of the DHCCP, the Parties may enter into additional funding agreements.

3. **Term of Agreement**

This Agreement will take effect upon execution of the Parties and will remain in effect until the DHCCP Planning Phase is completed or until December 31, 2011, whichever comes first, unless extended by written amendment.

4. **DHCCP Planning Phase Costs**

Should the funding procedures established by this and all other DHCCP SWP Funding Agreements, or funding procedures established by Funding Agreements between DWR and Reclamation or federal contractors, terminate, DWR and the Participating Contractors, other than the Participating Contractors that have withdrawn pursuant to Section 9(a), shall use their best efforts to develop a funding plan that will allow for the timely completion of the DHCCP Planning Phase. Any subsequent funding plan for completion of the DHCCP Planning Phase shall include provisions that ensure that Participating Contractors that have withdrawn do not incur any additional charges related to the completion of the DHCCP Planning Phase. For purposes of this paragraph, "charges" shall mean 1) costs chargeable to the contractor or 2) revenues and/or cash available to pay rate management credits to the contractor. This provision shall survive termination of this Agreement. After one year from the termination of the MOA, nothing in this provision would prevent DWR from charging the Contractor in accordance with its Water Supply Contract to fund other and new Delta conveyance planning activities that are distinct and independent of the DHCCP and BDCP.

5. **2008 DHCCP Charge**

a. Before DWR may implement this section and to obtain funding for DWR's Share of the Program Costs incurred before December 31, 2008, the following must be satisfied: (i) this Agreement is fully executed by the Parties, and (ii) the SWP DHCCP Funding Agreements and the MOA are signed by DWR and the SWP Contractors who are also parties to the MOA. Once DWR and the Participating SWP Contractors who are parties to the MOA have signed the MOA, the Parties agree to abide by the terms and conditions of the MOA, notwithstanding that the Parties recognize the MOA may not have been fully executed.

b. DWR will submit a revised 2008 Statement of Charges to the Contractor that includes Contractor's estimated 2008 DHCCP Charge. The 2008 DHCCP Charge shall be based on actual costs incurred in 2008, pursuant to Paragraph 7 (Program Cost, Budgeting and Allocation). At the time the revised 2008 Statement of Charges is transmitted to the Contractor, DWR shall submit to the Contractor a revised invoice for the month of July 2008 reflecting credits resulting from the release of excess revenue bond reserve funds against Contractor's Transportation Capital charges in an amount equal to the amount of the revised 2008 Statement of Charges, as provided by the Water Supply Contract.

c. Should the funding from Contractor for the estimated costs be insufficient to cover the actual costs incurred by DWR through December 31, 2008, DWR shall include the Contractor's additional 2008 costs in its 2009

Statement of Charges. After the actual costs incurred up to and including December 31, 2008, have been finally determined, a table reflecting the actual funding advanced by each Participating SWP Contractor in 2008 will be attached hereto as Exhibit 2, without constituting an amendment of this Agreement. All 2008 DHCCP Planning Phase costs will be allocated to each Participating SWP Contractor in proportion to the ratio of its DHCCP Table A Amount to the sum of all Participating SWP Contractors' 2008 DHCCP Table A Amounts. Attached hereto as Exhibit 3A and 3B is a table of each Participating SWP Contractor's estimated share of the 2008 DHCCP Charge.

6. **DHCCP Pay-Go Charge**

a. Before DWR may implement this section to seek funding for costs incurred after December 31, 2008, the following must be completed: (a) this Agreement is fully executed by the Parties and is in full force and effect, (b) the MOA is executed by all of its parties and in effect, and (c) DWR has executed a binding agreement or agreements with Reclamation and certain Central Valley Project contractors which will establish funding procedures that ensure 50 percent of the DHCCP Planning Phase costs are paid by federal interests. The agreements with the Central Valley Project contractors shall also include provisions that (i) require the Central Valley Project contractors to pay 50 percent of the DHCCP Planning Phase costs incurred prior to October 1, 2008 within 14 days of execution of those agreements; and (ii) provide assurances that 50 percent of all costs incurred after October 1, 2008, and until completion of the Program are paid on a schedule and in amounts, similar to the payment schedule and amounts for the Participating SWP Contractors.

b. Except for those costs described in Section 5 above, DWR shall recover DWR's Share of Program Costs through the DHCCP Pay-Go Charge. The DHCCP Pay-Go Charge shall recover these costs incurred or to be incurred by DWR for the DHCCP Planning Phase beginning on January 1, 2009, and, unless sooner terminated pursuant to Article 9 of this Agreement, continuing until the Program's Planning Phase is completed or December 31, 2011, which ever is earlier.

c. To facilitate billing on a calendar year basis, the DHCCP Pay-Go Charge will be computed and included in Contractor's and other Participating SWP Contractor's Annual Statements of Charges for 2009 and thereafter as long as this Agreement is in effect under the Transportation Minimum Component and shall be collected in 12 equal monthly payments as described in Contractor's Water Supply Contract. The DHCCP Pay-Go Charges shall initially be based on estimates of costs determined pursuant to Section 7 (Program Cost, Budgeting and Allocation). These charges

shall be adjusted after the end of each Calendar Year to accurately reflect DWR's Share of Program Costs during that Calendar Year. Such adjustments shall be reflected in the charges in the following calendar year.

d. The DHCCP Pay-Go Charge will be allocated to each Participating SWP Contractor in proportion to the ratio of its DHCCP Table A Amount to the sum of all Participating SWP Contractors' DHCCP Table A Amounts. Attached hereto as Exhibit 4A and 4B is a table of each Participating SWP Contractor's estimated share of the DHCCP Planning Phase Charges for 2009 and 2010. As these charges are adjusted, or should charges be estimated for 2011, or should there be a change in the ratio due to a withdrawal of a Contractor from the Program's Planning Phase, revised versions of Exhibit 4B Contractor shall be attached hereto, without constituting an amendment of this Agreement.

e. DWR prepared a revision to the calendar year 2009 Statement of Charges in mid–December 2008, which includes an estimated allocation of the DHCCP costs among the anticipated participating Contractors. Execution of this Agreement, even if occurring after January 1, 2009, shall constitute agreement by the Contractor to pay the full amount of the Contractor's share of the 2009 DHCCP charge. The full amount of all prior months unpaid payments for 2009 shall be paid by the Contractor on the first monthly payment to DWR following execution of this Agreement.

f. Once the final participation level in the DHCCP Program is known by DWR, DWR shall prepare an amended 2009 DHCCP cost allocation and invoice and the Contractor shall pay the revised amount, if any, over the remaining months in calendar year 2009. This revised invoice is anticipated to be distributed within the first four months of calendar year 2009.

g. The parties recognize that DWR intends to retain approximately $12 million of the excess revenue bond reserve funds to be applied as a credit against the 2008 Transportation Capital charges. DWR also intends to apply approximately $30 million of excess revenue bond reserve fund credits against the January 2009 Transportation Capital payments from the Contractors, with the remaining excess revenue bond reserve fund credits to be applied as a credit against the July 2009 Transportation Capital payments.

7. **Program Cost, Budget and Allocation**

a. As described in the MOA, DWR will work collaboratively with the DHCCP Executive Committee to determine the budget, schedules, and activities of the DHCCP Planning Phase.

b. The total cost for the DHCCP Planning Phase is currently estimated at $140 million. This estimate may change in the future as more information is developed about the costs of planning and designing the potential BDCP conservation measures and water conveyance facilities.

c. DWR is responsible for formulating the DHCCP Planning Phase Budget with specific DHCCP Planning Phase elements and will work collaboratively through the MOA to develop the budget.

d. The Parties to the MOA have committed to an initial, three-year budget. A copy of the initial budget is attached hereto as Exhibit 5. DWR, in collaboration with the Executive Committee, will consider and approve revised budgets for work as necessary. Revised budget(s) shall be attached hereto as subsequent exhibits, without constituting an amendment of this Agreement, provided they do not exceed the funding limit set forth in Section 7(e).

e. Notwithstanding anything set forth in this Agreement or decided through the MOA process, the maximum amount of DWR's Share of Program Costs that shall be funded through this Agreement and all other DHCCP SWP Funding Agreements shall not exceed $70,000,000.

8. **Reimbursement for DHCCP Planning Phase**

a. If the DHCCP is approved to proceed with construction, DWR intends to issue Revenue Bonds to pay for such construction. DWR shall include in the first issue of Revenue Bonds, pursuant to and consistent with Treasury Regulation 1.150-2, an amount sufficient to reimburse the Contractor and all other Participating SWP Contractors for all planning costs paid through the 2008 DHCCP Charge and the DHCCP Pay-Go Charges. DWR, within 10 days of the effective date of this Agreement, shall adopt the necessary documents to conform to the IRS requirements to allow these costs to be included in a future revenue bond issue.

b. If the DHCCP is not approved to proceed with construction or a revenue bond sale does not occur, no reimbursements will occur. Contractor recognizes that, should the DHCCP not be approved to proceed with construction, Contractor may pay costs for the DHCCP Planning Phase that are greater than the amount it would have paid if other means of funding the Program, including under the Water Supply Contract, had

been utilized. Contractor waives any claims it may have with respect to the greater amount that may be paid by it under this Agreement.

c. The provisions of this Section 8 shall survive termination of this Agreement and/or the MOA.

9. **Withdrawal and Termination**

a. Contractor may withdraw from this Agreement at any time. However, Contractor shall provide 30 days advanced written notice to DWR, all other Participating SWP Contractors, and all Parties to the MOA. The notice of the effective date of its withdrawal shall include a detailed written explanation of why it intends to withdraw.

b. If the MOA terminates, this Agreement shall terminate. However, notwithstanding anything to the contrary set forth in the MOA, DWR agrees that it will not withdraw from the MOA as long as DWR's Share of the Program's Costs remains fully funded. DWR shall remain responsible for administering the provisions of this Agreement that survive termination or withdrawal.

c. If Contractor is a signatory to the MOA, Contractor's withdrawal from the MOA shall be deemed as withdrawal from this Agreement.

d. If any Participating SWP Contractor or Contractors withdraws from its DHCCP SWP Funding Agreement, Contractor, if not a withdrawing party, shall notify DWR within seven days after the effective date of such withdrawal as to whether it intends to continue operating under this Agreement. Failure to provide such notice shall be deemed an agreement to continue as a Party to this Agreement.

e. If one or more Participating SWP Contractors withdraw from their DHCCP SWP Funding Agreements and Contractor decides to continue operating under this Agreement, then Contractor's cost allocation share and the cost allocation shares of all other remaining Participating SWP Contractors will be changed to reflect the new ratios of their DHCCP Table A Amounts to the sum of the remaining Participating SWP Contractors' DHCCP Table A Amounts. Such adjustment shall be made through a revised billing payable in equal installments over the remainder of the then current calendar year or six months from the date the revised billing is received by Contractor, whichever is longer. DWR shall transmit the revised billing to Contractor within 60 days of the effective date of the withdrawal that triggered the revised cost allocation.

f. In the event of Contractor's noticed withdrawal from this Agreement, Contractor shall no longer be obligated to fund any costs related to DHCCP Planning Phase task orders that are subsequently approved by DWR or that were approved by DWR less than 60 days prior to the date the notice of withdrawal was transmitted to DWR pursuant to Section 9(a). However, Contractor shall remain responsible for its share of the costs of completing any DHCCP Planning Phase task orders approved 60 days prior to the date the notice of withdrawal was transmitted.

g. If termination of the MOA occurs concurrent with or after Contractor's notice of withdrawal from this Agreement but prior to the effective date of the Contractor's withdrawal, or the Contractor has not withdrawn, Contractor is obligated to pay its share of the reasonable termination costs incurred in fulfillment of the DHCCP Planning Phase or the objectives of the MOA, such as costs associated with early termination of consultant contracts. The total termination costs will be shared on a 50-50 basis between the State and federal interests. The Contractor's share of termination costs shall be determined using the same ratio as described in Section 6(d) of this Agreement.

h. The provisions of paragraphs (b), (d), (e), (f) and (g) of this Section 9 shall survive termination of this Agreement and/or the MOA

10. <u>Invoices, Notices Or Other Communications</u>

a. All invoices, notices, or other communications required under this Agreement will be in writing, and will be deemed to have been duly given upon the date of service, if: (i.) served personally on the Party to whom notice is to be given; (ii.) sent by electronic mail, and the Party to whom notice is to be given confirms receipt; or (iii.) on the third day after mailing, if mailed to the Party to whom invoice, notice or other communication is directed, by first-class mail, postage prepaid, and properly addressed to the designated representative(s) of the Party set forth below.

DWR: Chief, State Water Project Analysis Office
Department of Water Resources
State Water Project Analysis Office
Department of Water Resources
1416 Ninth Street, Room 1620
Post Office Box 942836
Sacramento, California 94236-0001

SCVWD: Ms. Olga Martin Steele
Interim Chief Executive Officer
Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, California 95118-3686

b. The time for providing any payments, notices, or other communications specified in this Agreement may be extended within the term of this Agreement with the consent of the Parties, confirmed in writing, without requiring an amendment to this Agreement.

11. No Amendment to Water Supply Contract

This Agreement does not amend, abridge, or modify the Water Supply Contract in any way.

12. Amendments

Except for the addition of exhibits as authorized herein, this Agreement may be amended or modified only by a subsequent written agreement approved and executed by the Parties.

13. Agreement Conformity

All Agreements to fund the DHCCP Planning Phase entered into by DWR and Participating SWP Contractors shall be substantially uniform.

14. Applicable Law

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

15. Complete Contract

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

16. Execution in Counterpart

This Agreement may be executed in counterpart, each of which shall constitute an original, but all of which shall constitute one and the same agreement. Each signing Party shall have received a copy of the signature page signed by every other Party.

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

Approved as to legal form
and Sufficiency

Chief Counsel
Department of Water Resources

MAR 12 2009
Date

State of California
Department of Water Resources

Director

3/12/09
Date

Approved as to legal form
and Sufficiency

Counsel for SCVWD

Date

Santa Clara Valley Water District

Interim Chief Executive Officer

Date

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

Approved as to legal form
and Sufficiency

Chief Counsel
Department of Water Resources

Date

State of California
Department of Water Resources

Director

Date

Approved as to legal form
and Sufficiency

Emily J. Cote

Counsel for SCVWD

Date

Santa Clara Valley Water District

Sharon Judkins

Interim Chief Executive Officer

3/13/09

Date

List of Exhibits to be Attached

Exhibit 1: Memorandum of Agreement Regarding Collaboration on the Planning, Preliminary Design and Environmental Compliance for the Delta Habitat Conservation and Conveyance Program in Connection with the Development of the Bay Delta Conservation Plan (Paragraph 1.a)

Exhibit 2: Table of Participating SWP Contractors Actual Advanced Costs for 2008 (Paragraph 5.c)

Exhibit 3: Participating SWP Contractors Share of 2008 Costs (Paragraph 5.c)

Exhibit 4: Participating SWP Contractors Estimated Share of 2009 and 2010 DHCCP Planning Phase Costs (Paragraph 6.d)

Exhibit 5: Initial 3 Year Budget (Paragraph 7.d)

Exhibit 1

(Memorandum of Agreement)

Exhibit 2

(Actual 2008 DHCCP Costs by participating SWP Contractor)
(To be provided once final 2008 costs have been determined)

Exhibit 3A
Estimated 2008 DHCCP Planning Phase Costs
by
All Participating SWP Contractor's

2008 CY Projection	$	23,039,000
SWPC 50 Percent	$	11,519,500

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	SWP Contractor Share
Metropolitan WD Of SC	1,911,500	45.81%	$ 5,276,936
Kern County Water Agency	998,730	23.93%	$ 2,757,120
Antelope Valley-East Kern WA	141,400	3.39%	$ 390,352
Coachella Valley WD	121,100	2.90%	$ 334,312
San Bernardino Valley MWD	102,600	2.46%	$ 283,240
Santa Clara Valley WD	100,000	2.40%	$ 276,063
Tulare Lake Basin WSD	95,922	2.30%	$ 264,805
Castaic Lake WA	95,200	2.28%	$ 262,812
Alameda Co FC&WCD - Zone 7	80,619	1.93%	$ 222,559
Mojave Water Agency	75,800	1.82%	$ 209,255
Dudley Ridge WD	57,343	1.37%	$ 158,303
Desert Water Agency	50,000	1.20%	$ 138,031
Solano County WA	47,756	1.14%	$ 131,836
Santa Barbara County FCWCD	45,486	1.09%	$ 125,570
Alameda County WD	42,000	1.01%	$ 115,946
Napa County FC&WCD	29,025	0.70%	$ 80,127
San Gabriel Valley MWD	28,800	0.69%	$ 79,506
Butte County	27,500	0.66%	$ 75,917
San Luis Obispo Co. FC&WCD	25,000	0.60%	$ 69,016
Palmdale WD	21,300	0.51%	$ 58,801
Casitas Municipal WD	20,000	0.48%	$ 55,213
San Gorgonio Pass WA	17,300	0.41%	$ 47,759
City Of Yuba City	9,600	0.23%	$ 26,502
County Of Kings	9,305	0.22%	$ 25,688
Crestline-Lake Arrowhead WA	5,800	0.14%	$ 16,012
Oak Flat WD	5,700	0.14%	$ 15,736
Empire - West Side ID	3,000	0.07%	$ 8,282
Plumas County	2,700	0.06%	$ 7,454
Littlerock Creek ID	2,300	0.06%	$ 6,349
Total Table A	**4,172,786**	**100%**	**11,519,500**

Exhibit 3B
Estimated 2008 DHCCP Planning Phase Costs
by
Estimated Participating SWP Contractor's

2008 CY Projection	$	23,039,000
SWPC 50 Percent	$	11,519,500

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	SWP Contractor Share
Metropolitan WD Of SC	1,911,500	47.37%	$ 5,456,674
Kern County Water Agency	998,730	24.75%	$ 2,851,030
Antelope Valley-East Kern WA	141,400	3.50%	$ 403,648
Coachella Valley WD	121,100	3.00%	$ 345,699
San Bernardino Valley MWD	102,600	2.54%	$ 292,888
Santa Clara Valley WD	100,000	2.48%	$ 285,466
Tulare Lake Basin WSD	95,922	2.38%	$ 273,824
Castaic Lake WA	95,200	2.36%	$ 271,763
Alameda Co FC&WCD - Zone 7	80,619	2.00%	$ 230,139
Mojave Water Agency	75,800	1.88%	$ 216,383
Desert Water Agency	50,000	1.24%	$ 142,733
Solano County WA	47,756	1.18%	$ 136,327
Santa Barbara County FCWCD	45,486	1.13%	$ 129,847
Alameda County WD	42,000	1.04%	$ 119,896
Napa County FC&WCD	29,025	0.72%	$ 82,856
San Gabriel Valley MWD	28,800	0.71%	$ 82,214
San Luis Obispo Co. FC&WCD	25,000	0.62%	$ 71,366
Palmdale WD	21,300	0.53%	$ 60,804
San Gorgonio Pass WA	17,300	0.43%	$ 49,386
Crestline-Lake Arrowhead WA	5,800	0.14%	$ 16,557
Total Table A	**4,035,338**	**100.00%**	**$ 11,519,500**

Exhibit 4A
Estimated 2009-2010 DHCCP Planning Phase Costs
by
All Participating SWP Contractor's

Cal Year	2009	2010
CY Projection	$ 55,242,000	$ 61,368,000
SWPC 50 Percent	$ 27,621,000	$ 30,684,000

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	2009 SWP Contractor Projct'd Share	2010 SWP Contractor Projct'd Share
Metropolitan WD Of SC	1,911,500	45.81%	$ 12,652,828	$ 14,055,949
Kern County Water Agency	998,730	23.93%	$ 6,610,912	$ 7,344,022
Antelope Valley-East Kern WA	141,400	3.39%	$ 935,972	$ 1,039,765
Coachella Valley WD	121,100	2.90%	$ 801,599	$ 890,492
San Bernardino Valley MWD	102,600	2.46%	$ 679,142	$ 754,455
Santa Clara Valley WD	100,000	2.40%	$ 661,932	$ 735,336
Tulare Lake Basin WSD	95,922	2.30%	$ 634,938	$ 705,349
Castaic Lake WA	95,200	2.28%	$ 630,159	$ 700,040
Alameda Co FC&WCD - Zone 7	80,619	1.93%	$ 533,643	$ 592,821
Mojave Water Agency	75,800	1.82%	$ 501,744	$ 557,385
Dudley Ridge WD	57,343	1.37%	$ 379,572	$ 421,664
Desert Water Agency	50,000	1.20%	$ 330,966	$ 367,668
Solano County WA	47,756	1.14%	$ 316,112	$ 351,167
Santa Barbara County FCWCD	45,486	1.09%	$ 301,086	$ 334,475
Alameda County WD	42,000	1.01%	$ 278,011	$ 308,841
Napa County FC&WCD	29,025	0.70%	$ 192,126	$ 213,431
San Gabriel Valley MWD	28,800	0.69%	$ 190,636	$ 211,777
Butte County	27,500	0.66%	$ 182,031	$ 202,217
San Luis Obispo Co. FC&WCD	25,000	0.60%	$ 165,483	$ 183,834
Palmdale WD	21,300	0.51%	$ 140,991	$ 156,627
Casitas Municipal WD	20,000	0.48%	$ 132,386	$ 147,067
San Gorgonio Pass WA	17,300	0.41%	$ 114,514	$ 127,213
City Of Yuba City	9,600	0.23%	$ 63,545	$ 70,592
County Of Kings	9,305	0.22%	$ 61,593	$ 68,423
Crestline-Lake Arrowhead WA	5,800	0.14%	$ 38,392	$ 42,649
Oak Flat WD	5,700	0.14%	$ 37,730	$ 41,914
Empire - West Side ID	3,000	0.07%	$ 19,858	$ 22,060
Plumas County	2,700	0.06%	$ 17,872	$ 19,854
Littlerock Creek ID	2,300	0.06%	$ 15,224	$ 16,913
Total Table A	**4,172,786**	**100%**	**27,621,000**	**30,684,000**

Exhibit 4B
Estimated 2009-2010 DHCCP Planning Phase Costs
by
Estimated Participating SWP Contractor's

Cal Year	2009	2010
CY Projection	$ 55,242,000	$ 61,368,000
SWPC 50 Percent	$ 27,621,000	$ 30,684,000

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	2009 SWP Contractor Projct'd Share	2010 SWP Contractor Projct'd Share
Metropolitan WD Of SC	1,911,500	47.37%	$ 13,083,797	$ 14,534,710
Kern County Water Agency	998,730	24.75%	$ 6,836,087	$ 7,594,167
Antelope Valley-East Kern WA	141,400	3.50%	$ 967,852	$ 1,075,181
Coachella Valley WD	121,100	3.00%	$ 828,903	$ 920,823
San Bernardino Valley MWD	102,600	2.54%	$ 702,274	$ 780,152
Santa Clara Valley WD	100,000	2.48%	$ 684,478	$ 760,382
Tulare Lake Basin WSD	95,922	2.38%	$ 656,565	$ 729,374
Castaic Lake WA	95,200	2.36%	$ 651,623	$ 723,884
Alameda Co FC&WCD - Zone 7	80,619	2.00%	$ 551,819	$ 613,013
Mojave Water Agency	75,800	1.88%	$ 518,834	$ 576,370
Desert Water Agency	50,000	1.24%	$ 342,239	$ 380,191
Solano County WA	47,756	1.18%	$ 326,879	$ 363,128
Santa Barbara County FCWCD	45,486	1.13%	$ 311,342	$ 345,868
Alameda County WD	42,000	1.04%	$ 287,481	$ 319,361
Napa County FC&WCD	29,025	0.72%	$ 198,670	$ 220,701
San Gabriel Valley MWD	28,800	0.71%	$ 197,130	$ 218,990
San Luis Obispo Co. FC&WCD	25,000	0.62%	$ 171,119	$ 190,096
Palmdale WD	21,300	0.53%	$ 145,794	$ 161,961
San Gorgonio Pass WA	17,300	0.43%	$ 118,415	$ 131,546
Crestline-Lake Arrowhead WA	5,800	0.14%	$ 39,700	$ 44,102
Total Table A	**4,035,338**	**100%**	**27,621,000**	**30,684,000**

Exhibit 5
Initial DHCCP Planning Phase Budget
(In 1000)

	2008		2009		2010	
Program Element	Jan-Jun	Jul-Dec	Jan-Jun	Jul-Dec	Jan-Jun	Jul-Dec
Management, Planning, & Administration	$ 0	$ 3,134	$ 2,885	$ 2,915	$ 2,995	$ 2,995
Right of Way	$ 611	$ 3,155	$ 2,818	$ 3,568	$ 3,817	$ 3,817
Preliminary Engineering	$ 476	$ 7,840	$11,115	$11,523	$15,903	$15,903
Environmental Services	$ 178	$ 5,645	$ 6,554	$ 11,390	$ 7,141	$ 6,895
Legal Services	$ 0	$ 455	$ 767	$ 767	$ 518	$ 518
General Operating Expenses	$ 5	$ 1,540	$ 438	$ 502	$ 389	$ 477
Six Month Total	$ 1,270	$21,769	$24,577	$30,665	$30,763	$30,605
Calendar Year Total	$ 23,039		$ 55,242		$ 61,368	

I hereby certify that the foregoing is a full, true and correct copy of the original thereof on file in my office.

DATED: 3/13/09

LAUREN L. KELLER
Clerk, Board of Directors
Santa Clara Valley
Water District

Santa Clara Valley Water District

BOARD OF DIRECTORS MEETING

MINUTES

TUESDAY, DECEMBER 9, 2008
9:30 AM

(Paragraph numbers coincide with agenda item numbers)

I. CALL TO ORDER:

1. Roll Call.

Board members in attendance were T. Estremera, J. Judge, R. Kamei, P. Kwok, S. Sanchez, R. Santos, and L. Wilson, constituting a quorum of the Board.

Staff members in attendance were O. Martin Steele, Chief Executive Officer (CEO), D. Cauble, District Counsel, L. Keller, Clerk/Board of Directors, R. Callender, D. Chesterman, E. Cote, G. De La Torre, A. Draper, C. Elias, J. Fiedler, B. Goldie, M. Hamer, N. Hsueh, S. Judkins, M. Klemencic, L. Orta, K. Oven, M. Ruiz, K. Whitman, and R. Yep.

II. TIME CERTAIN:

9:35 a.m.

2. Time Open for Public Comment on any Subject not on the Agenda.

Chairperson Kamei declared time open for public comment on any subject not on the agenda. There was no one present who wished to speak.

Chairperson Kamei moved the agenda to Item 12.

VII. EXECUTIVE LIMITATIONS:

12. Consideration of Request to Convey Traffic Allocations, a Real Property Interest, to Red Horizon, LLC (Red Horizon) to Allow for Increased Development at Springbrook Subdivision Adjacent to Norwood Debris Basin (San Jose) Parcel 4042-7 (Continued from November 25, 2008). (Marc Klemencic) (EL-5.9)

Recommendation:

Consider Red Horizon's request to acquire City traffic allocations associated with District property at the Norwood

Summary: 7 Yeas; 0 Nays; 0 Abstains; 0 Absent.

Chairperson Kamei returned the agenda to Item 3.

II. TIME CERTAIN:

10:00 a.m.

3. Fiscal Year 2009 Zebra and Quagga Mussel Prevention Program for District Reservoirs. (Ray Yep) (EL-7)

Recommendation: 1. Accept status report regarding the effectiveness of the County of Santa Clara's pilot boating inspection program, 2. Authorize the CEO to negotiate a cost sharing agreement with the County to continue their boating inspection program for the protection of District reservoirs from invasive zebra and quagga mussels. District portion of cost share not to exceed amount of $175,000 for Jan 1 - June 30, 2009, and 3. Approve budget adjustment of $175,000 from Watershed and Stream Stewardship fund reserve.

Mr. Jim O'Conner, Santa Clara County Department of Parks and Recreation Deputy Director, justified the need for a sole source agreement by explaining that Urban Park Concessions was the only contractor currently providing boat inspection services. He explained that the County Department of Parks and Recreation had analyzed utilizing in-house staff and determined the proposed agreement to be the most efficient method; and advised the Board that because Stevens Creek Reservoir was restricted from the California Department of Fish and Game Fish Planting Program, the proposed agreement would be adjusted for boat inspection services for Anderson and Calero Reservoirs only. He confirmed that the County of Santa Clara continued to seek additional sources of funding for a long term program.

Ms. Lisa Killough, Santa Clara County Department of Parks and Recreation Director, thanked the Board for their support in developing the pilot program. She assured the Board that she understood the District's concerns about water supply; said that the Department of Parks and Recreation was trying to provide a public boating program with minimized impact to the participating agencies; and suggested that reduced launching during the winter months was a viable alternative to meet both public and agency needs.

Motion: Approve a budget adjustment of up to $175,000, and authorize the CEO to negotiate the agreement with the County of Santa Clara Department of Parks and Recreation, to continue the boating inspection program January 1 through June 30, 2009.

Move to Approve: T. Estremera
Second: R. Santos

include a comparative analysis between utilizing a contract inspection service versus utilizing year-round staff; and requested that staff discuss with the East Bay Regional Parks District, reducing winter recreational use of Del Valle Reservoir and utilizing Del Valle's recreational-based revenue to offset inspection program costs:

Directors Sanchez and Wilson, and Chairperson Kamei requested that staff work proactively to engage the Department of Water Resources and Bureau of Reclamation as participants in the Del Valle and San Luis Reservoir Boat Inspection Programs (Board member request No. R-08-0184).

Move to Accept:	T. Estremera
Second:	L. Wilson
Yeas:	T. Estremera, J. Judge, R. Kamei, P. Kwok, S. Sanchez, R. Santos, L. Wilson
Nays:	None
Abstains:	None
Absent:	None
Summary:	7 Yeas; 0 Nays; 0 Abstains; 0 Absent.

Chairperson Kamei declared a brief lunch recess and moved the agenda to Item 21, for which the Board adjourned to closed session. Upon return to open session the same Board members and staff were present.

IX. CLOSED SESSION:

21. CONFERENCE WITH REAL PROPERTY NEGOTIATORS
Pursuant to Government Code Section 54956.8
Property: 511/555 W. Campbell Avenue
District Negotiators: Keith Whitman, Vanessa de la Piedra
Negotiating Party: Campbell Redevelopment Agency
Under Negotiation: Price and Terms of Payment

Ms. Cauble reported that the Board met in closed session and gave direction to its negotiators.

Chairperson Kamei returned the agenda to Item 4.

IV. GOVERNANCE PROCESS:

4. Capital Project Delivery Process. (Nai Hsueh) (GP-3.1, EL-9)

Recommendation: Review and discuss the information presented by staff and provide direction as needed.

Mr. David Chesterman, Deputy Operating Officer, reviewed Pages 1 through 35 of the presentation materials contained in Attachment 2 of the corresponding agenda memorandum. A summary of the Board's discussion is contained in the attached flip chart notes.

State of California
California Natural Resources Agency
DEPARTMENT OF WATER RESOURCES

AGREEMENT FOR FUNDING BETWEEN THE DEPARTMENT OF WATER RESOURCES AND SOLANO COUNTY WATER AGENCY

FOR THE COSTS OF ENVIRONMENTAL ANALYSIS, PLANNING AND DESIGN OF DELTA CONSERVATION MEASURES, INCLUDING DELTA CONVEYANCE OPTIONS

(SWPAO #09912)

THIS AGREEMENT is made this 9th day of April, 2009, pursuant to the provisions of all applicable laws of the State of California, between the State of California, acting by and through its Department of Water Resources ("DWR"), and Solano County Water Agency ("Contractor"). DWR and the Contractor may also be referred to individually as "Party" or collectively as "Parties."

Recitals

A. **WHEREAS**, DWR and Contractor have entered into and subsequently amended a long-term water supply contract, herein referred to as the "Water Supply Contract," providing that DWR will supply certain quantities of water to Contractor, and providing that Contractor shall make certain payments to DWR, and setting forth the terms and conditions of such supply and such payment; and

B. **WHEREAS**, DWR and several State Water Project (SWP) Contractors are parties to a Memorandum of Agreement ("MOA"), providing that they will collaborate to develop the environmental documents, engineering designs, and other necessary information for possible conservation measures, particularly Delta water conveyance options; and

C. **WHEREAS**, the MOA is intended to support and complement the certain activities of the Bay-Delta Conservation Plan ("BDCP") Steering Committee by establishing procedures to facilitate the funding and planning for the Delta water conveyance and habitat conservation studies, which the Parties refer to as the "Planning Phase" of the Delta Habitat Conservation and Conveyance Program ("DHCCP" or "Program"); and

D. **WHEREAS**, DWR and a group of SWP Contractors, collectively known as the "Participating SWP Contractors," believe the DHCCP Planning Phase is necessary to facilitate the assessment and planning of likely conservation measures of the BDCP, analyze responses to the multiple threats to the State's economic well being posed by the current Delta water conveyance system's vulnerability to seismic risk, climate change, and ongoing regulatory prescriptions, and to consider prudent funding sources for species conservation and improved Delta water conveyance facilities in order to achieve related benefits to water supply, water supply reliability, and ecosystem health and resiliency; and

E. **WHEREAS**, subject to any adjustments provided for in the MOA, DWR will fund fifty percent (50%) of the total cost for the DHCCP Planning Phase and will collect that amount from Contractor and other Participating SWP Contractors, pursuant to this and similar Agreements; and

F. **WHEREAS**, subject to any adjustments provided for in the MOA, certain federal Central Valley Project contractors have agreed to fund the remaining 50 percent of the total DHCCP Planning Phase costs and Reclamation, as allowed under federal appropriations law, via in-kind services and a financial assistance agreement, will provide some portion of this 50 percent; and

G. **WHEREAS**, DWR and the Participating SWP Contractors are endeavoring to increase DWR's flexibility to perform work on the DHCCP Planning Phase by modifying the funding practices and providing funds so the DHCCP Planning Phase work may start as soon as possible; and

H. **WHEREAS**, because DWR must have a source of funding to repay and fund the costs of the DHCCP Planning Phase starting in 2008 until its expected completion by 2010, the Contractor, along with the other Participating SWP Contractors, is willing to provide such funds under the terms of this Agreement through the DHCCP charge; and

I. **WHEREAS**, DWR is willing to credit the Contractor and the other Participating SWP Contractors from 2008 excess revenue bond reserve funds, an amount equal to the Contractor's allocation of the 2008 DHCCP Planning Phase costs, and to credit additional reserve funds in 2009 as provided by Article 50 of the Water Supply Contract; and

J. **WHEREAS**, Contractor is willing to enter into this Agreement to pay a share of the DHCCP Planning Phase costs, and, in consideration therefore, DWR is willing to consult with Contractor and other Participating SWP Contractors on decisions related to the budget, scope, schedule, and activities of the Program's Planning Phase to ensure its timely completion in a cost-efficient manner, and

K. **WHEREAS,** it is DWR's intent that all funds needed to meet DWR's Share of the Program's Costs will be collected through this and all other SWP DHCCP Funding Agreements.

AGREEMENT

NOW THEREFORE, it is mutually agreed by DWR and Contractor as follows:

1. **Definitions**

When used in this Agreement, the definitions in the Water Supply Contract shall apply. In addition, the following definitions shall apply:

a. "**DHCCP**" or "**Program**" means the proposed development of possible BDCP conservation measures, including Delta conveyance options as described in the MOA.

b. "**DHCCP Planning Phase**" or "**Program's Planning Phase**" means the proposed development of environmental documents, planning, engineering designs, and other necessary information for possible BDCP conservation measures, including Delta conveyance options as described in the MOA. It does not include construction activity for any BDCP conservation measure, including any Delta Conveyance option.

c. "**MOA**" means the "Memorandum of Agreement Regarding Collaboration on the Planning, Preliminary Design and Environmental Compliance for the Delta Habitat Conservation and Conveyance Program in Connection with the Development of the Bay Delta Conservation Plan," a copy of which is attached hereto as Exhibit 1.

d. "**SWP**" means the State Water Project operated by DWR. The SWP generally includes the State Water Facilities, as defined in California Water Code section 12934(d), and certain facilities found in the Central Valley Project Act at section 11100 et. seq.

e. "**Water Supply Contract**" means the long-term water supply contract between Contractor and DWR, and similar contracts entered into by DWR and other Participating SWP Contractors.

f. "**Water Supply Contractor**" means one of the contractors that signed a Water Supply Contract which is still in effect.

g. "**DHCCP SWP Funding Agreement**" means this Agreement and agreements substantially the same as this Agreement signed by Participating SWP Contractors and DWR.

h. "**Participating SWP Contractor**" means a SWP Water Supply Contractor that has executed a DHCCP SWP Funding Agreement.

i. "**Calendar Year**" means the period January 1 through December 31.

j. "**DHCCP Table A Amount**" means, for Contractor, the maximum Table A amount as listed in its Water Supply Contract. The DHCCP Table A Amount will be used each year to calculate the Contractor's share of the DHCCP Planning Phase charges as a percentage of the sum of all the DHCCP Table A Amounts of the Participating SWP Contractors.

k. "**2008 DHCCP Charge**" means a charge to Contractor included in its annual statement of charges for 2008 that reflects the estimated costs for DHCCP in 2008.

l. "**Department's Share of the Program's Costs**" means fifty percent (50%) of the total DHCCP Planning Phase costs.

m. "**DHCCP Pay-Go Charge**" means the charge to the Contractor pursuant to this Agreement included in its Annual Statement of Charges to recover the Contractor's allocation of Department's Share of the Program's Costs beginning in 2009 and continuing until the Program's Planning Phase is completed or December 31, 2011, which ever is earlier.

n. "**Reclamation**" means the United States Department of the Interior, Bureau of Reclamation.

o. "**Central Valley Project contractors**" means the Central Valley Project contractors that are involved in funding the DHCCP Planning Phase, which are a subset of the total Central Valley Project contractors group.

2. **Purpose of the Agreement**

a. The purpose of this Agreement is to establish the terms and conditions under which Contractor will provide funding to DWR that, along with funding from the other Participating SWP Contractors, will provide all funds needed to pay the actual costs of DWR's Share of the Program's costs.

b. Funding pursuant to this Agreement addresses only the DHCCP Planning Phase. After completing the DHCCP Planning Phase, if the Parties determine to proceed with actions beyond the DHCCP Planning Phase, including the implementation and construction phases of the DHCCP, the Parties may enter into additional funding agreements.

3. **Term of Agreement**

This Agreement will take effect upon execution of the Parties and will remain in effect until the DHCCP Planning Phase is completed or until December 31, 2011, whichever comes first, unless extended by written amendment.

4. **DHCCP Planning Phase Costs**

Should the funding procedures established by this and all other DHCCP SWP Funding Agreements, or funding procedures established by Funding Agreements between DWR and Reclamation or federal contractors, terminate, DWR and the Participating Contractors, other than the Participating Contractors that have withdrawn pursuant to Section 9(a), shall use their best efforts to develop a funding plan that will allow for the timely completion of the DHCCP Planning Phase. Any subsequent funding plan for completion of the DHCCP Planning Phase shall include provisions that ensure that Participating Contractors that have withdrawn do not incur any additional charges related to the completion of the DHCCP Planning Phase. For purposes of this paragraph, "charges" shall mean 1) costs chargeable to the contractor or 2) revenues and/or cash available to pay rate management credits to the contractor. This provision shall survive termination of this Agreement. After one year from the termination of the MOA, nothing in this provision would prevent DWR from charging the Contractor in accordance with its Water Supply Contract to fund other and new Delta conveyance planning activities that are distinct and independent of the DHCCP and BDCP.

5. **2008 DHCCP Charge**

a. Before DWR may implement this section and to obtain funding for DWR's Share of the Program Costs incurred before December 31, 2008, the following must be satisfied: (i) this Agreement is fully executed by the Parties, and (ii) the SWP DHCCP Funding Agreements and the MOA are signed by DWR and the SWP Contractors who are also parties to the MOA. Once DWR and the Participating SWP Contractors who are parties to the MOA have signed the MOA, the Parties agree to abide by the terms and conditions of the MOA, notwithstanding that the Parties recognize the MOA may not have been fully executed.

b. DWR will submit a revised 2008 Statement of Charges to the Contractor that includes Contractor's estimated 2008 DHCCP Charge. The 2008 DHCCP Charge shall be based on actual costs incurred in 2008, pursuant to Paragraph 7 (Program Cost, Budgeting and Allocation). At the time the revised 2008 Statement of Charges is transmitted to the Contractor, DWR shall submit to the Contractor a revised invoice for the month of July 2008 reflecting credits resulting from the release of excess revenue bond reserve funds against Contractor's Transportation Capital charges in an amount equal to the amount of the revised 2008 Statement of Charges, as provided by the Water Supply Contract.

c. Should the funding from Contractor for the estimated costs be insufficient to cover the actual costs incurred by DWR through December 31, 2008, DWR shall include the Contractor's additional 2008 costs in its 2009

Statement of Charges. After the actual costs incurred up to and including December 31, 2008, have been finally determined, a table reflecting the actual funding advanced by each Participating SWP Contractor in 2008 will be attached hereto as Exhibit 2, without constituting an amendment of this Agreement. All 2008 DHCCP Planning Phase costs will be allocated to each Participating SWP Contractor in proportion to the ratio of its DHCCP Table A Amount to the sum of all Participating SWP Contractors' 2008 DHCCP Table A Amounts. Attached hereto as Exhibit 3A and 3B is a table of each Participating SWP Contractor's estimated share of the 2008 DHCCP Charge.

6. **DHCCP Pay-Go Charge**

a. Before DWR may implement this section to seek funding for costs incurred after December 31, 2008, the following must be completed: (a) this Agreement is fully executed by the Parties and is in full force and effect, (b) the MOA is executed by all of its parties and in effect, and (c) DWR has executed a binding agreement or agreements with Reclamation and certain Central Valley Project contractors which will establish funding procedures that ensure 50 percent of the DHCCP Planning Phase costs are paid by federal interests. The agreements with the Central Valley Project contractors shall also include provisions that (i) require the Central Valley Project contractors to pay 50 percent of the DHCCP Planning Phase costs incurred prior to October 1, 2008 within 14 days of execution of those agreements; and (ii) provide assurances that 50 percent of all costs incurred after October 1, 2008, and until completion of the Program are paid on a schedule and in amounts, similar to the payment schedule and amounts for the Participating SWP Contractors.

b. Except for those costs described in Section 5 above, DWR shall recover DWR's Share of Program Costs through the DHCCP Pay-Go Charge. The DHCCP Pay-Go Charge shall recover these costs incurred or to be incurred by DWR for the DHCCP Planning Phase beginning on January 1, 2009, and, unless sooner terminated pursuant to Article 9 of this Agreement, continuing until the Program's Planning Phase is completed or December 31, 2011, which ever is earlier.

c. To facilitate billing on a calendar year basis, the DHCCP Pay-Go Charge will be computed and included in Contractor's and other Participating SWP Contractor's Annual Statements of Charges for 2009 and thereafter as long as this Agreement is in effect under the Transportation Minimum Component and shall be collected in 12 equal monthly payments as described in Contractor's Water Supply Contract. The DHCCP Pay-Go Charges shall initially be based on estimates of costs determined pursuant to Section 7 (Program Cost, Budgeting and Allocation). These charges

shall be adjusted after the end of each Calendar Year to accurately reflect DWR's Share of Program Costs during that Calendar Year. Such adjustments shall be reflected in the charges in the following calendar year.

d. The DHCCP Pay-Go Charge will be allocated to each Participating SWP Contractor in proportion to the ratio of its DHCCP Table A Amount to the sum of all Participating SWP Contractors' DHCCP Table A Amounts. Attached hereto as Exhibit 4A and 4B is a table of each Participating SWP Contractor's estimated share of the DHCCP Planning Phase Charges for 2009 and 2010. As these charges are adjusted, or should charges be estimated for 2011, or should there be a change in the ratio due to a withdrawal of a Contractor from the Program's Planning Phase, revised versions of Exhibit 4B Contractor shall be attached hereto, without constituting an amendment of this Agreement.

e. DWR prepared a revision to the calendar year 2009 Statement of Charges in mid–December 2008, which includes an estimated allocation of the DHCCP costs among the anticipated participating Contractors. Execution of this Agreement, even if occurring after January 1, 2009, shall constitute agreement by the Contractor to pay the full amount of the Contractor's share of the 2009 DHCCP charge. The full amount of all prior months unpaid payments for 2009 shall be paid by the Contractor on the first monthly payment to DWR following execution of this Agreement.

f. Once the final participation level in the DHCCP Program is known by DWR, DWR shall prepare an amended 2009 DHCCP cost allocation and invoice and the Contractor shall pay the revised amount, if any, over the remaining months in calendar year 2009. This revised invoice is anticipated to be distributed within the first four months of calendar year 2009.

g. The parties recognize that DWR intends to retain approximately $12 million of the excess revenue bond reserve funds to be applied as a credit against the 2008 Transportation Capital charges. DWR also intends to apply approximately $30 million of excess revenue bond reserve fund credits against the January 2009 Transportation Capital payments from the Contractors, with the remaining excess revenue bond reserve fund credits to be applied as a credit against the July 2009 Transportation Capital payments.

7. **Program Cost, Budget and Allocation**

a. As described in the MOA, DWR will work collaboratively with the DHCCP Executive Committee to determine the budget, schedules, and activities of the DHCCP Planning Phase.

b. The total cost for the DHCCP Planning Phase is currently estimated at $140 million. This estimate may change in the future as more information is developed about the costs of planning and designing the potential BDCP conservation measures and water conveyance facilities.

c. DWR is responsible for formulating the DHCCP Planning Phase Budget with specific DHCCP Planning Phase elements and will work collaboratively through the MOA to develop the budget.

d. The Parties to the MOA have committed to an initial, three-year budget. A copy of the initial budget is attached hereto as Exhibit 5. DWR, in collaboration with the Executive Committee, will consider and approve revised budgets for work as necessary. Revised budget(s) shall be attached hereto as subsequent exhibits, without constituting an amendment of this Agreement, provided they do not exceed the funding limit set forth in Section 7(e).

e. Notwithstanding anything set forth in this Agreement or decided through the MOA process, the maximum amount of DWR's Share of Program Costs that shall be funded through this Agreement and all other DHCCP SWP Funding Agreements shall not exceed $70,000,000.

8. **Reimbursement for DHCCP Planning Phase**

a. If the DHCCP is approved to proceed with construction, DWR intends to issue Revenue Bonds to pay for such construction. DWR shall include in the first issue of Revenue Bonds, pursuant to and consistent with Treasury Regulation 1.150-2, an amount sufficient to reimburse the Contractor and all other Participating SWP Contractors for all planning costs paid through the 2008 DHCCP Charge and the DHCCP Pay-Go Charges. DWR, within 10 days of the effective date of this Agreement, shall adopt the necessary documents to conform to the IRS requirements to allow these costs to be included in a future revenue bond issue.

b. If the DHCCP is not approved to proceed with construction or a revenue bond sale does not occur, no reimbursements will occur. Contractor recognizes that, should the DHCCP not be approved to proceed with construction, Contractor may pay costs for the DHCCP Planning Phase that are greater than the amount it would have paid if other means of funding the Program, including under the Water Supply Contract, had

been utilized. Contractor waives any claims it may have with respect to the greater amount that may be paid by it under this Agreement.

c. The provisions of this Section 8 shall survive termination of this Agreement and/or the MOA.

9. **Withdrawal and Termination**

a. Contractor may withdraw from this Agreement at any time. However, Contractor shall provide 30 days advanced written notice to DWR, all other Participating SWP Contractors, and all Parties to the MOA. The notice of the effective date of its withdrawal shall include a detailed written explanation of why it intends to withdraw.

b. If the MOA terminates, this Agreement shall terminate. However, notwithstanding anything to the contrary set forth in the MOA, DWR agrees that it will not withdraw from the MOA as long as DWR's Share of the Program's Costs remains fully funded. DWR shall remain responsible for administering the provisions of this Agreement that survive termination or withdrawal.

c. If Contractor is a signatory to the MOA, Contractor's withdrawal from the MOA shall be deemed as withdrawal from this Agreement.

d. If any Participating SWP Contractor or Contractors withdraws from its DHCCP SWP Funding Agreement, Contractor, if not a withdrawing party, shall notify DWR within seven days after the effective date of such withdrawal as to whether it intends to continue operating under this Agreement. Failure to provide such notice shall be deemed an agreement to continue as a Party to this Agreement.

e. If one or more Participating SWP Contractors withdraw from their DHCCP SWP Funding Agreements and Contractor decides to continue operating under this Agreement, then Contractor's cost allocation share and the cost allocation shares of all other remaining Participating SWP Contractors will be changed to reflect the new ratios of their DHCCP Table A Amounts to the sum of the remaining Participating SWP Contractors' DHCCP Table A Amounts. Such adjustment shall be made through a revised billing payable in equal installments over the remainder of the then current calendar year or six months from the date the revised billing is received by Contractor, whichever is longer. DWR shall transmit the revised billing to Contractor within 60 days of the effective date of the withdrawal that triggered the revised cost allocation.

f. In the event of Contractor's noticed withdrawal from this Agreement, Contractor shall no longer be obligated to fund any costs related to DHCCP Planning Phase task orders that are subsequently approved by DWR or that were approved by DWR less than 60 days prior to the date the notice of withdrawal was transmitted to DWR pursuant to Section 9(a). However, Contractor shall remain responsible for its share of the costs of completing any DHCCP Planning Phase task orders approved 60 days prior to the date the notice of withdrawal was transmitted.

g. If termination of the MOA occurs concurrent with or after Contractor's notice of withdrawal from this Agreement but prior to the effective date of the Contractor's withdrawal, or the Contractor has not withdrawn, Contractor is obligated to pay its share of the reasonable termination costs incurred in fulfillment of the DHCCP Planning Phase or the objectives of the MOA, such as costs associated with early termination of consultant contracts. The total termination costs will be shared on a 50-50 basis between the State and federal interests. The Contractor's share of termination costs shall be determined using the same ratio as described in Section 6(d) of this Agreement.

h. The provisions of paragraphs (b), (d), (e), (f) and (g) of this Section 9 shall survive termination of this Agreement and/or the MOA

10. **Invoices, Notices Or Other Communications**

a. All invoices, notices, or other communications required under this Agreement will be in writing, and will be deemed to have been duly given upon the date of service, if: (i.) served personally on the Party to whom notice is to be given; (ii.) sent by electronic mail, and the Party to whom notice is to be given confirms receipt; or (iii.) on the third day after mailing, if mailed to the Party to whom invoice, notice or other communication is directed, by first-class mail, postage prepaid, and properly addressed to the designated representative(s) of the Party set forth below.

DWR: Chief, State Water Project Analysis Office
Department of Water Resources
State Water Project Analysis Office
Department of Water Resources
1416 Ninth Street, Room 1620
Post Office Box 942836
Sacramento, California 94236-0001

SCWA: Mr. David B. Okita
General Manager
Solano County Water Agency
Post Office Box 349
Elmira, California 95625-0349

b. The time for providing any payments, notices, or other communications specified in this Agreement may be extended within the term of this Agreement with the consent of the Parties, confirmed in writing, without requiring an amendment to this Agreement.

11. **No Amendment to Water Supply Contract**
This Agreement does not amend, abridge, or modify the Water Supply Contract in any way.

12. **Amendments**
Except for the addition of exhibits as authorized herein, this Agreement may be amended or modified only by a subsequent written agreement approved and executed by the Parties.

13. **Agreement Conformity**
All Agreements to fund the DHCCP Planning Phase entered into by DWR and Participating SWP Contractors shall be substantially uniform.

14. **Applicable Law**
This Agreement will be construed under and will be deemed to be governed by the laws of the United States and the State of California.

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

16. **Execution in Counterpart**
This Agreement may be executed in counterpart, each of which shall constitute an original, but all of which shall constitute one and the same agreement. Each signing Party shall have received a copy of the signature page signed by every other Party.

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

Approved as to legal form
and Sufficiency

Chief Counsel
Department of Water Resources

MAR 12 2009
Date

State of California
Department of Water Resources

Director

3/12/09
Date

Approved as to legal form
and Sufficiency

Counsel for SCWA

Date

Solano County Water Agency

General Manager

Date

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

Approved as to legal form
and Sufficiency

Chief Counsel
Department of Water Resources

MAR 12 2009
Date

State of California
Department of Water Resources

Director

3/12/09
Date

Approved as to legal form
and Sufficiency

Counsel for SCWA

4.2.09
Date

Solano County Water Agency

~~General Manager~~ Chairman, Board of Directors.

4-9-09
Date

List of Exhibits to be Attached

Exhibit 1: Memorandum of Agreement Regarding Collaboration on the Planning, Preliminary Design and Environmental Compliance for the Delta Habitat Conservation and Conveyance Program in Connection with the Development of the Bay Delta Conservation Plan (Paragraph 1.a)

Exhibit 2: Table of Participating SWP Contractors Actual Advanced Costs for 2008 (Paragraph 5.c)

Exhibit 3: Participating SWP Contractors Share of 2008 Costs (Paragraph 5.c)

Exhibit 4: Participating SWP Contractors Estimated Share of 2009 and 2010 DHCCP Planning Phase Costs (Paragraph 6.d)

Exhibit 5: Initial 3 Year Budget (Paragraph 7.d)

Exhibit 1

(Memorandum of Agreement)

Exhibit 2

(Actual 2008 DHCCP Costs by participating SWP Contractor)
(To be provided once final 2008 costs have been determined)

Exhibit 3A
Estimated 2008 DHCCP Planning Phase Costs
by
All Participating SWP Contractor's

2008 CY Projection	$	23,039,000
SWPC 50 Percent	$	11,519,500

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	SWP Contractor Share
Metropolitan WD Of SC	1,911,500	45.81%	$ 5,276,936
Kern County Water Agency	998,730	23.93%	$ 2,757,120
Antelope Valley-East Kern WA	141,400	3.39%	$ 390,352
Coachella Valley WD	121,100	2.90%	$ 334,312
San Bernardino Valley MWD	102,600	2.46%	$ 283,240
Santa Clara Valley WD	100,000	2.40%	$ 276,063
Tulare Lake Basin WSD	95,922	2.30%	$ 264,805
Castaic Lake WA	95,200	2.28%	$ 262,812
Alameda Co FC&WCD - Zone 7	80,619	1.93%	$ 222,559
Mojave Water Agency	75,800	1.82%	$ 209,255
Dudley Ridge WD	57,343	1.37%	$ 158,303
Desert Water Agency	50,000	1.20%	$ 138,031
Solano County WA	47,756	1.14%	$ 131,836
Santa Barbara County FCWCD	45,486	1.09%	$ 125,570
Alameda County WD	42,000	1.01%	$ 115,946
Napa County FC&WCD	29,025	0.70%	$ 80,127
San Gabriel Valley MWD	28,800	0.69%	$ 79,506
Butte County	27,500	0.66%	$ 75,917
San Luis Obispo Co. FC&WCD	25,000	0.60%	$ 69,016
Palmdale WD	21,300	0.51%	$ 58,801
Casitas Municipal WD	20,000	0.48%	$ 55,213
San Gorgonio Pass WA	17,300	0.41%	$ 47,759
City Of Yuba City	9,600	0.23%	$ 26,502
County Of Kings	9,305	0.22%	$ 25,688
Crestline-Lake Arrowhead WA	5,800	0.14%	$ 16,012
Oak Flat WD	5,700	0.14%	$ 15,736
Empire - West Side ID	3,000	0.07%	$ 8,282
Plumas County	2,700	0.06%	$ 7,454
Littlerock Creek ID	2,300	0.06%	$ 6,349
Total Table A	**4,172,786**	**100%**	**11,519,500**

Exhibit 3B
Estimated 2008 DHCCP Planning Phase Costs
by
Estimated Participating SWP Contractor's

2008 CY Projection	**$**	**23,039,000**
SWPC 50 Percent	**$**	**11,519,500**

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	SWP Contractor Share
Metropolitan WD Of SC	1,911,500	47.37%	$ 5,456,674
Kern County Water Agency	998,730	24.75%	$ 2,851,030
Antelope Valley-East Kern WA	141,400	3.50%	$ 403,648
Coachella Valley WD	121,100	3.00%	$ 345,699
San Bernardino Valley MWD	102,600	2.54%	$ 292,888
Santa Clara Valley WD	100,000	2.48%	$ 285,466
Tulare Lake Basin WSD	95,922	2.38%	$ 273,824
Castaic Lake WA	95,200	2.36%	$ 271,763
Alameda Co FC&WCD - Zone 7	80,619	2.00%	$ 230,139
Mojave Water Agency	75,800	1.88%	$ 216,383
Desert Water Agency	50,000	1.24%	$ 142,733
Solano County WA	47,756	1.18%	$ 136,327
Santa Barbara County FCWCD	45,486	1.13%	$ 129,847
Alameda County WD	42,000	1.04%	$ 119,896
Napa County FC&WCD	29,025	0.72%	$ 82,856
San Gabriel Valley MWD	28,800	0.71%	$ 82,214
San Luis Obispo Co. FC&WCD	25,000	0.62%	$ 71,366
Palmdale WD	21,300	0.53%	$ 60,804
San Gorgonio Pass WA	17,300	0.43%	$ 49,386
Crestline-Lake Arrowhead WA	5,800	0.14%	$ 16,557
Total Table A	**4,035,338**	**100.00%**	**$ 11,519,500**

Exhibit 4A
Estimated 2009-2010 DHCCP Planning Phase Costs
by
All Participating SWP Contractor's

Cal Year	2009	2010
CY Projection	$ 55,242,000	$ 61,368,000
SWPC 50 Percent	$ 27,621,000	$ 30,684,000

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	2009 SWP Contractor Projct'd Share	2010 SWP Contractor Projct'd Share
Metropolitan WD Of SC	1,911,500	45.81%	$ 12,652,828	$ 14,055,949
Kern County Water Agency	998,730	23.93%	$ 6,610,912	$ 7,344,022
Antelope Valley-East Kern WA	141,400	3.39%	$ 935,972	$ 1,039,765
Coachella Valley WD	121,100	2.90%	$ 801,599	$ 890,492
San Bernardino Valley MWD	102,600	2.46%	$ 679,142	$ 754,455
Santa Clara Valley WD	100,000	2.40%	$ 661,932	$ 735,336
Tulare Lake Basin WSD	95,922	2.30%	$ 634,938	$ 705,349
Castaic Lake WA	95,200	2.28%	$ 630,159	$ 700,040
Alameda Co FC&WCD - Zone 7	80,619	1.93%	$ 533,643	$ 592,821
Mojave Water Agency	75,800	1.82%	$ 501,744	$ 557,385
Dudley Ridge WD	57,343	1.37%	$ 379,572	$ 421,664
Desert Water Agency	50,000	1.20%	$ 330,966	$ 367,668
Solano County WA	47,756	1.14%	$ 316,112	$ 351,167
Santa Barbara County FCWCD	45,486	1.09%	$ 301,086	$ 334,475
Alameda County WD	42,000	1.01%	$ 278,011	$ 308,841
Napa County FC&WCD	29,025	0.70%	$ 192,126	$ 213,431
San Gabriel Valley MWD	28,800	0.69%	$ 190,636	$ 211,777
Butte County	27,500	0.66%	$ 182,031	$ 202,217
San Luis Obispo Co. FC&WCD	25,000	0.60%	$ 165,483	$ 183,834
Palmdale WD	21,300	0.51%	$ 140,991	$ 156,627
Casitas Municipal WD	20,000	0.48%	$ 132,386	$ 147,067
San Gorgonio Pass WA	17,300	0.41%	$ 114,514	$ 127,213
City Of Yuba City	9,600	0.23%	$ 63,545	$ 70,592
County Of Kings	9,305	0.22%	$ 61,593	$ 68,423
Crestline-Lake Arrowhead WA	5,800	0.14%	$ 38,392	$ 42,649
Oak Flat WD	5,700	0.14%	$ 37,730	$ 41,914
Empire - West Side ID	3,000	0.07%	$ 19,858	$ 22,060
Plumas County	2,700	0.06%	$ 17,872	$ 19,854
Littlerock Creek ID	2,300	0.06%	$ 15,224	$ 16,913
Total Table A	**4,172,786**	**100%**	**27,621,000**	**30,684,000**

Exhibit 4B
Estimated 2009-2010 DHCCP Planning Phase Costs
by
Estimated Participating SWP Contractor's

Cal Year	2009	2010
CY Projection	$ 55,242,000	$ 61,368,000
SWPC 50 Percent	$ 27,621,000	$ 30,684,000

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	2009 SWP Contractor Projct'd Share	2010 SWP Contractor Projct'd Share
Metropolitan WD Of SC	1,911,500	47.37%	$ 13,083,797	$ 14,534,710
Kern County Water Agency	998,730	24.75%	$ 6,836,087	$ 7,594,167
Antelope Valley-East Kern WA	141,400	3.50%	$ 967,852	$ 1,075,181
Coachella Valley WD	121,100	3.00%	$ 828,903	$ 920,823
San Bernardino Valley MWD	102,600	2.54%	$ 702,274	$ 780,152
Santa Clara Valley WD	100,000	2.48%	$ 684,478	$ 760,382
Tulare Lake Basin WSD	95,922	2.38%	$ 656,565	$ 729,374
Castaic Lake WA	95,200	2.36%	$ 651,623	$ 723,884
Alameda Co FC&WCD - Zone 7	80,619	2.00%	$ 551,819	$ 613,013
Mojave Water Agency	75,800	1.88%	$ 518,834	$ 576,370
Desert Water Agency	50,000	1.24%	$ 342,239	$ 380,191
Solano County WA	47,756	1.18%	$ 326,879	$ 363,128
Santa Barbara County FCWCD	45,486	1.13%	$ 311,342	$ 345,868
Alameda County WD	42,000	1.04%	$ 287,481	$ 319,361
Napa County FC&WCD	29,025	0.72%	$ 198,670	$ 220,701
San Gabriel Valley MWD	28,800	0.71%	$ 197,130	$ 218,990
San Luis Obispo Co. FC&WCD	25,000	0.62%	$ 171,119	$ 190,096
Palmdale WD	21,300	0.53%	$ 145,794	$ 161,961
San Gorgonio Pass WA	17,300	0.43%	$ 118,415	$ 131,546
Crestline-Lake Arrowhead WA	5,800	0.14%	$ 39,700	$ 44,102
Total Table A	**4,035,338**	**100%**	**27,621,000**	**30,684,000**

Exhibit 5
Initial DHCCP Planning Phase Budget
(In 1000)

	2008		2009		2010	
Program Element	Jan-Jun	Jul-Dec	Jan-Jun	Jul-Dec	Jan-Jun	Jul-Dec
Management, Planning, & Administration	$ 0	$ 3,134	$ 2,885	$ 2,915	$ 2,995	$ 2,995
Right of Way	$ 611	$ 3,155	$ 2,818	$ 3,568	$ 3,817	$ 3,817
Preliminary Engineering	$ 476	$ 7,840	$11,115	$11,523	$15,903	$15,903
Environmental Services	$ 178	$ 5,645	$ 6,554	$ 11,390	$ 7,141	$ 6,895
Legal Services	$ 0	$ 455	$ 767	$ 767	$ 518	$ 518
General Operating Expenses	$ 5	$ 1,540	$ 438	$ 502	$ 389	$ 477
Six Month Total	$ 1,270	$21,769	$24,577	$30,665	$30,763	$30,605
Calendar Year Total	$ 23,039		$ 55,242		$ 61,368	

Action Item No. 2008-75
Agenda Item No. 8

ACTION OF
SOLANO COUNTY WATER AGENCY

DATE: **December 11, 2008**

SUBJECT: **Delta Habitat Conservation and Conveyance Program**

RECOMMENDATIONS:

1. Authorize Chairman to execute an Agreement for Funding between the Department of Water Resources and the Solano County Water Agency for the Cost of Environmental Analysis, Planning and Design of Delta Conservation Measures, Including Delta Conveyance Options.
2. Authorize Chairman to execute a Delta Specific Project Committee Specific Project Agreement of the State Water Project Contractors' Authority.

FINANCIAL IMPACT:

Cost of $806,000 to $896,000 (depending on number of participants) over 3 calendar years 2008-2010. 2008 costs will be covered by a refund of State Water Project revenue bond reserve funds. There is adequate funding in the Water Agency budget for fiscal year 2008- 2009 funding. The allocation of costs is based on State Water Project contract amounts.

BACKGROUND:

The California Department of Water Resources (DWR) has implemented a Delta Habitat Conservation and Conveyance Program (DHCCP) as part of the Bay Delta Conservation Plan (BDCP). The purpose of the DHCCP is planning for Delta water conveyance and habitat conservation projects under the jurisdiction of the BDCP. A major part of the DHCCP is the permitting and environmental review of a Delta water conveyance project. The DHCCP is evaluating several Delta water conveyance options including an isolated facility, a dual facility and an in-delta facility.

DWR, the U.S. Bureau of Reclamation and State and Federal water contractors will be entering into a Memorandum of Agreement (MOA) to collaborate to develop the environmental documents, engineering designs and other necessary information for possible conservation measures, particularly Delta water conveyance options that are part of the DHCCP.

Recommended: _____
David B. Okita, General Manager

---

[x] Approved as recommended [ ] Other (see below)

Modification to Recommendation and/or other actions:

I, David B. Okita, General Manager and Secretary to the Solano County Water Agency, do hereby certify that the foregoing action was regularly introduced, passed, and adopted by said Board of Directors at a regular meeting thereof held on December 11, 2008 by the following vote.

Ayes: Directors Patterson, Price, Holdener, Davis, Vasquez, Whiting, Vick, Spering, Reagan, Bishop,

The purpose of the funding agreement is to provide 50% of the total cost (about $140 million) of the DHCCP through 2010, the permitting phase. The other 50% is to be collected from the Federal water contractors.

The Delta Specific Project Agreement is part of the governance structure for the MOA. Representatives of the Delta Specific Project Committee will serve on the Executive Committee of the MOA which will provide guidance to DWR and the Bureau of Reclamation on the DHCCP. The Solano County Water Agency is a member of the State Water Project Contractors Authority. The Authority has several specific project committees dealing with special projects associated with the State Water Project.

Staff recommends that the Water Agency execute the Specific Project Agreement and become part of the Delta Specific Project Committee. Staff also recommends that the Water Agency approve the agreement for funding of the DHCCP via an agreement with DWR.

By participating in these two agreements the Water Agency will be able to influence the outcome of the DHCCP and to advocate that our interests in the Delta are protected. Staff has budgeted funding for participation in the DHCCP in the fiscal year 2008-2009 budget. Additionally, funding for 2008 costs will be provided by DWR via a refund of revenue on reserve fund amounts.

Staff will keep the Board of Directors informed of the activities of the DHCCP.

State of California
California Natural Resources Agency
DEPARTMENT OF WATER RESOURCES

AGREEMENT FOR FUNDING BETWEEN THE DEPARTMENT OF WATER RESOURCES AND SOLANO COUNTY WATER AGENCY

FOR THE COSTS OF ENVIRONMENTAL ANALYSIS, PLANNING AND DESIGN OF DELTA CONSERVATION MEASURES, INCLUDING DELTA CONVEYANCE OPTIONS

(SWPAO #09912)

THIS AGREEMENT is made this 9th day of April, 2009, pursuant to the provisions of all applicable laws of the State of California, between the State of California, acting by and through its Department of Water Resources ("DWR"), and Solano County Water Agency ("Contractor"). DWR and the Contractor may also be referred to individually as "Party" or collectively as "Parties."

Recitals

A. **WHEREAS**, DWR and Contractor have entered into and subsequently amended a long-term water supply contract, herein referred to as the "Water Supply Contract," providing that DWR will supply certain quantities of water to Contractor, and providing that Contractor shall make certain payments to DWR, and setting forth the terms and conditions of such supply and such payment; and

B. **WHEREAS**, DWR and several State Water Project (SWP) Contractors are parties to a Memorandum of Agreement ("MOA"), providing that they will collaborate to develop the environmental documents, engineering designs, and other necessary information for possible conservation measures, particularly Delta water conveyance options; and

C. **WHEREAS**, the MOA is intended to support and complement the certain activities of the Bay-Delta Conservation Plan ("BDCP") Steering Committee by establishing procedures to facilitate the funding and planning for the Delta water conveyance and habitat conservation studies, which the Parties refer to as the "Planning Phase" of the Delta Habitat Conservation and Conveyance Program ("DHCCP" or "Program"); and

D. **WHEREAS**, DWR and a group of SWP Contractors, collectively known as the "Participating SWP Contractors," believe the DHCCP Planning Phase is necessary to facilitate the assessment and planning of likely conservation measures of the BDCP, analyze responses to the multiple threats to the State's economic well being posed by the current Delta water conveyance system's vulnerability to seismic risk, climate change, and ongoing regulatory prescriptions, and to consider prudent funding sources for species conservation and improved Delta water conveyance facilities in order to achieve related benefits to water supply, water supply reliability, and ecosystem health and resiliency; and

E. **WHEREAS**, subject to any adjustments provided for in the MOA, DWR will fund fifty percent (50%) of the total cost for the DHCCP Planning Phase and will collect that amount from Contractor and other Participating SWP Contractors, pursuant to this and similar Agreements; and

F. **WHEREAS**, subject to any adjustments provided for in the MOA, certain federal Central Valley Project contractors have agreed to fund the remaining 50 percent of the total DHCCP Planning Phase costs and Reclamation, as allowed under federal appropriations law, via in-kind services and a financial assistance agreement, will provide some portion of this 50 percent; and

G. **WHEREAS**, DWR and the Participating SWP Contractors are endeavoring to increase DWR's flexibility to perform work on the DHCCP Planning Phase by modifying the funding practices and providing funds so the DHCCP Planning Phase work may start as soon as possible; and

H. **WHEREAS**, because DWR must have a source of funding to repay and fund the costs of the DHCCP Planning Phase starting in 2008 until its expected completion by 2010, the Contractor, along with the other Participating SWP Contractors, is willing to provide such funds under the terms of this Agreement through the DHCCP charge; and

I. **WHEREAS**, DWR is willing to credit the Contractor and the other Participating SWP Contractors from 2008 excess revenue bond reserve funds, an amount equal to the Contractor's allocation of the 2008 DHCCP Planning Phase costs, and to credit additional reserve funds in 2009 as provided by Article 50 of the Water Supply Contract; and

J. **WHEREAS**, Contractor is willing to enter into this Agreement to pay a share of the DHCCP Planning Phase costs, and, in consideration therefore, DWR is willing to consult with Contractor and other Participating SWP Contractors on decisions related to the budget, scope, schedule, and activities of the Program's Planning Phase to ensure its timely completion in a cost-efficient manner, and

K. **WHEREAS,** it is DWR's intent that all funds needed to meet DWR's Share of the Program's Costs will be collected through this and all other SWP DHCCP Funding Agreements.

AGREEMENT

NOW THEREFORE, it is mutually agreed by DWR and Contractor as follows:

1. **Definitions**

When used in this Agreement, the definitions in the Water Supply Contract shall apply. In addition, the following definitions shall apply:

a. "**DHCCP**" or "**Program**" means the proposed development of possible BDCP conservation measures, including Delta conveyance options as described in the MOA.

b. "**DHCCP Planning Phase**" or "**Program's Planning Phase**" means the proposed development of environmental documents, planning, engineering designs, and other necessary information for possible BDCP conservation measures, including Delta conveyance options as described in the MOA. It does not include construction activity for any BDCP conservation measure, including any Delta Conveyance option.

c. "**MOA**" means the "Memorandum of Agreement Regarding Collaboration on the Planning, Preliminary Design and Environmental Compliance for the Delta Habitat Conservation and Conveyance Program in Connection with the Development of the Bay Delta Conservation Plan," a copy of which is attached hereto as Exhibit 1.

d. "**SWP**" means the State Water Project operated by DWR. The SWP generally includes the State Water Facilities, as defined in California Water Code section 12934(d), and certain facilities found in the Central Valley Project Act at section 11100 et. seq.

e. "**Water Supply Contract**" means the long-term water supply contract between Contractor and DWR, and similar contracts entered into by DWR and other Participating SWP Contractors.

f. "**Water Supply Contractor**" means one of the contractors that signed a Water Supply Contract which is still in effect.

g. "**DHCCP SWP Funding Agreement**" means this Agreement and agreements substantially the same as this Agreement signed by Participating SWP Contractors and DWR.

h. "**Participating SWP Contractor**" means a SWP Water Supply Contractor that has executed a DHCCP SWP Funding Agreement.

i. "**Calendar Year**" means the period January 1 through December 31.

j. "**DHCCP Table A Amount**" means, for Contractor, the maximum Table A amount as listed in its Water Supply Contract. The DHCCP Table A Amount will be used each year to calculate the Contractor's share of the DHCCP Planning Phase charges as a percentage of the sum of all the DHCCP Table A Amounts of the Participating SWP Contractors.

k. "**2008 DHCCP Charge**" means a charge to Contractor included in its annual statement of charges for 2008 that reflects the estimated costs for DHCCP in 2008.

l. "**Department's Share of the Program's Costs**" means fifty percent (50%) of the total DHCCP Planning Phase costs.

m. "**DHCCP Pay-Go Charge**" means the charge to the Contractor pursuant to this Agreement included in its Annual Statement of Charges to recover the Contractor's allocation of Department's Share of the Program's Costs beginning in 2009 and continuing until the Program's Planning Phase is completed or December 31, 2011, which ever is earlier.

n. "**Reclamation**" means the United States Department of the Interior, Bureau of Reclamation.

o. "**Central Valley Project contractors**" means the Central Valley Project contractors that are involved in funding the DHCCP Planning Phase, which are a subset of the total Central Valley Project contractors group.

2. **Purpose of the Agreement**

a. The purpose of this Agreement is to establish the terms and conditions under which Contractor will provide funding to DWR that, along with funding from the other Participating SWP Contractors, will provide all funds needed to pay the actual costs of DWR's Share of the Program's costs.

b. Funding pursuant to this Agreement addresses only the DHCCP Planning Phase. After completing the DHCCP Planning Phase, if the Parties determine to proceed with actions beyond the DHCCP Planning Phase, including the implementation and construction phases of the DHCCP, the Parties may enter into additional funding agreements.

3. **Term of Agreement**

This Agreement will take effect upon execution of the Parties and will remain in effect until the DHCCP Planning Phase is completed or until December 31, 2011, whichever comes first, unless extended by written amendment.

4. **DHCCP Planning Phase Costs**

Should the funding procedures established by this and all other DHCCP SWP Funding Agreements, or funding procedures established by Funding Agreements between DWR and Reclamation or federal contractors, terminate, DWR and the Participating Contractors, other than the Participating Contractors that have withdrawn pursuant to Section 9(a), shall use their best efforts to develop a funding plan that will allow for the timely completion of the DHCCP Planning Phase. Any subsequent funding plan for completion of the DHCCP Planning Phase shall include provisions that ensure that Participating Contractors that have withdrawn do not incur any additional charges related to the completion of the DHCCP Planning Phase. For purposes of this paragraph, "charges" shall mean 1) costs chargeable to the contractor or 2) revenues and/or cash available to pay rate management credits to the contractor. This provision shall survive termination of this Agreement. After one year from the termination of the MOA, nothing in this provision would prevent DWR from charging the Contractor in accordance with its Water Supply Contract to fund other and new Delta conveyance planning activities that are distinct and independent of the DHCCP and BDCP.

5. **2008 DHCCP Charge**

a. Before DWR may implement this section and to obtain funding for DWR's Share of the Program Costs incurred before December 31, 2008, the following must be satisfied: (i) this Agreement is fully executed by the Parties, and (ii) the SWP DHCCP Funding Agreements and the MOA are signed by DWR and the SWP Contractors who are also parties to the MOA. Once DWR and the Participating SWP Contractors who are parties to the MOA have signed the MOA, the Parties agree to abide by the terms and conditions of the MOA, notwithstanding that the Parties recognize the MOA may not have been fully executed.

b. DWR will submit a revised 2008 Statement of Charges to the Contractor that includes Contractor's estimated 2008 DHCCP Charge. The 2008 DHCCP Charge shall be based on actual costs incurred in 2008, pursuant to Paragraph 7 (Program Cost, Budgeting and Allocation). At the time the revised 2008 Statement of Charges is transmitted to the Contractor, DWR shall submit to the Contractor a revised invoice for the month of July 2008 reflecting credits resulting from the release of excess revenue bond reserve funds against Contractor's Transportation Capital charges in an amount equal to the amount of the revised 2008 Statement of Charges, as provided by the Water Supply Contract.

c. Should the funding from Contractor for the estimated costs be insufficient to cover the actual costs incurred by DWR through December 31, 2008, DWR shall include the Contractor's additional 2008 costs in its 2009

Statement of Charges. After the actual costs incurred up to and including December 31, 2008, have been finally determined, a table reflecting the actual funding advanced by each Participating SWP Contractor in 2008 will be attached hereto as Exhibit 2, without constituting an amendment of this Agreement. All 2008 DHCCP Planning Phase costs will be allocated to each Participating SWP Contractor in proportion to the ratio of its DHCCP Table A Amount to the sum of all Participating SWP Contractors' 2008 DHCCP Table A Amounts. Attached hereto as Exhibit 3A and 3B is a table of each Participating SWP Contractor's estimated share of the 2008 DHCCP Charge.

6. **DHCCP Pay-Go Charge**

a. Before DWR may implement this section to seek funding for costs incurred after December 31, 2008, the following must be completed: (a) this Agreement is fully executed by the Parties and is in full force and effect, (b) the MOA is executed by all of its parties and in effect, and (c) DWR has executed a binding agreement or agreements with Reclamation and certain Central Valley Project contractors which will establish funding procedures that ensure 50 percent of the DHCCP Planning Phase costs are paid by federal interests. The agreements with the Central Valley Project contractors shall also include provisions that (i) require the Central Valley Project contractors to pay 50 percent of the DHCCP Planning Phase costs incurred prior to October 1, 2008 within 14 days of execution of those agreements; and (ii) provide assurances that 50 percent of all costs incurred after October 1, 2008, and until completion of the Program are paid on a schedule and in amounts, similar to the payment schedule and amounts for the Participating SWP Contractors.

b. Except for those costs described in Section 5 above, DWR shall recover DWR's Share of Program Costs through the DHCCP Pay-Go Charge. The DHCCP Pay-Go Charge shall recover these costs incurred or to be incurred by DWR for the DHCCP Planning Phase beginning on January 1, 2009, and, unless sooner terminated pursuant to Article 9 of this Agreement, continuing until the Program's Planning Phase is completed or December 31, 2011, which ever is earlier.

c. To facilitate billing on a calendar year basis, the DHCCP Pay-Go Charge will be computed and included in Contractor's and other Participating SWP Contractor's Annual Statements of Charges for 2009 and thereafter as long as this Agreement is in effect under the Transportation Minimum Component and shall be collected in 12 equal monthly payments as described in Contractor's Water Supply Contract. The DHCCP Pay-Go Charges shall initially be based on estimates of costs determined pursuant to Section 7 (Program Cost, Budgeting and Allocation). These charges

shall be adjusted after the end of each Calendar Year to accurately reflect DWR's Share of Program Costs during that Calendar Year. Such adjustments shall be reflected in the charges in the following calendar year.

d. The DHCCP Pay-Go Charge will be allocated to each Participating SWP Contractor in proportion to the ratio of its DHCCP Table A Amount to the sum of all Participating SWP Contractors' DHCCP Table A Amounts. Attached hereto as Exhibit 4A and 4B is a table of each Participating SWP Contractor's estimated share of the DHCCP Planning Phase Charges for 2009 and 2010. As these charges are adjusted, or should charges be estimated for 2011, or should there be a change in the ratio due to a withdrawal of a Contractor from the Program's Planning Phase, revised versions of Exhibit 4B Contractor shall be attached hereto, without constituting an amendment of this Agreement.

e. DWR prepared a revision to the calendar year 2009 Statement of Charges in mid–December 2008, which includes an estimated allocation of the DHCCP costs among the anticipated participating Contractors. Execution of this Agreement, even if occurring after January 1, 2009, shall constitute agreement by the Contractor to pay the full amount of the Contractor's share of the 2009 DHCCP charge. The full amount of all prior months unpaid payments for 2009 shall be paid by the Contractor on the first monthly payment to DWR following execution of this Agreement.

f. Once the final participation level in the DHCCP Program is known by DWR, DWR shall prepare an amended 2009 DHCCP cost allocation and invoice and the Contractor shall pay the revised amount, if any, over the remaining months in calendar year 2009. This revised invoice is anticipated to be distributed within the first four months of calendar year 2009.

g. The parties recognize that DWR intends to retain approximately $12 million of the excess revenue bond reserve funds to be applied as a credit against the 2008 Transportation Capital charges. DWR also intends to apply approximately $30 million of excess revenue bond reserve fund credits against the January 2009 Transportation Capital payments from the Contractors, with the remaining excess revenue bond reserve fund credits to be applied as a credit against the July 2009 Transportation Capital payments.

7. **Program Cost, Budget and Allocation**

a. As described in the MOA, DWR will work collaboratively with the DHCCP Executive Committee to determine the budget, schedules, and activities of the DHCCP Planning Phase.

b. The total cost for the DHCCP Planning Phase is currently estimated at $140 million. This estimate may change in the future as more information is developed about the costs of planning and designing the potential BDCP conservation measures and water conveyance facilities.

c. DWR is responsible for formulating the DHCCP Planning Phase Budget with specific DHCCP Planning Phase elements and will work collaboratively through the MOA to develop the budget.

d. The Parties to the MOA have committed to an initial, three-year budget. A copy of the initial budget is attached hereto as Exhibit 5. DWR, in collaboration with the Executive Committee, will consider and approve revised budgets for work as necessary. Revised budget(s) shall be attached hereto as subsequent exhibits, without constituting an amendment of this Agreement, provided they do not exceed the funding limit set forth in Section 7(e).

e. Notwithstanding anything set forth in this Agreement or decided through the MOA process, the maximum amount of DWR's Share of Program Costs that shall be funded through this Agreement and all other DHCCP SWP Funding Agreements shall not exceed $70,000,000.

8. **Reimbursement for DHCCP Planning Phase**

a. If the DHCCP is approved to proceed with construction, DWR intends to issue Revenue Bonds to pay for such construction. DWR shall include in the first issue of Revenue Bonds, pursuant to and consistent with Treasury Regulation 1.150-2, an amount sufficient to reimburse the Contractor and all other Participating SWP Contractors for all planning costs paid through the 2008 DHCCP Charge and the DHCCP Pay-Go Charges. DWR, within 10 days of the effective date of this Agreement, shall adopt the necessary documents to conform to the IRS requirements to allow these costs to be included in a future revenue bond issue.

b. If the DHCCP is not approved to proceed with construction or a revenue bond sale does not occur, no reimbursements will occur. Contractor recognizes that, should the DHCCP not be approved to proceed with construction, Contractor may pay costs for the DHCCP Planning Phase that are greater than the amount it would have paid if other means of funding the Program, including under the Water Supply Contract, had

been utilized. Contractor waives any claims it may have with respect to the greater amount that may be paid by it under this Agreement.

c. The provisions of this Section 8 shall survive termination of this Agreement and/or the MOA.

9. **Withdrawal and Termination**

a. Contractor may withdraw from this Agreement at any time. However, Contractor shall provide 30 days advanced written notice to DWR, all other Participating SWP Contractors, and all Parties to the MOA. The notice of the effective date of its withdrawal shall include a detailed written explanation of why it intends to withdraw.

b. If the MOA terminates, this Agreement shall terminate. However, notwithstanding anything to the contrary set forth in the MOA, DWR agrees that it will not withdraw from the MOA as long as DWR's Share of the Program's Costs remains fully funded. DWR shall remain responsible for administering the provisions of this Agreement that survive termination or withdrawal.

c. If Contractor is a signatory to the MOA, Contractor's withdrawal from the MOA shall be deemed as withdrawal from this Agreement.

d. If any Participating SWP Contractor or Contractors withdraws from its DHCCP SWP Funding Agreement, Contractor, if not a withdrawing party, shall notify DWR within seven days after the effective date of such withdrawal as to whether it intends to continue operating under this Agreement. Failure to provide such notice shall be deemed an agreement to continue as a Party to this Agreement.

e. If one or more Participating SWP Contractors withdraw from their DHCCP SWP Funding Agreements and Contractor decides to continue operating under this Agreement, then Contractor's cost allocation share and the cost allocation shares of all other remaining Participating SWP Contractors will be changed to reflect the new ratios of their DHCCP Table A Amounts to the sum of the remaining Participating SWP Contractors' DHCCP Table A Amounts. Such adjustment shall be made through a revised billing payable in equal installments over the remainder of the then current calendar year or six months from the date the revised billing is received by Contractor, whichever is longer. DWR shall transmit the revised billing to Contractor within 60 days of the effective date of the withdrawal that triggered the revised cost allocation.

f. In the event of Contractor's noticed withdrawal from this Agreement, Contractor shall no longer be obligated to fund any costs related to DHCCP Planning Phase task orders that are subsequently approved by DWR or that were approved by DWR less than 60 days prior to the date the notice of withdrawal was transmitted to DWR pursuant to Section 9(a). However, Contractor shall remain responsible for its share of the costs of completing any DHCCP Planning Phase task orders approved 60 days prior to the date the notice of withdrawal was transmitted.

g. If termination of the MOA occurs concurrent with or after Contractor's notice of withdrawal from this Agreement but prior to the effective date of the Contractor's withdrawal, or the Contractor has not withdrawn, Contractor is obligated to pay its share of the reasonable termination costs incurred in fulfillment of the DHCCP Planning Phase or the objectives of the MOA, such as costs associated with early termination of consultant contracts. The total termination costs will be shared on a 50-50 basis between the State and federal interests. The Contractor's share of termination costs shall be determined using the same ratio as described in Section 6(d) of this Agreement.

h. The provisions of paragraphs (b), (d), (e), (f) and (g) of this Section 9 shall survive termination of this Agreement and/or the MOA

10. **Invoices, Notices Or Other Communications**

a. All invoices, notices, or other communications required under this Agreement will be in writing, and will be deemed to have been duly given upon the date of service, if: (i.) served personally on the Party to whom notice is to be given; (ii.) sent by electronic mail, and the Party to whom notice is to be given confirms receipt; or (iii.) on the third day after mailing, if mailed to the Party to whom invoice, notice or other communication is directed, by first-class mail, postage prepaid, and properly addressed to the designated representative(s) of the Party set forth below.

DWR: Chief, State Water Project Analysis Office
Department of Water Resources
State Water Project Analysis Office
Department of Water Resources
1416 Ninth Street, Room 1620
Post Office Box 942836
Sacramento, California 94236-0001

SCWA: Mr. David B. Okita
General Manager
Solano County Water Agency
Post Office Box 349
Elmira, California 95625-0349

b. The time for providing any payments, notices, or other communications specified in this Agreement may be extended within the term of this Agreement with the consent of the Parties, confirmed in writing, without requiring an amendment to this Agreement.

11. **No Amendment to Water Supply Contract**
This Agreement does not amend, abridge, or modify the Water Supply Contract in any way.

12. **Amendments**
Except for the addition of exhibits as authorized herein, this Agreement may be amended or modified only by a subsequent written agreement approved and executed by the Parties.

13. **Agreement Conformity**
All Agreements to fund the DHCCP Planning Phase entered into by DWR and Participating SWP Contractors shall be substantially uniform.

14. **Applicable Law**
This Agreement will be construed under and will be deemed to be governed by the laws of the United States and the State of California.

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

16. **Execution in Counterpart**
This Agreement may be executed in counterpart, each of which shall constitute an original, but all of which shall constitute one and the same agreement. Each signing Party shall have received a copy of the signature page signed by every other Party.

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

Approved as to legal form
and Sufficiency

Chief Counsel
Department of Water Resources

MAR 12 2009
Date

State of California
Department of Water Resources

Director

3/12/09
Date

Approved as to legal form
and Sufficiency

Counsel for SCWA

Date

Solano County Water Agency

General Manager

Date

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

Approved as to legal form
and Sufficiency

Chief Counsel
Department of Water Resources

MAR 12 2009
Date

State of California
Department of Water Resources

Director

3/12/09
Date

Approved as to legal form
and Sufficiency

Counsel for SCWA

4.2.09
Date

Solano County Water Agency

~~General Manager~~ Chairman, Board of Directors.

4-9-09
Date

List of Exhibits to be Attached

Exhibit 1: Memorandum of Agreement Regarding Collaboration on the Planning, Preliminary Design and Environmental Compliance for the Delta Habitat Conservation and Conveyance Program in Connection with the Development of the Bay Delta Conservation Plan (Paragraph 1.a)

Exhibit 2: Table of Participating SWP Contractors Actual Advanced Costs for 2008 (Paragraph 5.c)

Exhibit 3: Participating SWP Contractors Share of 2008 Costs (Paragraph 5.c)

Exhibit 4: Participating SWP Contractors Estimated Share of 2009 and 2010 DHCCP Planning Phase Costs (Paragraph 6.d)

Exhibit 5: Initial 3 Year Budget (Paragraph 7.d)

Exhibit 1

(Memorandum of Agreement)

Exhibit 2

(Actual 2008 DHCCP Costs by participating SWP Contractor)
(To be provided once final 2008 costs have been determined)

Exhibit 3A
Estimated 2008 DHCCP Planning Phase Costs
by
All Participating SWP Contractor's

2008 CY Projection	$	23,039,000
SWPC 50 Percent	$	11,519,500

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	SWP Contractor Share
Metropolitan WD Of SC	1,911,500	45.81%	$ 5,276,936
Kern County Water Agency	998,730	23.93%	$ 2,757,120
Antelope Valley-East Kern WA	141,400	3.39%	$ 390,352
Coachella Valley WD	121,100	2.90%	$ 334,312
San Bernardino Valley MWD	102,600	2.46%	$ 283,240
Santa Clara Valley WD	100,000	2.40%	$ 276,063
Tulare Lake Basin WSD	95,922	2.30%	$ 264,805
Castaic Lake WA	95,200	2.28%	$ 262,812
Alameda Co FC&WCD - Zone 7	80,619	1.93%	$ 222,559
Mojave Water Agency	75,800	1.82%	$ 209,255
Dudley Ridge WD	57,343	1.37%	$ 158,303
Desert Water Agency	50,000	1.20%	$ 138,031
Solano County WA	47,756	1.14%	$ 131,836
Santa Barbara County FCWCD	45,486	1.09%	$ 125,570
Alameda County WD	42,000	1.01%	$ 115,946
Napa County FC&WCD	29,025	0.70%	$ 80,127
San Gabriel Valley MWD	28,800	0.69%	$ 79,506
Butte County	27,500	0.66%	$ 75,917
San Luis Obispo Co. FC&WCD	25,000	0.60%	$ 69,016
Palmdale WD	21,300	0.51%	$ 58,801
Casitas Municipal WD	20,000	0.48%	$ 55,213
San Gorgonio Pass WA	17,300	0.41%	$ 47,759
City Of Yuba City	9,600	0.23%	$ 26,502
County Of Kings	9,305	0.22%	$ 25,688
Crestline-Lake Arrowhead WA	5,800	0.14%	$ 16,012
Oak Flat WD	5,700	0.14%	$ 15,736
Empire - West Side ID	3,000	0.07%	$ 8,282
Plumas County	2,700	0.06%	$ 7,454
Littlerock Creek ID	2,300	0.06%	$ 6,349
Total Table A	**4,172,786**	**100%**	**11,519,500**

Exhibit 3B
Estimated 2008 DHCCP Planning Phase Costs
by
Estimated Participating SWP Contractor's

2008 CY Projection	**$**	**23,039,000**
SWPC 50 Percent	**$**	**11,519,500**

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	SWP Contractor Share
Metropolitan WD Of SC	1,911,500	47.37%	$ 5,456,674
Kern County Water Agency	998,730	24.75%	$ 2,851,030
Antelope Valley-East Kern WA	141,400	3.50%	$ 403,648
Coachella Valley WD	121,100	3.00%	$ 345,699
San Bernardino Valley MWD	102,600	2.54%	$ 292,888
Santa Clara Valley WD	100,000	2.48%	$ 285,466
Tulare Lake Basin WSD	95,922	2.38%	$ 273,824
Castaic Lake WA	95,200	2.36%	$ 271,763
Alameda Co FC&WCD - Zone 7	80,619	2.00%	$ 230,139
Mojave Water Agency	75,800	1.88%	$ 216,383
Desert Water Agency	50,000	1.24%	$ 142,733
Solano County WA	47,756	1.18%	$ 136,327
Santa Barbara County FCWCD	45,486	1.13%	$ 129,847
Alameda County WD	42,000	1.04%	$ 119,896
Napa County FC&WCD	29,025	0.72%	$ 82,856
San Gabriel Valley MWD	28,800	0.71%	$ 82,214
San Luis Obispo Co. FC&WCD	25,000	0.62%	$ 71,366
Palmdale WD	21,300	0.53%	$ 60,804
San Gorgonio Pass WA	17,300	0.43%	$ 49,386
Crestline-Lake Arrowhead WA	5,800	0.14%	$ 16,557
Total Table A	**4,035,338**	**100.00%**	**$ 11,519,500**

Exhibit 4A
Estimated 2009-2010 DHCCP Planning Phase Costs
by
All Participating SWP Contractor's

Cal Year	2009	2010
CY Projection	$ 55,242,000	$ 61,368,000
SWPC 50 Percent	$ 27,621,000	$ 30,684,000

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	2009 SWP Contractor Projct'd Share	2010 SWP Contractor Projct'd Share
Metropolitan WD Of SC	1,911,500	45.81%	$ 12,652,828	$ 14,055,949
Kern County Water Agency	998,730	23.93%	$ 6,610,912	$ 7,344,022
Antelope Valley-East Kern WA	141,400	3.39%	$ 935,972	$ 1,039,765
Coachella Valley WD	121,100	2.90%	$ 801,599	$ 890,492
San Bernardino Valley MWD	102,600	2.46%	$ 679,142	$ 754,455
Santa Clara Valley WD	100,000	2.40%	$ 661,932	$ 735,336
Tulare Lake Basin WSD	95,922	2.30%	$ 634,938	$ 705,349
Castaic Lake WA	95,200	2.28%	$ 630,159	$ 700,040
Alameda Co FC&WCD - Zone 7	80,619	1.93%	$ 533,643	$ 592,821
Mojave Water Agency	75,800	1.82%	$ 501,744	$ 557,385
Dudley Ridge WD	57,343	1.37%	$ 379,572	$ 421,664
Desert Water Agency	50,000	1.20%	$ 330,966	$ 367,668
Solano County WA	47,756	1.14%	$ 316,112	$ 351,167
Santa Barbara County FCWCD	45,486	1.09%	$ 301,086	$ 334,475
Alameda County WD	42,000	1.01%	$ 278,011	$ 308,841
Napa County FC&WCD	29,025	0.70%	$ 192,126	$ 213,431
San Gabriel Valley MWD	28,800	0.69%	$ 190,636	$ 211,777
Butte County	27,500	0.66%	$ 182,031	$ 202,217
San Luis Obispo Co. FC&WCD	25,000	0.60%	$ 165,483	$ 183,834
Palmdale WD	21,300	0.51%	$ 140,991	$ 156,627
Casitas Municipal WD	20,000	0.48%	$ 132,386	$ 147,067
San Gorgonio Pass WA	17,300	0.41%	$ 114,514	$ 127,213
City Of Yuba City	9,600	0.23%	$ 63,545	$ 70,592
County Of Kings	9,305	0.22%	$ 61,593	$ 68,423
Crestline-Lake Arrowhead WA	5,800	0.14%	$ 38,392	$ 42,649
Oak Flat WD	5,700	0.14%	$ 37,730	$ 41,914
Empire - West Side ID	3,000	0.07%	$ 19,858	$ 22,060
Plumas County	2,700	0.06%	$ 17,872	$ 19,854
Littlerock Creek ID	2,300	0.06%	$ 15,224	$ 16,913
Total Table A	**4,172,786**	**100%**	**27,621,000**	**30,684,000**

Exhibit 4B
Estimated 2009-2010 DHCCP Planning Phase Costs
by
Estimated Participating SWP Contractor's

Cal Year	2009	2010
CY Projection	$ 55,242,000	$ 61,368,000
SWPC 50 Percent	$ 27,621,000	$ 30,684,000

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	2009 SWP Contractor Projct'd Share	2010 SWP Contractor Projct'd Share
Metropolitan WD Of SC	1,911,500	47.37%	$ 13,083,797	$ 14,534,710
Kern County Water Agency	998,730	24.75%	$ 6,836,087	$ 7,594,167
Antelope Valley-East Kern WA	141,400	3.50%	$ 967,852	$ 1,075,181
Coachella Valley WD	121,100	3.00%	$ 828,903	$ 920,823
San Bernardino Valley MWD	102,600	2.54%	$ 702,274	$ 780,152
Santa Clara Valley WD	100,000	2.48%	$ 684,478	$ 760,382
Tulare Lake Basin WSD	95,922	2.38%	$ 656,565	$ 729,374
Castaic Lake WA	95,200	2.36%	$ 651,623	$ 723,884
Alameda Co FC&WCD - Zone 7	80,619	2.00%	$ 551,819	$ 613,013
Mojave Water Agency	75,800	1.88%	$ 518,834	$ 576,370
Desert Water Agency	50,000	1.24%	$ 342,239	$ 380,191
Solano County WA	47,756	1.18%	$ 326,879	$ 363,128
Santa Barbara County FCWCD	45,486	1.13%	$ 311,342	$ 345,868
Alameda County WD	42,000	1.04%	$ 287,481	$ 319,361
Napa County FC&WCD	29,025	0.72%	$ 198,670	$ 220,701
San Gabriel Valley MWD	28,800	0.71%	$ 197,130	$ 218,990
San Luis Obispo Co. FC&WCD	25,000	0.62%	$ 171,119	$ 190,096
Palmdale WD	21,300	0.53%	$ 145,794	$ 161,961
San Gorgonio Pass WA	17,300	0.43%	$ 118,415	$ 131,546
Crestline-Lake Arrowhead WA	5,800	0.14%	$ 39,700	$ 44,102
Total Table A	**4,035,338**	**100%**	**27,621,000**	**30,684,000**

Exhibit 5
Initial DHCCP Planning Phase Budget
(In 1000)

	2008		2009		2010	
Program Element	Jan-Jun	Jul-Dec	Jan-Jun	Jul-Dec	Jan-Jun	Jul-Dec
Management, Planning, & Administration	$ 0	$ 3,134	$ 2,885	$ 2,915	$ 2,995	$ 2,995
Right of Way	$ 611	$ 3,155	$ 2,818	$ 3,568	$ 3,817	$ 3,817
Preliminary Engineering	$ 476	$ 7,840	$11,115	$11,523	$15,903	$15,903
Environmental Services	$ 178	$ 5,645	$ 6,554	$ 11,390	$ 7,141	$ 6,895
Legal Services	$ 0	$ 455	$ 767	$ 767	$ 518	$ 518
General Operating Expenses	$ 5	$ 1,540	$ 438	$ 502	$ 389	$ 477
Six Month Total	$ 1,270	$21,769	$24,577	$30,665	$30,763	$30,605
Calendar Year Total	$ 23,039		$ 55,242		$ 61,368	

Action Item No. 2008-75
Agenda Item No. 8

ACTION OF
SOLANO COUNTY WATER AGENCY

DATE: **December 11, 2008**

SUBJECT: **Delta Habitat Conservation and Conveyance Program**

RECOMMENDATIONS:

1. Authorize Chairman to execute an Agreement for Funding between the Department of Water Resources and the Solano County Water Agency for the Cost of Environmental Analysis, Planning and Design of Delta Conservation Measures, Including Delta Conveyance Options.
2. Authorize Chairman to execute a Delta Specific Project Committee Specific Project Agreement of the State Water Project Contractors' Authority.

FINANCIAL IMPACT:

Cost of $806,000 to $896,000 (depending on number of participants) over 3 calendar years 2008-2010. 2008 costs will be covered by a refund of State Water Project revenue bond reserve funds. There is adequate funding in the Water Agency budget for fiscal year 2008- 2009 funding. The allocation of costs is based on State Water Project contract amounts.

BACKGROUND:

The California Department of Water Resources (DWR) has implemented a Delta Habitat Conservation and Conveyance Program (DHCCP) as part of the Bay Delta Conservation Plan (BDCP). The purpose of the DHCCP is planning for Delta water conveyance and habitat conservation projects under the jurisdiction of the BDCP. A major part of the DHCCP is the permitting and environmental review of a Delta water conveyance project. The DHCCP is evaluating several Delta water conveyance options including an isolated facility, a dual facility and an in-delta facility.

DWR, the U.S. Bureau of Reclamation and State and Federal water contractors will be entering into a Memorandum of Agreement (MOA) to collaborate to develop the environmental documents, engineering designs and other necessary information for possible conservation measures, particularly Delta water conveyance options that are part of the DHCCP.

Recommended: _____
David B. Okita, General Manager

---

[x] Approved as recommended [ ] Other (see below)

Modification to Recommendation and/or other actions:

I, David B. Okita, General Manager and Secretary to the Solano County Water Agency, do hereby certify that the foregoing action was regularly introduced, passed, and adopted by said Board of Directors at a regular meeting thereof held on December 11, 2008 by the following vote.

Ayes: Directors Patterson, Price, Holdener, Davis, Vasquez, Whiting, Vick, Spering, Reagan, Bishop,

The purpose of the funding agreement is to provide 50% of the total cost (about $140 million) of the DHCCP through 2010, the permitting phase. The other 50% is to be collected from the Federal water contractors.

The Delta Specific Project Agreement is part of the governance structure for the MOA. Representatives of the Delta Specific Project Committee will serve on the Executive Committee of the MOA which will provide guidance to DWR and the Bureau of Reclamation on the DHCCP. The Solano County Water Agency is a member of the State Water Project Contractors Authority. The Authority has several specific project committees dealing with special projects associated with the State Water Project.

Staff recommends that the Water Agency execute the Specific Project Agreement and become part of the Delta Specific Project Committee. Staff also recommends that the Water Agency approve the agreement for funding of the DHCCP via an agreement with DWR.

By participating in these two agreements the Water Agency will be able to influence the outcome of the DHCCP and to advocate that our interests in the Delta are protected. Staff has budgeted funding for participation in the DHCCP in the fiscal year 2008-2009 budget. Additionally, funding for 2008 costs will be provided by DWR via a refund of revenue on reserve fund amounts.

Staff will keep the Board of Directors informed of the activities of the DHCCP.

State of California
California Natural Resources Agency
DEPARTMENT OF WATER RESOURCES

AGREEMENT FOR FUNDING BETWEEN THE DEPARTMENT OF WATER RESOURCES AND TULARE LAKE BASIN WATER STORAGE DISTRICT

FOR THE COSTS OF ENVIRONMENTAL ANALYSIS, PLANNING AND DESIGN OF DELTA CONSERVATION MEASURES, INCLUDING DELTA CONVEYANCE OPTIONS

(SWPAO #09906)

THIS AGREEMENT is made this 7th day of April, 2009, pursuant to the provisions of all applicable laws of the State of California, between the State of California, acting by and through its Department of Water Resources ("DWR"), and Tulare Lake Basin Water Storage District ("Contractor"). DWR and the Contractor may also be referred to individually as "Party" or collectively as "Parties."

Recitals

A. **WHEREAS**, DWR and Contractor have entered into and subsequently amended a long-term water supply contract, herein referred to as the "Water Supply Contract," providing that DWR will supply certain quantities of water to Contractor, and providing that Contractor shall make certain payments to DWR, and setting forth the terms and conditions of such supply and such payment; and

B. **WHEREAS**, DWR and several State Water Project (SWP) Contractors are parties to a Memorandum of Agreement ("MOA"), providing that they will collaborate to develop the environmental documents, engineering designs, and other necessary information for possible conservation measures, particularly Delta water conveyance options; and

C. **WHEREAS**, the MOA is intended to support and complement the certain activities of the Bay-Delta Conservation Plan ("BDCP") Steering Committee by establishing procedures to facilitate the funding and planning for the Delta water conveyance and habitat conservation studies, which the Parties refer to as the "Planning Phase" of the Delta Habitat Conservation and Conveyance Program ("DHCCP" or "Program"); and

D. **WHEREAS**, DWR and a group of SWP Contractors, collectively known as the "Participating SWP Contractors," believe the DHCCP Planning Phase is necessary to facilitate the assessment and planning of likely conservation measures of the BDCP, analyze responses to the multiple threats to the State's economic well being posed by the current Delta water conveyance system's vulnerability to seismic risk, climate change, and ongoing regulatory prescriptions, and to consider prudent funding sources for species conservation and improved Delta water conveyance facilities in order to achieve related benefits to water supply, water supply reliability, and ecosystem health and resiliency; and

E. **WHEREAS**, subject to any adjustments provided for in the MOA, DWR will fund fifty percent (50%) of the total cost for the DHCCP Planning Phase and will collect that amount from Contractor and other Participating SWP Contractors, pursuant to this and similar Agreements; and

F. **WHEREAS**, subject to any adjustments provided for in the MOA, certain federal Central Valley Project contractors have agreed to fund the remaining 50 percent of the total DHCCP Planning Phase costs and Reclamation, as allowed under federal appropriations law, via in-kind services and a financial assistance agreement, will provide some portion of this 50 percent; and

G. **WHEREAS**, DWR and the Participating SWP Contractors are endeavoring to increase DWR's flexibility to perform work on the DHCCP Planning Phase by modifying the funding practices and providing funds so the DHCCP Planning Phase work may start as soon as possible; and

H. **WHEREAS**, because DWR must have a source of funding to repay and fund the costs of the DHCCP Planning Phase starting in 2008 until its expected completion by 2010, the Contractor, along with the other Participating SWP Contractors, is willing to provide such funds under the terms of this Agreement through the DHCCP charge; and

I. **WHEREAS**, DWR is willing to credit the Contractor and the other Participating SWP Contractors from 2008 excess revenue bond reserve funds, an amount equal to the Contractor's allocation of the 2008 DHCCP Planning Phase costs, and to credit additional reserve funds in 2009 as provided by Article 50 of the Water Supply Contract; and

J. **WHEREAS**, Contractor is willing to enter into this Agreement to pay a share of the DHCCP Planning Phase costs, and, in consideration therefore, DWR is willing to consult with Contractor and other Participating SWP Contractors on decisions related to the budget, scope, schedule, and activities of the Program's Planning Phase to ensure its timely completion in a cost-efficient manner, and

K. **WHEREAS,** it is DWR's intent that all funds needed to meet DWR's Share of the Program's Costs will be collected through this and all other SWP DHCCP Funding Agreements.

AGREEMENT

NOW THEREFORE, it is mutually agreed by DWR and Contractor as follows:

1. **Definitions**

When used in this Agreement, the definitions in the Water Supply Contract shall apply. In addition, the following definitions shall apply:

a. "**DHCCP**" or "**Program**" means the Delta Habitat Conservation and Conveyance Program that will develop possible BDCP conservation measures, including Delta conveyance options as described in the MOA.

b. "**DHCCP Planning Phase**" or "**Program's Planning Phase**" means the proposed development of environmental documents, planning, engineering designs, and other necessary information for possible BDCP conservation measures, including Delta conveyance options as described in the MOA. It does not include construction activity for any BDCP conservation measure, including any Delta Conveyance option.

c. "**MOA**" means the "Memorandum of Agreement Regarding Collaboration on the Planning, Preliminary Design and Environmental Compliance for the Delta Habitat Conservation and Conveyance Program in Connection with the Development of the Bay Delta Conservation Plan," a copy of which is attached hereto as Exhibit 1.

d. "**SWP**" means the State Water Project operated by DWR. The SWP generally includes the State Water Facilities, as defined in California Water Code section 12934(d), and certain facilities found in the Central Valley Project Act at section 11100 et. seq.

e. "**Water Supply Contract**" means the long-term water supply contract between Contractor and DWR, and similar contracts entered into by DWR and other Participating SWP Contractors.

f. "**Water Supply Contractor**" means one of the contractors that signed a Water Supply Contract which is still in effect.

g. "**DHCCP SWP Funding Agreement**" means this Agreement and agreements substantially the same as this Agreement signed by Participating SWP Contractors and DWR.

h. "**Participating SWP Contractor**" means a SWP Water Supply Contractor that has executed a DHCCP SWP Funding Agreement.

i. "**Calendar Year**" means the period January 1 through December 31.

j. "**DHCCP Table A Amount**" means, for Contractor, the maximum Table A amount as listed in its Water Supply Contract. The DHCCP Table A Amount will be used each year to calculate the Contractor's share of the DHCCP Planning Phase charges as a percentage of the sum of all the DHCCP Table A Amounts of the Participating SWP Contractors.

k. "**2008 DHCCP Charge**" means a charge to Contractor included in its annual statement of charges for 2008 that reflects the estimated costs for DHCCP in 2008.

l. "**Department's Share of the Program's Costs**" means fifty percent (50%) of the total DHCCP Planning Phase costs.

m. "**DHCCP Pay-Go Charge**" means the charge to the Contractor pursuant to this Agreement included in its Annual Statement of Charges to recover the Contractor's allocation of Department's Share of the Program's Costs beginning in 2009 and continuing until the Program's Planning Phase is completed or December 31, 2011, which ever is earlier.

n. "**Reclamation**" means the United States Department of the Interior, Bureau of Reclamation.

o. "**Central Valley Project contractors**" means the Central Valley Project contractors that are involved in funding the DHCCP Planning Phase, which are a subset of the total Central Valley Project contractors group.

2. Purpose of the Agreement

a. The purpose of this Agreement is to establish the terms and conditions under which Contractor will provide funding to DWR that, along with funding from the other Participating SWP Contractors, will provide all funds needed to pay the actual costs of DWR's Share of the Program's costs.

b. Funding pursuant to this Agreement addresses only the DHCCP Planning Phase. After completing the DHCCP Planning Phase, if the Parties determine to proceed with actions beyond the DHCCP Planning Phase, including the implementation and construction phases of the DHCCP, the Parties may enter into additional funding agreements.

3. Term of Agreement

This Agreement will take effect upon execution of the Parties and will remain in effect until the DHCCP Planning Phase is completed or until December 31, 2011, whichever comes first, unless extended by written amendment.

4. **DHCCP Planning Phase Costs**

Should the funding procedures established by this and all other DHCCP SWP Funding Agreements, or funding procedures established by Funding Agreements between DWR and Reclamation or federal contractors, terminate, DWR and the Participating Contractors, other than the Participating Contractors that have withdrawn pursuant to Section 9(a), shall use their best efforts to develop a funding plan that will allow for the timely completion of the DHCCP Planning Phase. Any subsequent funding plan for completion of the DHCCP Planning Phase shall include provisions that ensure that Participating Contractors that have withdrawn do not incur any additional charges related to the completion of the DHCCP Planning Phase. For purposes of this paragraph, "charges" shall mean 1) costs chargeable to the contractor or 2) revenues and/or cash available to pay rate management credits to the contractor. This provision shall survive termination of this Agreement. After one year from the termination of the MOA, nothing in this provision would prevent DWR from charging the Contractor in accordance with its Water Supply Contract to fund other and new Delta conveyance planning activities that are distinct and independent of the DHCCP and BDCP.

5. **2008 DHCCP Charge**

a. Before DWR may implement this section and to obtain funding for DWR's Share of the Program Costs incurred before December 31, 2008, the following must be satisfied: (i) this Agreement is fully executed by the Parties, and (ii) the SWP DHCCP Funding Agreements and the MOA are signed by DWR and the SWP Contractors who are also parties to the MOA. Once DWR and the Participating SWP Contractors who are parties to the MOA have signed the MOA, the Parties agree to abide by the terms and conditions of the MOA, notwithstanding that the Parties recognize the MOA may not have been fully executed.

b. DWR will submit a revised 2008 Statement of Charges to the Contractor that includes Contractor's estimated 2008 DHCCP Charge. The 2008 DHCCP Charge shall be based on actual costs incurred in 2008, pursuant to Paragraph 7 (Program Cost, Budgeting and Allocation). At the time the revised 2008 Statement of Charges is transmitted to the Contractor, DWR shall submit to the Contractor a revised invoice for the month of July 2008 reflecting credits resulting from the release of excess revenue bond reserve funds against Contractor's Transportation Capital charges in an amount equal to the amount of the revised 2008 Statement of Charges, as provided by the Water Supply Contract.

c. Should the funding from Contractor for the estimated costs be insufficient to cover the actual costs incurred by DWR through December 31, 2008, DWR shall include the Contractor's additional 2008 costs in its 2009

Statement of Charges. After the actual costs incurred up to and including December 31, 2008, have been finally determined, a table reflecting the actual funding advanced by each Participating SWP Contractor in 2008 will be attached hereto as Exhibit 2, without constituting an amendment of this Agreement. All 2008 DHCCP Planning Phase costs will be allocated to each Participating SWP Contractor in proportion to the ratio of its DHCCP Table A Amount to the sum of all Participating SWP Contractors' 2008 DHCCP Table A Amounts. Attached hereto as Exhibit 3A and 3B is a table of each Participating SWP Contractor's estimated share of the 2008 DHCCP Charge.

6. **DHCCP Pay-Go Charge**

a. Before DWR may implement this section to seek funding for costs incurred after December 31, 2008, the following must be completed: (a) this Agreement is fully executed by the Parties and is in full force and effect, (b) the MOA is executed by all of its parties and in effect, and (c) DWR has executed a binding agreement or agreements with Reclamation and certain Central Valley Project contractors which will establish funding procedures that ensure 50 percent of the DHCCP Planning Phase costs are paid by federal interests. The agreements with the Central Valley Project contractors shall also include provisions that (i) require the Central Valley Project contractors to pay 50 percent of the DHCCP Planning Phase costs incurred prior to October 1, 2008 within 14 days of execution of those agreements; and (ii) provide assurances that 50 percent of all costs incurred after October 1, 2008, and until completion of the Program are paid on a schedule and in amounts, similar to the payment schedule and amounts for the Participating SWP Contractors.

b. Except for those costs described in Section 5 above, DWR shall recover DWR's Share of Program Costs through the DHCCP Pay-Go Charge. The DHCCP Pay-Go Charge shall recover these costs incurred or to be incurred by DWR for the DHCCP Planning Phase beginning on January 1, 2009, and, unless sooner terminated pursuant to Article 9 of this Agreement, continuing until the Program's Planning Phase is completed or December 31, 2011, which ever is earlier.

c. To facilitate billing on a calendar year basis, the DHCCP Pay-Go Charge will be computed and included in Contractor's and other Participating SWP Contractor's Annual Statements of Charges for 2009 and thereafter as long as this Agreement is in effect under the Transportation Minimum Component and shall be collected in 12 equal monthly payments as described in Contractor's Water Supply Contract. The DHCCP Pay-Go Charges shall initially be based on estimates of costs determined pursuant to Section 7 (Program Cost, Budgeting and Allocation). These charges

shall be adjusted after the end of each Calendar Year to accurately reflect DWR's Share of Program Costs during that Calendar Year. Such adjustments shall be reflected in the charges in the following calendar year.

d. The DHCCP Pay-Go Charge will be allocated to each Participating SWP Contractor in proportion to the ratio of its DHCCP Table A Amount to the sum of all Participating SWP Contractors' DHCCP Table A Amounts. Attached hereto as Exhibit 4A and 4B is a table of each Participating SWP Contractor's estimated share of the DHCCP Planning Phase Charges for 2009 and 2010. As these charges are adjusted, or should charges be estimated for 2011, or should there be a change in the ratio due to a withdrawal of a Contractor from the Program's Planning Phase, revised versions of Exhibit 4B Contractor shall be attached hereto, without constituting an amendment of this Agreement.

e. DWR prepared a revision to the calendar year 2009 Statement of Charges in mid–December 2008, which includes an estimated allocation of the DHCCP costs among the anticipated participating Contractors. Execution of this Agreement, even if occurring after January 1, 2009, shall constitute agreement by the Contractor to pay the full amount of the Contractor's share of the 2009 DHCCP charge. The full amount of all prior months unpaid payments for 2009 shall be paid by the Contractor on the first monthly payment to DWR following execution of this Agreement.

f. Once the final participation level in the DHCCP Program is known by DWR, DWR shall prepare an amended 2009 DHCCP cost allocation and invoice and the Contractor shall pay the revised amount, if any, over the remaining months in calendar year 2009. This revised invoice is anticipated to be distributed within the first four months of calendar year 2009.

g. The parties recognize that DWR intends to retain approximately $12 million of the excess revenue bond reserve funds to be applied as a credit against the 2008 Transportation Capital charges. DWR also intends to apply approximately $30 million of excess revenue bond reserve fund credits against the January 2009 Transportation Capital payments from the Contractors, with the remaining excess revenue bond reserve fund credits to be applied as a credit against the July 2009 Transportation Capital payments.

7. **Program Cost, Budget and Allocation**

a. As described in the MOA, DWR will work collaboratively with the DHCCP Executive Committee to determine the budget, schedules, and activities of the DHCCP Planning Phase.

b. The total cost for the DHCCP Planning Phase is currently estimated at $140 million. This estimate may change in the future as more information is developed about the costs of planning and designing the potential BDCP conservation measures and water conveyance facilities.

c. DWR is responsible for formulating the DHCCP Planning Phase Budget with specific DHCCP Planning Phase elements and will work collaboratively through the MOA to develop the budget.

d. The Parties to the MOA have committed to an initial, three-year budget. A copy of the initial budget is attached hereto as Exhibit 5. DWR, in collaboration with the Executive Committee, will consider and approve revised budgets for work as necessary. Revised budget(s) shall be attached hereto as subsequent exhibits, without constituting an amendment of this Agreement, provided they do not exceed the funding limit set forth in Section 7(e).

e. Notwithstanding anything set forth in this Agreement or decided through the MOA process, the maximum amount of DWR's Share of Program Costs that shall be funded through this Agreement and all other DHCCP SWP Funding Agreements shall not exceed $70,000,000.

8. **Reimbursement for DHCCP Planning Phase**

a. If the DHCCP is approved to proceed with construction, DWR intends to issue Revenue Bonds to pay for such construction. DWR shall include in the first issue of Revenue Bonds, pursuant to and consistent with Treasury Regulation 1.150-2, an amount sufficient to reimburse the Contractor and all other Participating SWP Contractors for all planning costs paid through the 2008 DHCCP Charge and the DHCCP Pay-Go Charges. DWR, within 10 days of the effective date of this Agreement, shall adopt the necessary documents to conform to the IRS requirements to allow these costs to be included in a future revenue bond issue.

b. If the DHCCP is not approved to proceed with construction or a revenue bond sale does not occur, no reimbursements will occur. Contractor recognizes that, should the DHCCP not be approved to proceed with construction, Contractor may pay costs for the DHCCP Planning Phase that are greater than the amount it would have paid if other means of funding the Program, including under the Water Supply Contract, had

been utilized. Contractor waives any claims it may have with respect to the greater amount that may be paid by it under this Agreement.

c. The provisions of this Section 8 shall survive termination of this Agreement and/or the MOA.

9. **Withdrawal and Termination**

a. Contractor may withdraw from this Agreement at any time. However, Contractor shall provide 30 days advanced written notice to DWR, all other Participating SWP Contractors, and all Parties to the MOA. The notice of the effective date of its withdrawal shall include a detailed written explanation of why it intends to withdraw.

b. If the MOA terminates, this Agreement shall terminate. However, notwithstanding anything to the contrary set forth in the MOA, DWR agrees that it will not withdraw from the MOA as long as DWR's Share of the Program's Costs remains fully funded. DWR shall remain responsible for administering the provisions of this Agreement that survive termination or withdrawal.

c. If Contractor is a signatory to the MOA, Contractor's withdrawal from the MOA shall be deemed as withdrawal from this Agreement.

d. If any Participating SWP Contractor or Contractors withdraws from its DHCCP SWP Funding Agreement, Contractor, if not a withdrawing party, shall notify DWR within seven days after the effective date of such withdrawal as to whether it intends to continue operating under this Agreement. Failure to provide such notice shall be deemed an agreement to continue as a Party to this Agreement.

e. If one or more Participating SWP Contractors withdraw from their DHCCP SWP Funding Agreements and Contractor decides to continue operating under this Agreement, then Contractor's cost allocation share and the cost allocation shares of all other remaining Participating SWP Contractors will be changed to reflect the new ratios of their DHCCP Table A Amounts to the sum of the remaining Participating SWP Contractors' DHCCP Table A Amounts. Such adjustment shall be made through a revised billing payable in equal installments over the remainder of the then current calendar year or six months from the date the revised billing is received by Contractor, whichever is longer. DWR shall transmit the revised billing to Contractor within 60 days of the effective date of the withdrawal that triggered the revised cost allocation.

f. In the event of Contractor's noticed withdrawal from this Agreement, Contractor shall no longer be obligated to fund any costs related to DHCCP Planning Phase task orders that are subsequently approved by DWR or that were approved by DWR less than 60 days prior to the date the notice of withdrawal was transmitted to DWR pursuant to Section 9(a). However, Contractor shall remain responsible for its share of the costs of completing any DHCCP Planning Phase task orders approved 60 days prior to the date the notice of withdrawal was transmitted.

g. If termination of the MOA occurs concurrent with or after Contractor's notice of withdrawal from this Agreement but prior to the effective date of the Contractor's withdrawal, or the Contractor has not withdrawn, Contractor is obligated to pay its share of the reasonable termination costs incurred in fulfillment of the DHCCP Planning Phase or the objectives of the MOA, such as costs associated with early termination of consultant contracts. The total termination costs will be shared on a 50-50 basis between the State and federal interests. The Contractor's share of termination costs shall be determined using the same ratio as described in Section 6(d) of this Agreement.

h. The provisions of paragraphs (b), (d), (e), (f) and (g) of this Section 9 shall survive termination of this Agreement and/or the MOA

10. <u>Invoices, Notices Or Other Communications</u>

a. All invoices, notices, or other communications required under this Agreement will be in writing, and will be deemed to have been duly given upon the date of service, if: (i.) served personally on the Party to whom notice is to be given; (ii.) sent by electronic mail, and the Party to whom notice is to be given confirms receipt; or (iii.) on the third day after mailing, if mailed to the Party to whom invoice, notice or other communication is directed, by first-class mail, postage prepaid, and properly addressed to the designated representative(s) of the Party set forth below.

DWR: Chief, State Water Project Analysis Office
Department of Water Resources
State Water Project Analysis Office
Department of Water Resources
1416 Ninth Street, Room 1620
Post Office Box 942836
Sacramento, California 94236-0001

TBLWSD: Mr. Mark Gilkey
General Manager
Tulare Lake Basin Water Storage District
1001 Chase Avenue
Corcoran, California 93212

b. The time for providing any payments, notices, or other communications specified in this Agreement may be extended within the term of this Agreement with the consent of the Parties, confirmed in writing, without requiring an amendment to this Agreement.

11. No Amendment to Water Supply Contract

This Agreement does not amend, abridge, or modify the Water Supply Contract in any way.

12. Amendments

Except for the addition of exhibits as authorized herein, this Agreement may be amended or modified only by a subsequent written agreement approved and executed by the Parties.

13. Agreement Conformity

All Agreements to fund the DHCCP Planning Phase entered into by DWR and Participating SWP Contractors shall be substantially uniform.

14. Applicable Law

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

15. Complete Contract

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

16. Execution in Counterpart

This Agreement may be executed in counterpart, each of which shall constitute an original, but all of which shall constitute one and the same agreement. Each signing Party shall have received a copy of the signature page signed by every other Party.

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

Approved as to legal form
and Sufficiency

Chief Counsel
Department of Water Resources

MAR 12 2009
Date

State of California
Department of Water Resources

Director

3/12/09
Date

Approved as to legal form
and Sufficiency

Counsel for TLBWSD

Date

Tulare Lake Basin Water Storage
District

General Manager

Date

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

Approved as to legal form
and Sufficiency

Chief Counsel
Department of Water Resources

MAR 12 2009
Date

State of California
Department of Water Resources

Director

3/12/09
Date

Approved as to legal form
and Sufficiency

Counsel for TLBWSD

4/7/09
Date

Tulare Lake Basin Water Storage
District

General Manager

4-7-2009
Date

List of Exhibits to be Attached

Exhibit 1: Memorandum of Agreement Regarding Collaboration on the Planning, Preliminary Design and Environmental Compliance for the Delta Habitat Conservation and Conveyance Program in Connection with the Development of the Bay Delta Conservation Plan (Paragraph 1.a)

Exhibit 2: Table of Participating SWP Contractors Actual Advanced Costs for 2008 (Paragraph 5.c)

Exhibit 3: Participating SWP Contractors Share of 2008 Costs (Paragraph 5.c)

Exhibit 4: Participating SWP Contractors Estimated Share of 2009 and 2010 DHCCP Planning Phase Costs (Paragraph 6.d)

Exhibit 5: Initial 3 Year Budget (Paragraph 7.d)

Exhibit 1

(Memorandum of Agreement)

Exhibit 2

(Actual 2008 DHCCP Costs by participating SWP Contractor)
(To be provided once final 2008 costs have been determined)

Exhibit 3A
Estimated 2008 DHCCP Planning Phase Costs
by
All Participating SWP Contractor's

2008 CY Projection	**$**	**23,039,000**
SWPC 50 Percent	**$**	**11,519,500**

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	SWP Contractor Share
Metropolitan WD Of SC	1,911,500	45.81%	$ 5,276,936
Kern County Water Agency	998,730	23.93%	$ 2,757,120
Antelope Valley-East Kern WA	141,400	3.39%	$ 390,352
Coachella Valley WD	121,100	2.90%	$ 334,312
San Bernardino Valley MWD	102,600	2.46%	$ 283,240
Santa Clara Valley WD	100,000	2.40%	$ 276,063
Tulare Lake Basin WSD	95,922	2.30%	$ 264,805
Castaic Lake WA	95,200	2.28%	$ 262,812
Alameda Co FC&WCD - Zone 7	80,619	1.93%	$ 222,559
Mojave Water Agency	75,800	1.82%	$ 209,255
Dudley Ridge WD	57,343	1.37%	$ 158,303
Desert Water Agency	50,000	1.20%	$ 138,031
Solano County WA	47,756	1.14%	$ 131,836
Santa Barbara County FCWCD	45,486	1.09%	$ 125,570
Alameda County WD	42,000	1.01%	$ 115,946
Napa County FC&WCD	29,025	0.70%	$ 80,127
San Gabriel Valley MWD	28,800	0.69%	$ 79,506
Butte County	27,500	0.66%	$ 75,917
San Luis Obispo Co. FC&WCD	25,000	0.60%	$ 69,016
Palmdale WD	21,300	0.51%	$ 58,801
Casitas Municipal WD	20,000	0.48%	$ 55,213
San Gorgonio Pass WA	17,300	0.41%	$ 47,759
City Of Yuba City	9,600	0.23%	$ 26,502
County Of Kings	9,305	0.22%	$ 25,688
Crestline-Lake Arrowhead WA	5,800	0.14%	$ 16,012
Oak Flat WD	5,700	0.14%	$ 15,736
Empire - West Side ID	3,000	0.07%	$ 8,282
Plumas County	2,700	0.06%	$ 7,454
Littlerock Creek ID	2,300	0.06%	$ 6,349
Total Table A	**4,172,786**	**100%**	**11,519,500**

Exhibit 3B
Estimated 2008 DHCCP Planning Phase Costs
by
Estimated Participating SWP Contractor's

2008 CY Projection	$	23,039,000
SWPC 50 Percent	$	11,519,500

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	SWP Contractor Share
Metropolitan WD Of SC	1,911,500	47.37%	$ 5,456,674
Kern County Water Agency	998,730	24.75%	$ 2,851,030
Antelope Valley-East Kern WA	141,400	3.50%	$ 403,648
Coachella Valley WD	121,100	3.00%	$ 345,699
San Bernardino Valley MWD	102,600	2.54%	$ 292,888
Santa Clara Valley WD	100,000	2.48%	$ 285,466
Tulare Lake Basin WSD	95,922	2.38%	$ 273,824
Castaic Lake WA	95,200	2.36%	$ 271,763
Alameda Co FC&WCD - Zone 7	80,619	2.00%	$ 230,139
Mojave Water Agency	75,800	1.88%	$ 216,383
Desert Water Agency	50,000	1.24%	$ 142,733
Solano County WA	47,756	1.18%	$ 136,327
Santa Barbara County FCWCD	45,486	1.13%	$ 129,847
Alameda County WD	42,000	1.04%	$ 119,896
Napa County FC&WCD	29,025	0.72%	$ 82,856
San Gabriel Valley MWD	28,800	0.71%	$ 82,214
San Luis Obispo Co. FC&WCD	25,000	0.62%	$ 71,366
Palmdale WD	21,300	0.53%	$ 60,804
San Gorgonio Pass WA	17,300	0.43%	$ 49,386
Crestline-Lake Arrowhead WA	5,800	0.14%	$ 16,557
Total Table A	**4,035,338**	**100.00%**	**$ 11,519,500**

Exhibit 4A
Estimated 2009-2010 DHCCP Planning Phase Costs
by
All Participating SWP Contractor's

Cal Year	2009	2010
CY Projection	$ 55,242,000	$ 61,368,000
SWPC 50 Percent	$ 27,621,000	$ 30,684,000

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	2009 SWP Contractor Projct'd Share	2010 SWP Contractor Projct'd Share
Metropolitan WD Of SC	1,911,500	45.81%	$ 12,652,828	$ 14,055,949
Kern County Water Agency	998,730	23.93%	$ 6,610,912	$ 7,344,022
Antelope Valley-East Kern WA	141,400	3.39%	$ 935,972	$ 1,039,765
Coachella Valley WD	121,100	2.90%	$ 801,599	$ 890,492
San Bernardino Valley MWD	102,600	2.46%	$ 679,142	$ 754,455
Santa Clara Valley WD	100,000	2.40%	$ 661,932	$ 735,336
Tulare Lake Basin WSD	95,922	2.30%	$ 634,938	$ 705,349
Castaic Lake WA	95,200	2.28%	$ 630,159	$ 700,040
Alameda Co FC&WCD - Zone 7	80,619	1.93%	$ 533,643	$ 592,821
Mojave Water Agency	75,800	1.82%	$ 501,744	$ 557,385
Dudley Ridge WD	57,343	1.37%	$ 379,572	$ 421,664
Desert Water Agency	50,000	1.20%	$ 330,966	$ 367,668
Solano County WA	47,756	1.14%	$ 316,112	$ 351,167
Santa Barbara County FCWCD	45,486	1.09%	$ 301,086	$ 334,475
Alameda County WD	42,000	1.01%	$ 278,011	$ 308,841
Napa County FC&WCD	29,025	0.70%	$ 192,126	$ 213,431
San Gabriel Valley MWD	28,800	0.69%	$ 190,636	$ 211,777
Butte County	27,500	0.66%	$ 182,031	$ 202,217
San Luis Obispo Co. FC&WCD	25,000	0.60%	$ 165,483	$ 183,834
Palmdale WD	21,300	0.51%	$ 140,991	$ 156,627
Casitas Municipal WD	20,000	0.48%	$ 132,386	$ 147,067
San Gorgonio Pass WA	17,300	0.41%	$ 114,514	$ 127,213
City Of Yuba City	9,600	0.23%	$ 63,545	$ 70,592
County Of Kings	9,305	0.22%	$ 61,593	$ 68,423
Crestline-Lake Arrowhead WA	5,800	0.14%	$ 38,392	$ 42,649
Oak Flat WD	5,700	0.14%	$ 37,730	$ 41,914
Empire - West Side ID	3,000	0.07%	$ 19,858	$ 22,060
Plumas County	2,700	0.06%	$ 17,872	$ 19,854
Littlerock Creek ID	2,300	0.06%	$ 15,224	$ 16,913
Total Table A	**4,172,786**	**100%**	**27,621,000**	**30,684,000**

Exhibit 4B
Estimated 2009-2010 DHCCP Planning Phase Costs
by
Estimated Participating SWP Contractor's

Cal Year	2009	2010
CY Projection	$ 55,242,000	$ 61,368,000
SWPC 50 Percent	$ 27,621,000	$ 30,684,000

SWP Contractor/Agency	Table A Amounts Maximum (acre-feet)	% of Table A	2009 SWP Contractor Projct'd Share	2010 SWP Contractor Projct'd Share
Metropolitan WD Of SC	1,911,500	47.37%	$ 13,083,797	$ 14,534,710
Kern County Water Agency	998,730	24.75%	$ 6,836,087	$ 7,594,167
Antelope Valley-East Kern WA	141,400	3.50%	$ 967,852	$ 1,075,181
Coachella Valley WD	121,100	3.00%	$ 828,903	$ 920,823
San Bernardino Valley MWD	102,600	2.54%	$ 702,274	$ 780,152
Santa Clara Valley WD	100,000	2.48%	$ 684,478	$ 760,382
Tulare Lake Basin WSD	95,922	2.38%	$ 656,565	$ 729,374
Castaic Lake WA	95,200	2.36%	$ 651,623	$ 723,884
Alameda Co FC&WCD - Zone 7	80,619	2.00%	$ 551,819	$ 613,013
Mojave Water Agency	75,800	1.88%	$ 518,834	$ 576,370
Desert Water Agency	50,000	1.24%	$ 342,239	$ 380,191
Solano County WA	47,756	1.18%	$ 326,879	$ 363,128
Santa Barbara County FCWCD	45,486	1.13%	$ 311,342	$ 345,868
Alameda County WD	42,000	1.04%	$ 287,481	$ 319,361
Napa County FC&WCD	29,025	0.72%	$ 198,670	$ 220,701
San Gabriel Valley MWD	28,800	0.71%	$ 197,130	$ 218,990
San Luis Obispo Co. FC&WCD	25,000	0.62%	$ 171,119	$ 190,096
Palmdale WD	21,300	0.53%	$ 145,794	$ 161,961
San Gorgonio Pass WA	17,300	0.43%	$ 118,415	$ 131,546
Crestline-Lake Arrowhead WA	5,800	0.14%	$ 39,700	$ 44,102
Total Table A	**4,035,338**	**100%**	**27,621,000**	**30,684,000**

Exhibit 5
Initial DHCCP Planning Phase Budget
(In 1000)

	2008		2009		2010	
Program Element	Jan-Jun	Jul-Dec	Jan-Jun	Jul-Dec	Jan-Jun	Jul-Dec
Management, Planning, & Administration	$ 0	$ 3,134	$ 2,885	$ 2,915	$ 2,995	$ 2,995
Right of Way	$ 611	$ 3,155	$ 2,818	$ 3,568	$ 3,817	$ 3,817
Preliminary Engineering	$ 476	$ 7,840	$11,115	$11,523	$15,903	$15,903
Environmental Services	$ 178	$ 5,645	$ 6,554	$ 11,390	$ 7,141	$ 6,895
Legal Services	$ 0	$ 455	$ 767	$ 767	$ 518	$ 518
General Operating Expenses	$ 5	$ 1,540	$ 438	$ 502	$ 389	$ 477
Six Month Total	$ 1,270	$21,769	$24,577	$30,665	$30,763	$30,605
Calendar Year Total	$ 23,039		$ 55,242		$ 61,368	

7-2277 (02-02) [Rev 09/04]
Bureau of Reclamation

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION

ASSISTANCE AGREEMENT

1. AGREEMENT NUMBER	2. TYPE OF AGREEMENT	3. CLASS OF RECIPIENT
09FC200011	[ ] GRANT [X] COOPERATIVE AGREEMENT	State

4. ISSUING OFFICE (NAME, ADDRESS)
U.S. Department of the Interior
Bureau of Reclamation
Mid-Pacific Region
2800 Cottage Way, Room E-1815
Sacramento, California 95825-1898

5. RECIPIENT (NAME, ADDRESS, TELEPHONE)
California Department of Water Resources
1416 Ninth Street
Sacramento, California 95814
Phone: (916) 934-3287
DUNS #: 171214307 *EIN #:* 52-1692634

6. ADMINISTRATIVE POINT OF CONTACT (NAME, ADDRESS, TELEPHONE, E-MAIL)
Mary Sims, MP-3833 Phone: (916) 978-5149
Bureau of Reclamation Fax: (916) 978-5175
2800 Cottage Way, Room E-1815
Sacramento, California 95825-1898
Email: msims@mp.usbr.gov

7. RECIPIENT PROJECT MANAGER (NAME, ADDRESS, TELEPHONE, E-MAIL)
Richard Sanchez Phone: (916) 653-3927
California Department of Water Resources Fax: (916) 657-2467
1416 Ninth Street
Sacramento, California 95814
Email richs@water.ca.gov

8. TECHNICAL REPRESENTATIVE (NAME, ADDRESS, TELEPHONE, E-MAIL)
Craig Muehlberg Phone: (916) 978-5523
Bureau of Reclamation Fax: (916) 978-5055
Mid-Pacific Regional Office
2800 Cottage Way, MP-120
Sacramento, California 95825
Email: cmuehlberg@mp.usbr.gov

9. EFFECTIVE DATE
SEE BLOCK 18

10. COMPLETION DATE
December 31, 2010

11. PROGRAM STATUTORY AUTHORITY
Program Authority: Fish and Wildlife Coordination Act (16 U.S.C. 661-667e) as amended and delegated to Reclamation by Departmental Manual (DM) 255 DM 14.
Funding Authority: Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009 (P.L. 110-329). (providing Appropriations to Reclamation for Fiscal Year 2009, and valid through March 6, 2009.

12. Funding Information	DWR + SWP Contractors/ CVP Contractors (Non Federal)	Reclamation + CVP Contractors (Federal)
Total Estimated Amount	$78,800,000	$60,575,000
This Obligation	N/A	$3,500,000
Previous Obligation	N/A	$0
Total Obligation	N/A	$3,500,000
Cost Share Ratio	56.5%	43.5%

13. REQUISITION NUMBER
09201500008

14. ACCOUNTING AND APPROPRIATION DATA
N32 1852 7914 200 00 0 0 2015200 411C

15. PROJECT TITLE AND BRIEF SUMMARY OF PURPOSE AND OBJECTIVES OF PROJECT
a. TITLE: Delta Habitat Conservation and Conveyance Program (DHCCP) Investigations

16. RECIPIENT IS X **IS NOT** ____ **REQUIRED TO SIGN THIS DOCUMENT AND RETURN** 2 **COPIES TO THE ISSUING OFFICE.**

17a. *Acceptance of this Assistance Agreement in accordance with the terms and conditions contained herein is hereby made on behalf of the above-named recipient*
BY _____ DATE 2/26/09

18a. *Acceptance of this Assistance Agreement in accordance with the terms and conditions contained herein is hereby made on behalf of the United States of America, Bureau of Reclamation*
BY Mary Sims DATE 3-13-2009

17b. NAME, TITLE, AND TELEPHONE NUMBER OF SIGNER (Type or print)
Richard Sanchez
DHCCP Executive Program Manager
Phone: (916) 653-3927

Additional signatures are attached

18b. NAME OF GRANTS OFFICER (Type or print)
Mary F. Sims

DOCUMENTS INCORPORATED HEREIN BY REFERENCE:

A.1. BACKGROUND

The Delta Habitat Conservation and Conveyance Program (DHCCP) is being conducted to complete general planning studies, preliminary engineering, and environmental analysis and documentation to evaluate the effectiveness of implementing measures that contribute to the conservation and rehabilitation of fish and wildlife species in the Sacramento-San Joaquin Delta (Delta). The DHCCP was initiated in early 2008 by the State of California Department of Water Resources (DWR) in response to concerns reported by Governor Arnold Schwarzenegger because of a continuing decline in fishery resources in the Delta, threats to the economic viability of the State of California due to reduced water exports from the Delta, and looming drought conditions for 3 years in a row. Reclamation's Mid-Pacific Region (MP Region) is under court order to reduce Central Valley Project (CVP) exports from the Delta to protect several Federally-listed endangered species. Reduced exports would have a negative impact on the California and National economy. As such, MP Region is participating in and supports the DHCCP.

Specifically the DHCCP will address measures that improve conditions for and allow conservation and rehabilitation of habitat supporting the Federally-listed endangered Delta smelt, winter-run Chinook salmon, and fall-run Chinook salmon. These species are considered by many to be the gage of the health of the Delta ecosystem. Additionally, the DHCCP will consider measures that benefit other fish, wildlife, and bird species that have been negatively affected by changes to the natural ecosystem, some caused by Central Valley Project operations.

The Delta Habitat Conservation and Conveyance Program (DHCCP) is being completed in coordination with the Bay Delta Conservation Plan (BDCP). BDCP is a Habitat Conservation Plan and Natural Communities Conservation Plan being prepared to meet the Federal Endangered Species Act (FESA), and California Endangered Species Act (CESA), respectively for water operations and management activities in the Delta.

Initial results of the BDCP effort include the determination that alternative conveyance around the Delta is one of the best ways to improve conditions for and allow conservation and rehabilitation of habitat supporting the Federally-listed special-status species. Alternative conveyance; that is, a canal around the Delta rather than using natural channels to convey water to export pumps through the Delta, would isolate fish species from the pumps and allow restoration of a more natural Delta. This more natural Delta would allow for the restoration of habitat deemed important for the Federally-listed special-status species. Ultimately the DHCCP is intended to facilitate the design and construction of habitat conservation in and alternative conveyance around the Sacramento-San Joaquin River Delta by 2015 as well as the associated monitoring and adaptive management.

Reclamation is a full participant in the DHCCP. Reclamation staff is assisting in developing environmental documentation and providing technical assistance for engineering studies and design considerations.

A.2. PURPOSE

The purpose of this Agreement is to assist in the completion of general planning studies, preliminary engineering, and environmental compliance documentation required by California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) for the DHCCP.

A.3. OBJECTIVE

The objective of this Agreement is to ensure completion of general planning studies, preliminary engineering, and environmental compliance documents required by State and Federal laws allowing Reclamation to participate in implementing actions that conserve species and restore associated habitat in the Delta. This participation will result in population improvements for the species.

A.4. BENEFITS

The DHCCP Program will result in project development and implementation that aids in the conservation of species and rehabilitation of habitat degraded due to changes to the natural Delta some of which were

caused by the Central Valley Project operations. Reclamation will, upon completion of the Program, have the documentation and engineering information to gain Congressional approval to move toward feasibility, design, and implementation of restoration projects to benefit fish and wildlife habitat. Implementation of projects by the State of California, Reclamation, and other interested parties will lead to a healthier delta ecosystem and therefore lead to the conservation of and rehabilitation of habitat improving fish and wildlife populations. This work will lead to the implementation of actions that provide for conservation of endangered and special-status fish and wildlife species and the rehabilitation of associated habitat to address the adverse affects caused by changes to the natural Delta some as a result of Central Valley Project operations.

A.5. RESPONSIBILITIES OF THE PARTIES

A.5.1. THE RECIPIENT. Department of Water Resources agrees to

A.5.1.1. Oversee overall program management for the development of alternatives for habitat restoration and conveyance associated with the DHCCP.

A.5.1.2. Ensure that the program is completed in accordance with CEQA and NEPA and other applicable state and federal law.

A.5.1.3. Ensure any monies received via this agreement are considered as part of the "50 percent Federal share" as outlined in the Memorandum of Agreement for the DHCCP (Attachment 1).

A.5.1.4. Ensure that DWR does not charge Reclamation in any potential future use agreements regarding DHCCP facilities for costs associated with the planning phase which Reclamation is providing pursuant to this agreement.

A.5.1.5. Perform services in accordance with Section A.6. Statement of Work.

A.5.2. THE BUREAU OF RECLAMATION will:

A.5.2.1. Collaborate and participate with the Recipient in the management of the overall programs, DHCCP alternatives evaluation and analysis, to ensure consistency with applicable Federal planning and environmental laws, executive orders, policy, and guidance, with the intent of developing alternatives that may be incorporated and integrated into the planning process for the BDCP.

A.5.2.2. Ensure the Recipient is in compliance with Section A.10: Reporting Requirements and Distribution.

A.5.2.3. Review and approve all reports described in A.5.2.2.

A.6. STATEMENT OF WORK

DWR agrees to complete the following tasks.

A.6.1. RIGHT OF WAY

A.6.1.1. Obtain Temporary Entry Permits (TEP)

A.6.1.1.1. Determine list of impacted parcels
A.6.1.1.2. Compile a list of impacted property owners
A.6.1.1.3. Order title reports
A.6.1.1.4. Visit impacted sites
A.6.1.1.5. Meet with disciplines (geologists, environmental scientists, engineers, etc.) that need access to properties
A.6.1.1.6. Meet with Attorney General's office
A.6.1.1.7. Send notification letters to property owners
A.6.1.1.8. Meet with property owners to describe reason for entering their property
A.6.1.1.9. Send Temporary Entry Permits (TEP) to selected landowners
A.6.1.1.10. Meet with landowners one on one

A.6.1.1.11. Prepare and execute permit documents
A.6.1.1.12. Obtain TEP from land owners through negotiations
A.6.1.1.13. Prepare legal documents
A.6.1.1.14. Obtain TEPs by court-ordered entry process, as needed
A.6.1.1.15. Attend court hearings
A.6.1.1.16. Schedule site visits

A.6.1.2. Perform Activities for Temporary Access

A.6.1.2.1 Prepare ownership spreadsheets
A.6.1.2.2 Prepare Access Point Names (APN), aerial, and quad maps
A.6.1.2.3 Coordinate Geographical Information System
A.6.1.2.4 Perform property/parcel searches
A.6.1.2.5 Perform field surveys

A.6.1.3. Manage TEPs and Access

A.6.1.3.1 Meet with disciplines to discuss and schedule entry
A.6.1.3.2 Meet with landowners to discuss schedule
A.6.1.3.3 Contact landowners prior to entry
A.6.1.3.4 Follow up with landowners
A.6.1.3.5 Monitor disciplines on property
A.6.1.3.6 Perform site visits as needed

A.6.1.4. Preliminary Work for Obtaining Permanent Access

A.6.1.4.1 Perform property/parcel searches
A.6.1.4.2 Order site assessments
A.6.1.4.3 Develop maps and deeds

A.6.2. OPERATIONS PLANNING

A.6.2.1. Provide Hydraulic Modeling Services

A.6.2.1.1 Attend BDCP workgroup and steering committee meetings
A.6.2.1.2 Develop Operations and Hydrodynamic modeling plan for Environmental Impact Report/Environmental Impact Statement (EIR/EIS) and Bio Assessment
A.6.2.1.3 Develop Operations and Hydrodynamic modeling simulations at the request of BDCP members and EIR/EIS Staff
A.6.2.1.4 Vet Operations parameters throughout the State Water Project and CVP systems for consistency with Operating Criteria and Plan (OCAP)
A.6.2.1.5 Develop near-field modeling of diversion facilities, South Delta facilities, and groundwater impacts
A.6.2.1.6 Develop and Perform fish impact modeling such as particle tracking model and 2D modeling of channels of interest (Elk and Sutter Sloughs, Sacramento, Mokelumne, San Joaquin Rivers, Cache Slough)
A.6.2.1.7 Develop water quality parameters for inclusion in modeling analysis. Ensure proper treatment of salinity in studies.
A.6.2.1.8 Present simulation results at BDCP meetings
A.6.2.1.9 Present modeling results in EIR/EIS

A.6.2.2. Research Water Rights

A.6.2.2.1 Provide modeling/justification for water rights
A.6.2.2.2 Staff water rights hearings and preparation for hearings
A.6.2.2.3 Incorporate water right conditions into operations and hydrodynamic modeling

A.6.2.3. Coordinate Permit Acquisition

A.6.2.3.1 Prepare permit applications in coordination with CEQA/NEPA team
A.6.2.3.2 Respond to public comments on permit applications in areas of Operations/Modeling/Hydrodynamic impacts
A.6.2.3.3 Coordinate permit information needs following application submittal

A.6.3. PROGRAM MANAGEMENT

A.6.3.1 Manage Program

A.6.3.1.1 Implement DHCCP - work cooperatively w/DWR and others
A.6.3.1.2 Prepare Program Management Plan
A.6.3.1.3 Establish guiding principals and strategies for program deliveries
A.6.3.1.4 Prepare organizational structure
A.6.3.1.5 Define team responsibilities
A.6.3.1.6 Prepare Strategic Implementation Plan
A.6.3.1.7 Define schedule and cost goals
A.6.3.1.8 Identify critical challenges
A.6.3.1.9 Define management responsibility
A.6.3.1.10 Establish a document management system
A.6.3.1.11 Develop management procedures and processes for communication, administration, planning, cost, and schedule
A.6.3.1.12 Prepare reporting procedures
A.6.3.1.13 Set up program control system
A.6.3.1.14 Coordinate/participate in meetings
A.6.3.1.15 Meet with groups and teams involved with BDCP and DHCCP
A.6.3.1.16 Brief executive management and stakeholders on status, direction, schedule, budgets, costs, etc.
A.6.3.1.17 Prepare safety program and plans
A.6.3.1.18 Prepare and review reports, correspondence, and other documents, and provide comments, findings, and recommendations
A.6.3.1.19 Monitor other DHCCP contractors
A.6.3.1.20 Conduct team building sessions
A.6.3.1.21 Prepare Program Directives Plan
A.6.3.1.22 Prepare Engineering Quality Control Plan

A.6.3.2 Oversight

A.6.3.2.1 Provide oversight of Program Management Team

A.6.4. ENVIRONMENTAL

A.6.4.1 Project Management and Coordination

A.6.4.1.1 Coordinate, lead, and attend meetings
A.6.4.1.2 Prepare meeting materials including agendas, summaries, notices, decision logs
A.6.4.1.3 Attend BDCP meetings and prepare summaries
A.6.4.1.4 Ensure State and Federal ESA and Clean Water Act compliance

A.6.4.2 Document Preparation and Permit Acquisition

A.6.4.2.1 Purpose & Need/Project Objectives
A.6.4.2.2 Alternatives Analysis Report
A.6.4.2.3 Define Study Area
A.6.4.2.4 Define No Action Alternative
A.6.4.2.5 In-Delta Data Collection
A.6.4.2.6 Finalize Existing Conditions
A.6.4.2.7 Conduct Impact Analysis
A.6.4.2.8 Administrative Draft EIR/EIS
A.6.4.2.9 Agency Review and Approval
A.6.4.2.10 Screen check Public Draft EIR/EIS
A.6.4.2.11 Public Draft EIR/EIS
A.6.4.2.12 Public and Agency Reviews
A.6.4.2.13 Administrative Final EIR/EIS
A.6.4.2.14 Agency Review and Approval
A.6.4.2.15 Screen check Final Draft EIR/EIS
A.6.4.2.16 Public Final EIR/EIS
A.6.4.2.17 Mitigation and Monitoring Plan

A.6.4.2.18 EIR Certification
A.6.4.2.19 Record of Determination (NEPA)
A.6.4.2.20 Notice of Determination (CEQA)

A.6.4.3 In-Delta Data Collection
A.6.4.3.1 Prepare list of required permits
A.6.4.3.2 Prepare list of required surveys
A.6.4.3.3 Perform literature and database review
A.6.4.3.4 Review maps and aerial photographs
A.6.4.3.5 Prepare for field studies
A.6.4.3.6 Identify survey methodology, protocols and schedule
A.6.4.3.7 Identify resources needed – equipment, supplies, vehicles, staffing
A.6.4.3.8 Perform field surveys and data collection
A.6.4.3.9 Perform data analysis
A.6.4.3.10 Perform laboratory studies, as needed

A.6.4.4 Legal Support
A.6.4.4.1 CEQA/NEPA

A.6.4.5. EIR/EIS Development Oversight
A.6.4.5.1 CEQA (DWR Staff)
A.6.4.5.2 NEPA (Reclamation Staff)
A.6.4.5.3 Administrative Review of Admin Draft, Draft, and Final EIR/EIS Documents

A.6.5. PRELIMINARY ENGINEERING

A.6.5.1 Intakes Planning
A.6.5.1.1 Review possible intake locations
A.6.5.1.2 Prepare conceptual level cost estimates
A.6.5.1.3 Perform hydraulics computations for possible conveyance configurations

A.6.5.2 Planning for Pumping Plants
A.6.5.2.1 Research optimum pumping plant configurations including number and size of pumps
A.6.5.2.2 Determine power sources
A.6.5.2.3 Meet with utility companies to determine capacity of existing facilities, required infrastructure improvements, and cost for improvements
A.6.5.2.4 Prepare a preliminary construction schedule
A.6.5.2.5 Provide conceptual drawings for cost estimating

A.6.5.3 Geologic Study Planning and Review
A.6.5.3.1 Research available data
A.6.5.3.2 Perform site visits
A.6.5.3.3 Prepare an exploration plan based on information obtained from available data
A.6.5.3.4 Perform a cost estimate for exploration
A.6.5.3.5 Obtain resources – drilling contractor, staff, materials
A.6.5.3.6 Perform drilling, trenching, and logging
A.6.5.3.7 Obtain samples and send to laboratory for testing
A.6.5.3.8 Prepare drawings
A.6.5.3.9 Prepare reports of findings

A.6.5.4 Conceptual-Level Engineering & Design - Alternatives Analysis
A.6.5.4.1 Establish criteria and standards for engineering evaluation of alternatives
A.6.5.4.2 Coordinate and develop alternative descriptions
A.6.5.4.3 Develop conceptual level design of alternatives
A.6.5.4.4 Perform engineering and cost analyses of alternatives
A.6.5.4.5 Prepare conceptual engineering report
A.6.5.4.6 Coordinate alternatives analysis activities with others including environmental staff

A.6.5.5 Program Control

A.6.5.5.1 Prepare Program Management Plans
A.6.5.5.2 Prepare Strategic Implementation Plan
A.6.5.5.3 Prepare Quality Control Plan
A.6.5.5.4 Develop management procedures and processes for communication, administration, planning, cost, and schedule
A.6.5.5.5 Prepare reporting procedures
A.6.5.5.6 Set up program control system
A.6.5.5.7 Coordinate/participate in meetings
A.6.5.5.8 Meet with groups and teams involved with BDCP and DHCCP
A.6.5.5.9 Prepare safety program and plans
A.6.5.5.10 Prepare and review reports, correspondence, and other documents, and provide comments, findings, and recommendations
A.6.5.5.11 Conduct team building sessions
A.6.5.5.12 Prepare Program Directives Plan
A.6.5.5.13 Prepare Engineering Quality Control Plan

A.6.5.6 Preliminary Engineering Studies and Analysis

A.6.5.6.1 Perform bathymetric studies
A.6.5.6.2 Develop fish screen criteria
A.6.5.6.3 Evaluate seismic response for Delta facilities
A.6.5.6.4 Other studies to support BDCP efforts

A.6.5.7 Preliminary Engineering Studies and Analysis - Habitat Conservation Measures, Mitigation, and Recovery Efforts

A.6.5.7.1 Preview restoration alternatives (short and long term) as provided by BDCP
A.6.5.7.2 Complete hydrodynamic modeling for alternatives
A.6.5.7.3 Determine benefits/impacts to current system including flood control (water surface elevation) and tidal changes
A.6.5.7.4 Develop design, quantities, and costs associated with alternatives
A.6.5.7.5 Other studies to support BDCP efforts

A.6.5.8 Program Design Standards Development

A.6.5.8.1 Prepare design criteria that applies to any selected alternative

A.6.5.9 DWR Feasibility Study Preparation

A.6.5.9.1 Prepare study for viable options
A.6.5.9.2 Prepare conceptual design of structures appurtenant to viable options

A.6.5.10 Preliminary Design

A.6.5.10.1 Develop exploration plan and begin exploration program
A.6.5.10.2 Obtain aerial photographs
A.6.5.10.3 Begin preparing drawings for mechanical structures (i.e. gates, pumps, pipelines, etc.)
A.6.5.10.4 Begin preparing drawings for electrical work (i.e. pumping plants, gate structures, buildings, etc.)
A.6.5.10.5 Begin preparing drawings for earthwork (i.e. levees, canal embankment, dredging, etc.)
A.6.5.10.6 Begin preparing drawings for civil structures (i.e. tunnel, pipeline, canal, etc.)
A.6.5.10.7 Begin preparing architectural drawings for buildings

A.6.6. PUBLIC OUTREACH

A.6.6.1 Prepare and Support Program Outreach Plan

A.6.6.1.1 Prepare outreach plan
A.6.6.1.2 Participate in public outreach planning
A.6.6.1.3 Update website information
A.6.6.1.4 Develop program fact sheets and brochures
A.6.6.1.5 Facilitate meetings

A.6.7. PROGRAM MANAGEMENT AND OVERSIGHT

A.6.8. OPERATING EXPENSES

A.6.8.1 Employee travel, employee per diem, rent for office space, furniture, document management system, IT

A.6.8.2 Hardware and software.

A.6.9. DELIVERABLES

Deliverable 1: Produce Administrative Draft of DHCCP EIR/EIS

Due dates:

DWR will provide Reclamation an Administrative Draft of the DHCCP EIR/EIS by July 1, 2009. Reclamation will provide comments within 30 days of receipt of the draft document from DWR.

Deliverable 2: Produce Public Draft of DHCCP EIR/EIS.

Due dates:

DWR will provide Public Draft of DHCCP EIR/EIS by January 1, 2010. Reclamation will provide comments within 30 days of receipt of the document from DWR.

Deliverable 3: Produce Final DHCCP EIR/EIS.

Due date:

DWR will provide Final DHCCP EIR/EIS by December 31, 2010

Deliverable 4: Produce Notice of Determination/Record of Decision.

Due date:

DWR will provide Notice of Determination/Record of Decision by December 31, 2010.

Deliverable 5: Provide Admin Draft, Draft, and Final of the DWR Feasibility Report

Due dates:

DWR will provide Admin Draft report by September 1, 2009
DWR will provide Draft report by June 1, 2010
DWR will provide Final report by December 31, 2010

A.7. BUDGET

A.7.1. APPROVED BUDGET

Task	DWR/SWP Contractors/CVP Contractors* (Non Federal)						RECLAMATION/CVP Contractors* (Federal)					
	2008 Act/Est Costs ($1000)		2009 Est Costs ($1000)		2010 Est Costs ($1000)		2008 Est Costs ($1000)		2009 Est Costs ($1000)		2010 Est Costs ($1000)	
	(jan-sept)	(oct-dec)	(jan-jun)	(jul-dec)	(jan-jun)	(jul-dec)	(jan-sept)	(oct-dec)	(jan-jun)	(jul-dec)	(jan-jun)	(jul-dec)
RIGHT OF WAY	1014	515	2521.5	2521	2108	2108	0	515	2521.5	2521	2108	2108
Obtain Temporary Entry Permits (TEP)	482	406	1563.5	1563.5	250	250	0	406	1563.5	1563.5	250	250
Determine list of impacted parcels												
Compile a list of impacted property owners												
Order title reports												
Visit impacted sites												
Meet with disciplines (geologists, environmental scientists, engineers, etc.) that need access to properties												
Meet with Attorney General's office												

Task	DWR/SWP Contractors/CVP Contractors* (Non Federal)						RECLAMATION/CVP Contractors* (Federal)					
	2008 Act/Est Costs ($1000)		2009 Est Costs ($1000)		2010 Est Costs ($1000)		2008 Est Costs ($1000)		2009 Est Costs ($1000)		2010 Est Costs ($1000)	
	(jan-sept) **	(oct-dec)	(jan-jun)	(jul-dec)	(jan-jun)	(jul-dec)	(jan-sept)	(oct-dec)	(jan-jun)	(jul-dec)	(jan-jun)	(jul-dec)
Send notification letters to property owners												
Meet with property owners to describe reason for entering their property												
Send TEPs to selected landowners												
Meet with landowners one on one												
Prepare and execute permit documents												
Obtain temporary entry permits (TEP) from land owners through negotiations												
Prepare legal documents												
Obtain TEPs by court-ordered entry process, as needed												
Attend court hearings												
Schedule site visits												
Perform Activities for Temporary Access	532	109	766	766	282.5	282.5	0	109	766	766	282.5	282.5
Prepare ownership spreadsheets												
Prepare APN, aerial, and quad maps												
Coordinate GIS												
Perform property/parcel searches												
Perform field surveys												
Manage TEPs and Access	0	0	192	191.5	971	971	0	0	192	191.5	971	971
Meet with disciplines to discuss and schedule entry												
Meet with landowners to discuss schedule												
Contact landowners prior to entry												
Follow up with landowners												
Monitor disciplines on property												
Perform site visits as needed												
Preliminary Work for Obtaining Permanent Access	0	0	0	0	604.5	604.5	0	0	0	0	604.5	604.5
Perform property/parcel searches												
Order site assessments												
Develop maps and deeds												
OPERATIONS PLANNING	0	0	469	469	469	469	0	0	469	469	469	469
Provide Hydraulic Modeling Services	0	0	308.5	308.5	199	198.5	0	0	308.5	308.5	199	198.5
Attend BDCP workgroup and steering committee meetings												
Develop Operations and Hydrodynamic modeling plan for EIR/EIS and Bio Assessment												
Develop Operations and Hydrodynamic modeling simulations at the request of BDCP members and EIR/S Staff												
Vette Operations parameters throughout the SWP and CVP systems for consistency with OCAP												
Develop near-field modeling of diversion facilities and south Delta facilities, and groundwater impacts												

Task	DWR/SWP Contractors/CVP Contractors* (Non Federal)						RECLAMATION/CVP Contractors* (Federal)					
	2008 Act/Est Costs ($1000)		2009 Est Costs ($1000)		2010 Est Costs ($1000)		2008 Est Costs ($1000)		2009 Est Costs ($1000)		2010 Est Costs ($1000)	
	(jan-sept) **	(oct-dec)	(jan-jun)	(jul-dec)	(jan-jun)	(jul-dec)	(jan-sept)	(oct-dec)	(jan-jun)	(jul-dec)	(jan-jun)	(jul-dec)
Develop and Perform fish impact modeling such as PTM and 2D modeling of channels of interest (Elk and Sutter Sloughs, Sac, Mokie, SJ Rivers, Cache Slough)												
Develop water quality parameters for inclusion in modeling analysis. Ensure proper treatment of salinity in studies												
Present simulation results at BDCP meetings												
Present modeling results in EIR/EIS												
Research Water Rights	0	0	109	109	109.5	110	0	0	109	109	109.5	110
Provide modeling/justification for water rights												
Staff water rights hearings and preparation for hearings												
Incorporate water right conditions into operations and hydrodynamic modeling												
Coordinate Permit Acquisition	0	0	51.5	51.5	160.5	160.5	0	0	51.5	51.5	160.5	160.5
Prepare permit applications in coordination with CEQA/NEPA team												
Respond to public comments on permit applications in areas of Operations/Modeling/Hydrodynamic impacts												
Coordinate permit information needs following application submittal												
PROGRAM MANAGEMENT	202	289	686.5	686	686.5	686	0	289	686.5	686	686.5	686
Manage Program	155	245	500	500	500	500	0	245	500	500	500	500
Implement DHCCP - work cooperatively w/DWR and others												
Prepare Program Management Plan												
Establish guiding principals and strategies for program deliveries												
Prepare organizational structure												
Define team responsibilities												
Prepare Strategic Implementation Plan												
Define schedule and cost goals												
Identify critical challenges												
Prepare Quality Control Plan												
Define management responsibility												
Establish a document management system												
Develop management procedures and processes for communication, administration, planning, cost, and schedule												
Prepare reporting procedures												
Set up program control system												
Coordinate/participate in meetings												

Task	DWR/SWP Contractors/CVP Contractors* (Non Federal)						RECLAMATION/CVP Contractors* (Federal)					
	2008 Act/Est Costs ($1000)		2009 Est Costs ($1000)		2010 Est Costs ($1000)		2008 Est Costs ($1000)		2009 Est Costs ($1000)		2010 Est Costs ($1000)	
	(jan-sept) **	(oct-dec)	(jan-jun)	(jul-dec)	(jan-jun)	(jul-dec)	(jan-sept)	(oct-dec)	(jan-jun)	(jul-dec)	(jan-jun)	(jul-dec)
Meet with groups and teams involved with BDCP and DHCCP												
Brief executive mgmt and stakeholders on status, direction, schedule, budgets, costs, etc												
Prepare safety program and plans												
Prepare and review reports, correspondence, and other documents, and provide comments, findings, and recommendations												
Monitor other DHCCP contractors												
Conduct team building sessions												
Prepare Program Directives Plan												
Prepare Engineering Quality Control Plan												
Oversight	47	44	186.5	186	186.5	186	0	44	186.5	186	186.5	186
Provide oversight of Program Management Team												
ENVIRONMENTAL	341	1221.5	4582.5	4582.5	3612	3612.5	0	1221.5	4582.5	4582.5	3612	3612.5
Project Management and Coordination	0	1133	500	500	500	500	0	1133	500	500	500	500
Coordinate, lead, and attend meetings												
Prepare meeting materials including agendas, summaries, notices, decision logs												
Attend BDCP meetings and prepare summaries												
Ensure State and Federal ESA and CWA compliance												
Document Preparation and Permit Acquisition	0	0	2500	2500	2000	2000	0	0	2500	2500	2000	2000
Purpose & Need/Project Objectives												
Alternatives Analysis Report												
Define Study Area												
Define No Action Alternative												
In-Delta Data Collection												
Finalize Existing Conditions												
Conduct Impact Analysis												
Administrative Draft EIR/EIS												
Agency Review and Approval												
Screencheck Draft EIR/EIS												
Public Draft EIR/EIS												
Public and Agency Reviews												
Administrative Final EIR/EIS												
Agency Review and Approval												
Screencheck Draft EIR/EIS												
Public Final EIR/EIS												
MMRP												
EIR Certification												

Task	DWR/SWP Contractors/CVP Contractors* (Non Federal)						RECLAMATION/CVP Contractors* (Federal)					
	2008 Act/Est Costs ($1000)		2009 Est Costs ($1000)		2010 Est Costs ($1000)		2008 Est Costs ($1000)		2009 Est Costs ($1000)		2010 Est Costs ($1000)	
	(jan-sept) **	(oct-dec)	(jan-jun)	(jul-dec)	(jan-jun)	(jul-dec)	(jan-sept)	(oct-dec)	(jan-jun)	(jul-dec)	(jan-jun)	(jul-dec)
Record of Determination (NEPA)												
Notice of Determination (CEQA)												
In-Delta Data Collection	335	88.5	1292.5	1292.5	622	821.5	0	88.5	1292.5	1292.5	622	821.5
Prepare list of required permits												
Prepare list of required surveys												
Perform literature and database review												
Review maps and aerial photographs												
Prepare for field studies												
Identify survey methodology, protocols and schedule												
Identify resources needed – equipment supplies, vehicles, staffing												
Perform field surveys and data collection												
Perform data analysis												
Perform laboratory studies, as needed												
Legal Support	6	0	227.5	227.5	227.5	227.5	0	0	227.5	227.5	227.5	227.5
CEQA/NEPA												
EIR/EIS Development Oversight	0	0	62.5	62.5	62.5	62.5	0	0	62.5	62.5	62.5	62.5
CEQA/NEPA												
PRELIMINARY ENGINEERING	674	701.5	6384.5	6145.5	8229.5	8229.5	0	701.5	6384.5	6145.5	8229.5	8229.5
Intakes Planning	41	16.5	262.5	150	0	0	0	16.5	262.5	150	0	0
Review possible intake locations												
Prepare conceptual level cost estimates												
Perform hydraulics computations for possible conveyance configurations												
Planning for Pumping Plants	121	0	147.5	146	100.5	100.5	0	0	147.5	146	100.5	100.5
Research optimum pumping plant configurations including number and size of pumps												
Determine power sources												
Meet with utility companies to determine capacity of existing facilities, required infrastructure improvements, and cost for improvements												
Prepare a preliminary construction schedule (since manufacturing the pumps will most likely be the critical path)												
Provide conceptual drawings for cost estimating												
Geologic Study Planning and Review	85	19	875	875	479	479	0	19	875	875	479	479
Research available data												
Perform site visits												
Prepare an exploration plan based on information obtained from available data												
Perform a cost estimate for exploration												
Obtain resources – drilling contractor, staff, materials												
Perform drilling, trenching, and logging												

Task	DWR/SWP Contractors/CVP Contractors* (Non Federal)						RECLAMATION/CVP Contractors* (Federal)					
	2008 Act/Est Costs ($1000)		2009 Est Costs ($1000)		2010 Est Costs ($1000)		2008 Est Costs ($1000)		2009 Est Costs ($1000)		2010 Est Costs ($1000)	
	(jan-sept) **	(oct-dec)	(jan-jun)	(jul-dec)	(jan-jun)	(jul-dec)	(jan-sept)	(oct-dec)	(jan-jun)	(jul-dec)	(jan-jun)	(jul-dec)
Obtain samples and send to laboratory for testing												
Prepare drawings												
Prepare reports of findings												
Conceptual-Level Engineering & Design - Alternatives Analysis	38	112.5	2500	2500	0	0	0	112.5	2500	2500	0	0
Establish criteria and standards for engineering evaluation of alternatives												
Coordinate and develop alternative descriptions												
Develop conceptual level design of alternatives												
Perform engineering and cost analyses of alternatives												
Prepare conceptual engineering report												
Coordinate alternatives analysis activities with others including environmental staff												
Program Control	305	72.5	450	450	450	450	0	72.5	450	450	450	450
Prepare Program Management Plans												
Prepare Strategic Implementation Plan												
Prepare Quality Control Plan												
Develop management procedures and processes for communication, administration, planning, cost, and schedule												
Prepare reporting procedures												
Set up program control system												
Coordinate/participate in meetings												
Meet with groups and teams involved with BDCP and DHCCP												
Prepare safety program and plans												
Prepare and review reports, correspondence, and other documents and provide comments, findings, and recommendations												
Conduct team building sessions												
Prepare Program Directives Plan												
Prepare Engineering Quality Control Plan												
Preliminary Engineering Studies and Analysis	84	5.5	62.5	62.5	62.5	62.5	0	5.5	62.5	62.5	62.5	62.5
Perform bathymetric studies												
Develop fish screen criteria												
Evaluate seismic response for Delta facilities												
Other studies to support BDCP efforts												
Preliminary Engineering Studies and Analysis -Habitat Conservation Measures, Mitigation, and Recovery Efforts	0	0	504	504	750	750	0	0	504	504	750	750
Preview restoration alternatives (ST and LT) as provided by BDCP												
Complete hydrodynamic modeling for alternatives												

Task	DWR/SWP Contractors/CVP Contractors* (Non Federal)						RECLAMATION/CVP Contractors* (Federal)					
	2008 Act/Est Costs ($1000)		2009 Est Costs ($1000)		2010 Est Costs ($1000)		2008 Est Costs ($1000)		2009 Est Costs ($1000)		2010 Est Costs ($1000)	
	(jan-sept) **	(oct-dec)	(jan-jun)	(jul-dec)	(jan-jun)	(jul-dec)	(jan-sept)	(oct-dec)	(jan-jun)	(jul-dec)	(jan-jun)	(jul-dec)
Determine benefits/impacts to current system including flood control (WSE) and tidal changes												
Develop design, quantities, and costs associated with alternatives												
Other studies to support BDCP efforts												
Program Design Standards Development	0	75.5	125	0	0	0	0	75.5	125	0	0	0
Prepare design criteria that applies to any selected alternative												
Feasibility Study Preparation	0	0	1458	1458	0	0	0	0	1458	1458	0	0
Prepare study for viable options												
Prepare conceptual design of structures appurtenant to viable options												
Preliminary Design	0	0	0	0	12775***	12775***	0	0	0	0	0	0
Develop exploration plan and begin exploration program												
Obtain aerial photographs												
Begin preparing drawings for mechanical structures (i.e. gates pumps, pipelines, etc.)												
Begin preparing drawings for electrical work (i.e. pumping plants, gate structures, buildings, etc.)												
Begin preparing drawings for earthwork (i.e. levees, canal embankment, dredging, etc.)												
Begin preparing drawings for civil structures (i.e. tunnel, pipeline, canal, etc.)												
Begin preparing architectural drawings for buildings												
PUBLIC OUTREACH	4	59	151.5	151	150	150	0	59	151.5	151	150	150
Prepare and Support Program Outreach Plan	4	59	151.5	151	150	150	0	59	151.5	151	150	150
Prepare outreach plan												
Participate in public outreach planning												
Update website information												
Develop program fact sheets and brochures												
Facilitate meetings												
OPERATING EXPENSES	19	256	373.5	185	155.5	155.5	0	256	373.5	185	155.5	155.5
Employee travel, employee per diem, rent for office space, furniture, document management system, IT hardware and software												
Subtotals	2254	3042	15169	14740	21798	21797	0	3042	15169	14740	9023	9022

Task	DWR/SWP Contractors/CVP Contractors* (Non Federal)						RECLAMATION/CVP Contractors* (Federal)					
	2008 Act/Est Costs ($1000)		2009 Est Costs ($1000)		2010 Est Costs ($1000)		2008 Est Costs ($1000)		2009 Est Costs ($1000)		2010 Est Costs ($1000)	
	(jan-sept) **	(oct-dec)	(jan-jun)	(jul-dec)	(jan-jun)	(jul-dec)	(jan-sept)	(oct-dec)	(jan-jun)	(jul-dec)	(jan-jun)	(jul-dec)
Estimated/Actual In-Kind Services							999	300	1865	2165	2125	2125
DWR (SWP/CVP) Reclamation Totals	$78,800,000						$60,575,000					
Estimated Funding	$78,800,000						$50,996,000					

*See attached Memorandum of Agreement which sets forth a joint funding arrangement between the Recipient, Reclamation, and certain contractors and representatives of contractors for water from the State Water Project (SWP contractors) and federal Central Valley Project (CVP contractors) listed within the signature page of the MOA. DWR/SWP Contractors contribution is not to exceed $70,000,000.00. For the purposes of this cooperative agreement between Reclamation and the Recipient, the estimated cost-share amounts for the Recipient (non-federal) include contributions from the SWP and CVP contractors and the estimated cost-share amounts for Reclamation (federal) include contributions from the CVP contractors. Contributions made directly to the Recipient from the CVP contractors are considered non-federal contributions and will be provided directly to the Recipient by the CVP contractors.

**Reclamation is not cost-sharing expenditures for the DHCCP prior to October 2008. The actual costs for January through September of calendar year 2008 are represented in this budget in order to capture total DHCCP cost (actual and estimated) only.

***Reclamation does not currently have the authority to fund the preliminary design sub-task under the preliminary engineering task heading. The cost of this sub-task is estimated at $25,550,000. This task is represented in the budget in order to capture total estimated DHCCP cost only. CVP contractors may, at their discretion, contribute cost-share to the Recipient for this task.

Note: In this Agreement, with the exclusion of actual costs from January through September of calendar year 2008 and the exclusion of the preliminary design sub-task, the cost-share ratio for the DHCCP is 50/50, not including Reclamation's in-kind services estimated at $9,579,000.

A.7.2. Cost Sharing Requirement

The Recipient will provide cost-share for this project equal to but not less than 50% of total DHCCP cost, subject to the conditions and exclusions set forth above.

A.7.3. Pre-Award Incurrence of Costs

The Recipient shall be entitled to have incurred costs for this agreement, in a total amount not to exceed $7,000,000, for allowable costs incurred on or after October 1, 2008, which if had been incurred after this agreement was entered into, would have been allowable under the terms of the agreement.

This agreement requires the Recipient to cost share or match funds, therefore the Recipient is eligible to receive reimbursement for a portion of these total allowable costs in an amount not to exceed $3,500,000 of the total above.

A.7.4. Allowable Costs

Costs incurred for the performance of this agreement must be allowable, allocable to the project, and reasonable. The following Office of Management and Budget (OMB) Circulars, codified within the Code of Federal Regulations (CFR), govern the allowability of costs for Federal financial assistance:

2 CFR Parts 215 and 220 (Circular A-21), "Cost Principles for Educational Institutions"
2 CFR Part 225 (Circular A-87), "Cost Principles for State, Local, and Indian Tribal Governments"
2 CFR Part 230 (Circular A-122), "Cost Principles for Non-Profit Organizations"

Expenditures for the performance of this agreement must conform to the requirements within the respective OMB Cost Principle Circular. The Recipient must maintain sufficient documentation to support these expenditures. Questions on the allowability of costs should be directed to the Government Official (GO) responsible for this agreement.

A.7.5. Budget Revisions

The Recipient shall follow the requirements at 43 CFR 12.70(c) or 43 CFR 12.925, as applicable, when making revisions to budget and program plans. Additionally, approval shall be requested for transfers of amounts budgeted for indirect costs to absorb increases in direct costs, or vice versa.

A.8 PERFORMANCE PERIOD

The performance period of this agreement is from October 1, 2008 through December 31, 2010.

A. 9 FUNDING

Reclamation will reimburse DWR for allowable costs incurred, in accordance with applicable OMB Circulars during the effective period of this agreement. Please reference Special Provision B.1 Payment Policy of this agreement.

(a) SUMMARY OF FUNDING ESTIMATES. The following is a summary of the funding periods of the agreement, and the amounts of funding for those periods:

Period No.	Dates Covered	Costs (*)
1.	October 1, 2008 through September 30, 2009	$25,581,000.00 (est.)
2.	October 1, 2009 through September 30, 2010	$20,904,000.00 (est.)
3.	October 1, 2010 through December 31, 2010	$ 4,511,000.00 (est.)
	TOTAL ESTIMATED AMOUNT	$50,996,000.00

It is understood that any estimated amounts are not binding on either party and are for informational purposes only, until such time as a modification is issued to provide funding for that period. **Unexpended funds from previous periods, may also be made available for costs incurred in following periods.*

(b) SUMMARY OF FUNDING OBLIGATIONS. The following is a summary of the funding that has been **obligated** for this agreement:

Period #	Accounting and Appropriation Data	Amount
1.	N32 1852 7914 200 00 0 0 2015200 411C	$3,500,000.00
	TOTAL OBLIGATED AMOUNT	$3,500,000.00

The Government is under no obligation to provide funds in addition to those reserved in writing. Except as required by other provisions of this Agreement specifically citing and to be an exemption from this clause, Reclamation shall not be obligated to reimburse the Recipient for costs incurred in excess of the estimated cost set forth in the approved annual budget.

A.10. REPORTING REQUIREMENTS AND DISTRIBUTION

Failure to comply with the reporting requirements contained in this agreement may be considered a material non-compliance with the terms and conditions of the award. Non-compliance may result in withholding of payments pending receipt of required reports, denying both the use of funds and matching credit for all or part of the cost of the activity or action not in compliance, whole or partial suspension or termination of the agreement, recovery of funds paid under the agreement, withholding of future awards, or other legal remedies.

10.1 Financial Reports – Financial Status Reports shall be submitted according to the Report Frequency and Distribution schedule below. All financial reports shall be signed by an Authorized Certifying Official for the Recipient's organization. The following forms are available at http://www.whitehouse.gov/omb/grants/grants_forms.html.

a) **SF-269 or SF-269a, Financial Status Report** – This form is utilized to report total expenditures for the reporting period. The SF-269 must be used if the Recipient is accountable for the use of program income; otherwise, the SF-269a may used.

b) **SF-272, Report of Federal Cash Transactions** – This report shall be submitted by Recipients that draw down cash advances by means of electronic funds transfer or Treasury check. Recipients shall identify in the "Remarks" section the amount of cash advances received in excess of 3 days prior to disbursement and explain actions taken to reduce excess balances.

10.2 Performance Progress Reports. Performance Progress Reports shall be submitted according to the Report Frequency and Distribution schedule below. While there is no standard format for the Performance Progress Report, the report should, at a minimum, provide information on the following (43 CFR §12.80 or §12.951):

a) A comparison of actual accomplishments with the goals and objectives established for the period, the findings of the investigator, or both. Whenever appropriate and the output of programs or projects can be readily quantified, such quantitative data should be related to cost data for computation of unit costs.

b) Reasons why the established goals were not met, if appropriate.

c) Other pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs

10.3 Report Frequency and Distribution. The following table is the reporting requirements for this agreement.

REQUIRED REPORTS	Interim Reports	Final Report
Program Performance Report (PPR)		
Format	No specific format required. See content requirements above	No specific format required. See content requirements above
Reporting Frequency	Quarterly	Final Report due upon completion of agreement's period of performance
Reporting Period	Federal fiscal quarters ending: December 31, March 31, June 30, and September 30	Entire period of performance
Due Date	30 days after the end of the Reporting Period	Within 90 days after the completion date of the agreement
Send one original to both:	GO and GOTR	GO and GOTR
Financial Status Report (FSR)		
Format	SF-269 or SF-269a	SF-269 or SF-269a

Reporting Frequency	Quarterly	Final Report due upon completion of agreement's period of performance
Reporting Period	Federal fiscal quarters ending: December 31, March 31, June 30, and September 30	Entire period of performance
Due Date	30 days after the end of the Reporting Period	Within 90 days after the completion date of the agreement
Send one original to both:	GO and GOTR	GO and GOTR
Federal Cash Transaction Report (FCTR)		
Format	SF-272	N/A
Reporting Frequency	Quarterly	N/A
Reporting Period	Within 15 days after the end of the calendar quarter	N/A
Due Date	Required only when Recipient draw advances.	
Send one original to both:	GO and GOTR	N/A

10.4 Progress and Financial Status Report Detail Requirements
Due to the complexity and size of the project, the Recipient agrees to provide the following detailed information with the quarterly financial status and program performance reports:

- Financial status reports using an accrual basis (instead of cash basis of accounting)
- Expenditures by task and sub-task (as shown in the Statement of Work above) to date showing DWR staff costs and consultant staff costs
- Amount of cost-share provided by the SWP and CVP contractors to date.
- Amount of SWP and CVP contractors funds expended to date and remaining to be expended
- Amount of in-kind services provided by Reclamation to date (to be supplied by the GOTR to the Recipient prior to FSR/PPR submission)
- An updated status of the project, including any significant events that may affect the project timeline or budget estimate

10.5 Reports on Significant Developments. During the term of the agreement, the Recipient must immediately notify the GO if any of the following conditions occur:

a) Problems, delays, or adverse conditions which will impair the Recipient's ability to meet the terms and conditions of the agreement;

b) Favorable developments which will enable the Recipient to complete the scope of work under budget and/or under an accelerated schedule.

This notification is to include information on the actions taken or contemplated to resolve problems, delays, or adverse conditions, and any assistance needed from Reclamation to help resolve the problem.

A.11. RECIPIENT'S PROJECT MANAGER (Reclamation 08/03)

The Recipient's Project Manager for this Agreement shall be:

Rich Sanchez
California Department of Water Resources
Phone: (916) 653-3927, Fax: (916) 657-2467

A.12. KEY PERSONNEL (Reclamation 02/07)

The key personnel for this agreement are identified as follows:

Teresa Engstrom
California Department of Water Resources

Phone: (916) 653-1993, Fax: (916) 653-7348

In accordance with 43 CFR 12.70(d)(3) or 43 CFR 12.925, as applicable, the Recipient shall request prior approval from Reclamation before making any changes in the key personnel identified above.

A.13. GRANTS OFFICER'S TECHNICAL REPRESENTATIVE (GOTR) (Reclamation 08/03)

The GOTR for this agreement will be:

Craig Muehlberg
Bureau of Reclamation (MP-150)
2800 Cottage Way
Sacramento, California 95825
Phone: (916) 978-5523

The GOTR is authorized to act only on technical matters during the term of this Agreement. The GOTR and the Recipient's Project Manager shall work closely to ensure that all requirements of the Agreement are being met. The GOTR's responsibilities include, but are not limited to, the following:

(a) Assist the Recipient concerning the accomplishment of the tasks described in the Agreement;

(b) Provide information to the Recipient which assists in the interpretation of the tasks, and

(c) Ensure the Recipient is in compliance reporting requirements. Review, and where required, approve reports and information to be delivered to the Government.

Technical assistance must be within the general scope of the Agreement. The GOTR does not have the authority to and may not issue any technical assistance which:

(a) Constitutes an assignment of additional work outside the general scope of the Agreement;

(b) In any manner causes an increase or decrease in the total estimated cost or the time required for performance; or

(c) Changes any of the expressed terms, conditions, or specifications.

A.14 PROPERTY AND EQUIPMENT TO BE FURNISHED BY THE GOVERNMENT

The equipment identified in if applicable is furnished to the Recipient under this Grant/Cooperative Agreement.
Procedures for managing equipment (including replacement equipment), whether acquired in whole or in part with funding from this Grant/Cooperative Agreement, until disposition takes place will, as a minimum, meet the following requirements, or those of the applicable OMB Circular:

(1) Property records must be maintained that include a description of the property, a serial number or other identification number, the source of property, who holds title, the acquisition date, and cost of the property, percentage of Federal participation in the cost of the property, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.

(2) A physical inventory of the property must be taken and the results reconciled, and provided to the GOTR (at the address below), with the property records at least once every two years.

(3) In accordance with the applicable OMB Circular, the Recipient shall request disposition instructions for any and all items of equipment with a current per unit fair market value in excess of $5,000. Said disposition shall be forwarded to the address below no later than 30 days after completion of the period of performance.

U.S. Department of the Interior
Bureau of Reclamation, Mid-Pacific Region
Attn: Grants Officer
2800 Cottage Way, Room E-1815
Sacramento, California 95825-1898

SPECIAL PROVISIONS (06/06)

B.1 PAYMENT POLICY (Reclamation 11/03)

Acceptance of a financial assistance agreement from Reclamation creates a legal responsibility on the part of the recipient organization to use the funds and property provided in accordance with the terms and conditions of the agreement. Reclamation has a reversionary interest in the unused balance of funding and in any funds improperly applied.

Payments to recipients are made in accordance with the basic standards and methods stated in the payment regulations at 43 CFR 12.61 or 43 CFR 12.922, as applicable to this agreement. These requirements are intended to minimize the time elapsing between the transfer of funds from the Federal government and the disbursement of these funds by the recipient. Reclamation will ensure any payments are made in accordance with OMB Circular A-125 Prompt Payment Act.

Payment will be made in advance or by reimbursement as follows:

(1) Advance Payment -- Recipients shall be paid in advance provided (1) they maintain or demonstrate the willingness and ability to maintain procedures to minimize the time elapsing between the transfer of funds and their disbursement by the recipient, (2) they comply with reporting requirements for timely submission of financial status reports, and (3) they impose these same standards on sub-recipients.

Advances to recipients shall be limited to the minimum amounts needed and shall be timed to be in accordance with the actual, immediate cash requirements of the recipient in carrying out the purpose of the agreement. The timing and amount of cash advances shall be as close as administratively feasible (generally no more than 3 days) to actual disbursements for direct program costs and the proportionate share of allowable indirect costs.

(2) Reimbursement -- Reimbursement shall be the preferred method of payment when a recipient (1) does not meet the requirements for advance payment stated above; (2) does not have financial management systems that meet the standards in 43 CFR 12.60 or 43 CFR 12.921, as applicable; or (3) has been converted to payment restrictions for non-compliance with the terms and conditions of the agreement. Reimbursement is also the preferred method of payment for agreements involving construction.

B.2 PAYMENT METHOD (Reclamation 11/03)

Electronic Funds Transfer -- Payments under this agreement will be made to recipients by electronic funds transfer (EFT) unless the recipient qualifies for exemption from this payment method. Reclamation utilizes the Automated Clearinghouse (ACH) Vendor Express payment system for EFT. Whether funds are paid in advance or as a reimbursement, the actual payment will be made through Vendor Express. Vendor Express allows the Government to transfer funds to a recipient's financial institution along with explanatory information regarding the payment.

Enrollment -- Upon award, recipients will receive a copy of the SF-3881, ACH Vendor/Miscellaneous Payment Enrollment Form. This form is required to implement the Vendor Express system and to notify Reclamation of any change or corrections to financial institution information.

Requesting Payments -- Requests for advance or reimbursement may be made by the following methods:

(1) SF-270, Request for Advance or Reimbursement -- On a ***monthly*** basis, recipients may submit an original and two copies of a properly certified SF-270 form to the address identified in ***Block 4, page 1***, of this agreement. For advance payments, this form may be submitted on a ***monthly*** basis, at least two weeks prior to the date on which funds are required, and on the basis of expected disbursements for the succeeding month and the amount of Federal funds already on hand. Requests for reimbursement may be submitted on a ***monthly*** basis, or more frequently if authorized by the Grants Officer (GO). Requested funds are delivered to the recipient via ACH Vendor Express. This form is available on the Internet at http://www.whitehouse.gov/omb/grants/grants_forms.html.

(2) SF-271, Outlay Report and Request for Reimbursement for Construction Programs -- The SF-271 shall be used for construction agreements paid by the reimbursement method, letter of credit, electronic funds transfer, or Treasury check advance, except where the advance is based on periodic requests from the recipient, in which case the SF-270 shall be used. This request may be submitted on a ***quarterly*** basis, but no less frequently than on an annual basis. Recipients may submit an original and two copies of a properly certified SF-271 form to the address identified in ***Block 4, page 1***, of this agreement. This form is available on the Internet at http://www.whitehouse.gov/omb/grants/grants_forms.html.

(3) Automated Standard Application for Payments (ASAP) -- Recipients may utilize the Department of Treasury ASAP payment system to request advances or reimbursements. ASAP is a recipient-initiated payment and information system designed to provide a single point of contact for the request and delivery of Federal funds. Once a request is made through ASAP, funds are provided to the recipient either through ACH or Fedwire. Further information regarding ASAP may be obtained from the ASAP website at http://www.fms.treas.gov/asap. Upon award, you will be provided with information regarding enrollment in the ASAP system.

B.3 MODIFICATIONS (Reclamation 08/03)

Any changes to this agreement shall be made by means of a written modification. Reclamation may make changes to the agreement by means of a unilateral modification to deal with administrative matters, such as changes in address, no-cost time extensions, the addition of previously agreed upon funding, or deobligation of excess funds at the end of the agreement. Additionally, a unilateral modification may be utilized by Reclamation if it should become necessary to suspend or terminate the agreement in accordance with 43 CFR 12.83 or 43 CFR 12.961, as applicable.

All other changes shall be made by means of a bilateral modification to the agreement. No oral statement made by any person, or written statement by any person other than the GO, shall be allowed in any manner or degree to modify or otherwise effect the terms of the Agreement.

All requests for modification of the Agreement shall be made in writing, provide a full description of the reason for the request, and be sent to the attention of the GO. Any request for project extension shall be made at least 45 days prior to the expiration date of the agreement or the expiration date of any extension period that may have been previously granted. Any determination to extend the period of performance or to provide follow-on funding for continuation of a project is solely at the discretion of Reclamation.

B.4 FUNDS AVAILABLE FOR PAYMENT (Reclamation 08/03)

The Government's obligation under this Agreement is contingent upon the availability of appropriated funds, from which payment for Agreement purposes can be made. No legal liability on the part of the Government for any payment may arise until funds are made available to the GO for this Agreement, and until the Recipient receives notice of such availability, to be confirmed in writing to the Recipient by the GO.

Pursuant to the Act of Congress of June 17, 1902 (32 Stat. 388), and acts amendatory thereof or supplementary thereto, all commonly known as Reclamation Law, funds obligated for period 1, for payment under the first year of this agreement are included in the **Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009 (P.L. 110-329), providing Appropriations to Reclamation for Fiscal Year 2009, and valid through March 6, 2009**. Future funding for period 1, including funding for any optional year of the agreement, is contingent upon subsequent Congressional funding.

B.5 REIMBURSABLE COSTS AND LIMITATIONS (Reclamation 08/03)

B.5.1 The Recipient shall provide all personnel, services, facilities, equipment, materials and supplies, and perform all travel which may be necessary and appropriate for the proper performance of this Agreement. Costs so incurred will be paid for as provided herein. Reclamation's obligation to provide funding to the Recipient for costs incurred in these connections shall be limited to the Recipient's direct and indirect costs associated with this Agreement. All such direct and indirect costs must be determined to be allowable under the regulations contained in 48 CFR Subpart 31.2 or an OMB Cost Principle Circular, as applicable, which are incorporated herein through the General Provisions of this agreement.

B.5.2 The recipient shall not incur costs or obligate funds for any purpose pertaining to operation of the program or activities beyond the expiration date stated in the agreement. The only costs, which are authorized for a period of up to 90 days following the award expiration date are those strictly associated with closeout activities for preparation of the final report.

B.5.3 Reclamation shall not be obligated to provide funding to the Recipient and the Recipient shall not be obligated to continue performance under the Agreement or to incur costs in excess of the costs set forth in the annual project budget unless the GO has furnished the Recipient a modification to increase the available funding for the Agreement.

B.6 PROCUREMENT STANDARDS (Reclamation 08/03)

When utilizing Federal funds for the procurement of supplies and other expendable property, equipment, real property, and other services under this agreement, the Recipient shall utilize the Procurement Standards set forth at 43 CFR 12.76 or 43 CFR 12.940 -12.948, as applicable. The Recipient may be required to submit evidence that its procurement procedures are in compliance with the standards stated therein. Additional guidance for contracting with small and minority firms, and women's business enterprises is included in the General Provisions section of this agreement.

B.7 PROPERTY STANDARDS (Reclamation 08/03)

All property, equipment and supplies acquired by the Recipient with Federal funds shall be subject to usage, management, and disposal in accordance with the Property Standards at 43 CFR 12.72 - 12.73, or 43 CFR 12.930 - 12.937, as applicable.

B.8 PROPERTY STANDARDS - REAL PROPERTY (Reclamation 08/03)

In accordance with 43 CFR 12.71 or 43 CFR 12.932, as applicable, if real property is acquired in whole or in part under this agreement, it shall be subject to the following regulations:

B.8.1 Title -- Title to real property acquired under this agreement shall vest upon acquisition in the Recipient or Sub-recipient, shall be used for the originally authorized purpose of the project as long as it is needed, and shall not be disposed of or encumbered without Reclamation approval.

B.8.2 Disposition -- When the real property is no longer needed for the originally authorized purpose, the Recipient or Sub-recipient shall request disposition instructions from Reclamation. The instructions shall provide for one of the following alternatives:

B.8.2.1 Transfer -- The Recipient may be permitted to transfer the property to another Federally-sponsored project if the Recipient determines that the property is no longer needed for the purpose of the original project. Use in other projects or programs shall be limited to those that have purposes consistent with those authorized for support by the Department of the Interior.

B.8.2.2 Retention of Title -- The Recipient may be allowed to retain the title after compensating Reclamation for that percentage of the current fair market value of the property attributable to the Federal government's financial participation in the project.

B.8.2.3 Sale of Property -- The Recipient may be directed to sell the property under guidelines provided by Reclamation, and to compensate Reclamation in an amount calculated by applying Reclamation's percentage of participation in the cost of the original purchase to the proceeds of the sale after deduction of any actual and reasonable selling and fix-up expenses. When the Recipient is directed to sell the property, sales procedures shall be followed that provide for competition to the extent practicable and result in the highest possible return.

B.8.2.4 Transfer of Title The Recipient may be directed to transfer title to the Federal Government or to an eligible third-party. The Recipient shall be entitled to compensation for its attributable percentage of the current fair market value of the property.

B.9 INSPECTION (Reclamation 08/03)

Reclamation has the right to inspect and evaluate the work performed or being performed under this agreement, and the premises where the work is being performed, at all reasonable times and in a manner that will not unduly delay the work. If Reclamation performs inspection or evaluation on the premises of the Recipient or a sub-recipient, the Recipient shall furnish and shall require sub-recipients to furnish all reasonable facilities and assistance for the safe and convenient performance of these duties.

B.10 AUDIT (Reclamation 01/04)

Non-Federal entities that expend $300,000 ($500,000 for fiscal years ending after December 31, 2003) or more in a year in Federal awards shall have a single or program-specific audit conducted for that year in accordance with the Single Audit Act Amendments of 1996 (31 U.S.C. 7501-7507) and revised OMB Circular A-133, which is available at http://www.whitehouse.gov/omb/grants/grants_circulars.html. Federal awards are defined as Federal financial assistance and Federal cost-reimbursement contracts that non-Federal entities receive directly from Federal awarding agencies or indirectly from pass-through entities. They do not include procurement contracts, under grants or contracts, used to buy goods or services from vendors. Non-Federal entities that expend less than $300,000 ($500,000 for fiscal years ending after December 31, 2003) a year in Federal awards are exempt from Federal audit requirements for that year, except as noted in A-133, §_215(a), but records must be available for review or audit by appropriate officials of the Federal agency, pass-through entity, and General Accounting Office (GAO).

Audits shall be made by an independent auditor in accordance with generally accepted government auditing standards covering financial audits. Additional audit requirements applicable to this agreement are found at 43 CFR 12.66 or 43 CFR 12.926, as applicable. General guidance on the single audit process is included in a pamphlet titled, "Highlights of the Single Audit Process" which is available on the internet at http://www.dot.gov/ost/m60/grant/sincontact.htm . Additional information on single audits is available from the Federal Audit Clearinghouse at http://harvester.census.gov/sac/ .

B.11 ENFORCEMENT (Reclamation 08/03)

In accordance with 43 CFR 12.83 or 43 CFR 12.962, as applicable, if the recipient materially fails to comply with any term of this agreement, whether stated in a Federal statute or regulation, an assurance, in a State plan or application, a notice of award, or elsewhere, Reclamation may take one or more of the following actions as appropriate:

B.11.1 Temporarily withhold cash payments pending correction of the deficiency by the recipient or sub-recipient or more severe enforcement action by the awarding agency;

B.11.2 Disallow (deny both use of funds and any matching credit for) all or part of the cost of the activity or action not in compliance;

B.11.3 Wholly or partly suspend or terminate the current award for the recipient's or sub-recipient's program;

B.11.4 Withhold further awards for the program; or

B.11.5 Take other remedies that may be legally available.

B.12 TERMINATION (Reclamation 08/03)

In accordance with 43 CFR 12.84 or 43 CFR 12.961, as applicable, and except as provided for in the Enforcement Provision, above, this agreement may be terminated in whole or part only as follows:

B.12.1 By the awarding agency with the consent of the recipient or sub-recipient in which case the two parties shall agree upon the termination conditions, including the effective date and in the case of partial termination, the portion to be terminated, or

B.12.2 By the recipient or sub-recipient upon written notification to Reclamation, setting forth the reasons for such termination, the effective date, and in the case of partial termination, the portion to be terminated. However, if, in the case of a partial termination, the awarding agency determines that the remaining portion of the award will not accomplish the purposes for which the award was made, the awarding agency may terminate the award in its entirety under either the Enforcement Provision or paragraph 1 of this Provision.

B.13 PATENTS AND INVENTIONS (Reclamation 08/03)

The administrative standards set forth in OMB Circular A-102 and OMB Circular A-110, as implemented by 43 CFR 12.936(b), require recipients of agreements which support experimental, developmental, or research work to be subject to applicable regulations governing patents and inventions, including the government-wide regulations issued by the Department of Commerce at 37 CFR 401, Rights to Inventions Made by Non-profit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements. These regulations do not apply to any agreement made primarily for educational purposes.

In accordance with 37 CFR 401.3(a), the provision at 37 CFR 401.14(a), with authorized modifications for the Bureau of Reclamation, is hereby included in this agreement:

PATENT RIGHTS

(a) Definitions

(1) *Invention* means any invention or discovery which is or may be patentable or otherwise protectable under Title 35 of the United States Code, or any novel variety of plant which is or may be protected under the Plant Variety Protection Act (7 U.S.C. 2321 et seq.).

(2) *Subject invention* means any invention of the recipient conceived or first actually reduced to practice in the performance of work under this agreement, provided that in the case of a variety of plant, the date of determination (as defined in section 41(d) of the Plant Variety Protection Act, 7 U.S.C. 2401(d)) must also occur during the period of agreement performance.

(3) *Practical Application* means to manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or government regulations, available to the public on reasonable terms.

(4) *Made* when used in relation to any invention means the conception or first actual reduction to practice of such invention.

(5) *Small Business Firm* means a small business concern as defined at section 2 of Pub. Law 85-536 (15 U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration. For the purpose of this provision, the size standards for small business concerns involved in government procurement and subcontracting at 13 CFR 121.3-8 and 13 CFR 121.3-12, respectively, will be used.

(6) *Nonprofit Organization* means a university or other institution of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c) and exempt from taxation under section 501(a) of the Internal Revenue Code (25 U.S.C. 501(a)) or any nonprofit scientific or educational organization qualified under a state nonprofit organization statute.

(b) Allocation of Principal Rights

The Recipient may retain the entire right, title, and interest throughout the world to each subject invention subject to this provision and 35 U.S.C. 203. With respect to any subject invention in which the Recipient retains title, the Federal government shall have a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States the subject invention throughout the world.

(c) Invention Disclosure, Election of Title and Filing of Patent Application by Recipient

(1) The Recipient will disclose each subject invention to the Bureau of Reclamation within two months after the inventor discloses it in writing to Recipient personnel responsible for patent matters. The disclosure to the Bureau of Reclamation shall be in the form of a written report and shall identify the agreement under which the invention was made and the inventor(s). It shall be sufficiently complete in technical detail to convey a clear understanding to the extent known at the time of the disclosure, of the nature, purpose, operation, and the physical, chemical, biological or electrical characteristics of the invention. The disclosure shall also identify any publication, on sale or public use of the invention and whether a manuscript describing the invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. In addition, after disclosure to the Bureau of Reclamation, the Recipient will promptly notify the Bureau of Reclamation of the acceptance of any manuscript describing the invention for publication or of any on sale or public use planned by the Recipient.

(2) The Recipient will elect in writing whether or not to retain title to any such invention by notifying the Bureau of Reclamation within two years of disclosure to the Bureau of Reclamation. However, in any case where publication, on sale or public use has initiated the one year statutory period wherein valid patent protection can still be obtained in the United States, the period for election of title may be shortened by the Bureau of Reclamation to a date that is no more than 60 days prior to the end of the statutory period.

(3) The Recipient will file its initial patent application on a subject invention to which it elects to retain title within one year after election of title or, if earlier, prior to the end of any statutory period wherein valid patent protection can be obtained in the United States after a publication, on sale, or public use. The Recipient will file patent applications in additional countries or international patent offices within either ten months of the corresponding initial patent application or six months from the date permission is granted by the Commissioner of Patents and Trademarks to file foreign patent applications where such filing has been prohibited by a Secrecy Order.

(4) Requests for extension of the time for disclosure, election, and filing under subparagraphs (1), (2), and (3) may, at the discretion of the Bureau of Reclamation, be granted.

(d) Conditions When the Government May Obtain Title

The Recipient will convey to the Bureau of Reclamation, upon written request, title to any subject inventions

(1) If the Recipient fails to disclose or elect title to the subject invention within the times specified in (c), above, or elects not to retain title; provided that the Bureau of Reclamation may only request title within 60 days after learning of the failure of the Recipient to disclose or elect within the specified times.

(2) In those countries in which the Recipient fails to file patent applications within the times specified in (c) above; provided, however, that if the Recipient has filed a patent application in a country after the times specified in (c) above, but prior to its receipt of the written request of the Bureau of Reclamation, the Recipient shall continue to retain title in that country.

(3) In any country in which the Recipient decides not to continue the prosecution of any application for, to pay the maintenance fees on, or defend in reexamination or opposition proceeding on, a patent on a subject invention.

(e) Minimum Rights to Recipient and Protection of the Recipient Right to File

(1) The Recipient will retain a nonexclusive royalty-free license throughout the world in each subject invention to which the Government obtains title, except if the Recipient fails to disclose the invention within the times specified in (c), above. The Recipient's license extends to its domestic subsidiary and affiliates, if any, within the corporate structure of which the Recipient is a party and includes the right to grant sublicenses of the same scope to the extent the Recipient was legally obligated to do so at the time the agreement was awarded. The license is transferable only with the approval of the Bureau of Reclamation except when transferred to the successor of that party of the Recipient's business to which the invention pertains.

(2) The Recipient's domestic license may be revoked or modified by the Bureau of Reclamation to the extent necessary to achieve expeditious practical application of the subject invention pursuant to an application for an exclusive license submitted in accordance with applicable provisions at 37 CFR part 404 and Bureau of Reclamation licensing regulations (if any). This license will not be revoked in that field of use or the geographical areas in which the Recipient has achieved practical application and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at the discretion of the Bureau of Reclamation to the extent the Recipient, its licensees, or the domestic subsidiaries or affiliates have failed to achieve practical application in that foreign country.

(3) Before revocation or modification of the license, the Bureau of Reclamation will furnish the Recipient a written notice of its intention to revoke or modify the license, and the Recipient will be allowed thirty days (or such other time as may be authorized by the Bureau of Reclamation for good cause shown by the Recipient) after the notice to show cause why the license should not be revoked or modified. The Recipient has the right to appeal, in accordance with applicable regulations in 37 CFR part 404 and Bureau of Reclamation regulations (if any) concerning the licensing of Government-owned inventions, any decision concerning the revocation or modification of the license.

f) Recipient Action to Protect the Government's Interest

(1) The Recipient agrees to execute or to have executed and promptly deliver to the Bureau of Reclamation all instruments necessary to (i) establish or confirm the rights the Government has throughout the world in those subject inventions to which the Recipient elects to retain title, and (ii) convey title to the Bureau of Reclamation when requested under paragraph (d) above and to enable the government to obtain patent protection throughout the world in that subject invention.

(2) The Recipient agrees to require, by written agreement, its employees, other than clerical and non-technical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the Recipient each subject invention made under agreement in order that the Recipient can comply with the disclosure provisions of paragraph (c), above, and to execute all papers necessary to file patent applications on subject inventions and to establish the government's rights in the subject inventions. This disclosure format should require, as a minimum, the information required by (c)(1), above. The Recipient shall instruct such employees through employee agreements or other suitable educational programs on the importance of reporting inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign statutory bars.

(3) The Recipient will notify the Bureau of Reclamation of any decisions not to continue the prosecution of a patent application, pay maintenance fees, or defend in a reexamination or opposition proceeding on a patent, in any country, not less than thirty days before the expiration of the response period required by the relevant patent office.

(4) The Recipient agrees to include, within the specification of any United States patent applications and any patent issuing thereon covering a subject invention, the following statement, "This invention was made with government support under (identify the agreement) awarded by (identify the Federal agency). The government has certain rights in the invention."

(g) Subcontracts

The Recipient will include this provision, suitably modified to identify the parties, in all sub-agreements or subcontracts, regardless of tier, for experimental, developmental or research work. The sub-recipient

or subcontractor will retain all rights provided for the Recipient in this provision, and the Recipient will not, as part of the consideration for awarding the sub-agreement or subcontract, obtain rights in the sub-recipient's or subcontractor's subject inventions.

(h) Reporting on Utilization of Subject Inventions

The Recipient agrees to submit on request periodic reports no more frequently than annually on the utilization of a subject invention or on efforts at obtaining such utilization that are being made by the Recipient or its licensees or assignees. Such reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received by the Recipient, and such other data and information as the Bureau of Reclamation may reasonably specify. The Recipient also agrees to provide additional reports as may be requested by the Bureau of Reclamation in connection with any march-in proceeding undertaken by the Bureau of Reclamation in accordance with paragraph (j) of this provision. As required by 35 U.S.C. 202(c)(5), the Bureau of Reclamation agrees it will not disclose such information to persons outside the government without permission of the Recipient.

(i) Preference for United States Industry

Notwithstanding any other part of this provision, the Recipient agrees that neither it nor any assignee will grant to any person the exclusive right to use or sell any subject inventions in the United States unless such person agrees that any products embodying the subject invention or produced through the use of the subject invention will be manufactured substantially in the United States. However, in individual cases, the requirement for such an agreement may be waived by the Bureau of Reclamation upon a showing by the Recipient or its assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacture is not commercially feasible.

(j) March-in Rights

The Recipient agrees that with respect to any subject invention in which it has acquired title, the Bureau of Reclamation has the right in accordance with the procedures in 37 CFR 401.6 and any supplemental regulations of the Bureau of Reclamation to require the Recipient, an assignee or exclusive licensee of a subject invention to grant a nonexclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the Recipient, assignee, or exclusive licensee refuses such a request the Bureau of Reclamation has the right to grant such a license itself if the Bureau of Reclamation determines that:

(1) Such action is necessary because the Recipient or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use.

(2) Such action is necessary to alleviate health or safety needs, which are not reasonably satisfied by the Recipient, assignee or their licensees;

(3) Such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the Recipient, assignee or licensees; or

(4) Such action is necessary because the agreement required by paragraph (i) of this provision has not been obtained or waived or because a licensee of the exclusive right to use or sell any subject invention in the United States is in breach of such agreement.

(k) Special Provisions for Agreements with Nonprofit Organizations

If the Recipient is a nonprofit organization, it agrees that:

(1) Rights to a subject invention in the United States may not be assigned without the approval of the Bureau of Reclamation, except where such assignment is made to an organization which has as one of its primary functions the management of inventions, provided that such assignee will be subject to the same provisions as the Recipient;

(2) The Recipient will share royalties collected on a subject invention with the inventor, including Federal employee co-inventors (when the Bureau of Reclamation deems it appropriate) when the subject invention is assigned in accordance with 35 U.S.C. 202(e) and 37 CFR 401.10;

(3) The balance of any royalties or income earned by the Recipient with respect to subject inventions, after payment of expenses (including payments to inventors) incidental to the administration of subject inventions, will be utilized for the support of scientific research or education; and

(4) It will make efforts that are reasonable under the circumstances to attract licensees of subject invention that are small business firms and that it will give a preference to a small business firm when licensing a subject invention if the Recipient determines that the small business firm has a plan or proposal for marketing the invention which, if executed, is equally as likely to bring the invention to practical application as any plans or proposals from applicants that are not small business firms; provided, that the Recipient is also satisfied that the small business firm has the capability and resources to carry out its plan or proposal. The decision whether to give a preference in any specific case will be at the discretion of the Recipient. However, the Recipient agrees that the Bureau of Reclamation may review the Recipient's licensing program and decisions regarding small business applicants, and the Recipient will negotiate changes to its licensing policies, procedures, or practices with the Bureau of Reclamation when this review discloses that the Recipient could take reasonable steps to implement more effectively the requirements of this paragraph (k)(4).

(l) Communication

Communications regarding matters relating to this provision shall be directed to the Deputy Associate Solicitor, Branch of Procurements and Patents, Office of the Solicitor, U.S. Department of the Interior, Washington, DC 20240.

B.14 COPYRIGHTS (Reclamation 08/03)

B.14.1 For recipients subject to the administrative standards set forth in OMB Circular A-110, the following copyright provision, as implemented by 43 CFR 12.936(a), shall apply:

The recipient may copyright any work that is subject to copyright and was developed, or for which ownership was purchased, under an award. The Federal awarding agency(ies) reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes, and to authorize others to do so.

B.14.2 For recipients subject to the administrative standards set forth in OMB Circular A-102 and the Grants Management Common Rule, the following copyright provision, as implemented by 43 CFR 12.74, shall apply:

The Federal awarding agency reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal Government purposes:

(a) The copyright in any work developed under a grant, sub-grant, or contract under a grant or sub-grant; and

(b) Any rights of copyright to which a grantee, sub-grantee or a contractor purchases ownership with grant support.

B.15 RIGHTS TO DATA (Reclamation 08/03)

For recipients subject to the administrative standards set forth in OMB Circular A-110, the following provision, as implemented by 43 CFR 12.936(c), shall apply:

The Federal Government has the right to:

(1) Obtain, reproduce, publish or otherwise use the data first produced under an award; and

(2) Authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes.

GENERAL PROVISIONS (06/04)

C.1 Regulations and Guidance

The regulations at 43 CFR, Part 12, Subparts A, C, E, and F, are hereby incorporated by reference as though set forth in full text. The following Office of Management and Budget (OMB) Circulars, as applicable, and as implemented by 43 CFR Part 12, are also incorporated by reference and made a part of this agreement. Failure of a recipient to comply with any provision may be the basis for withholding payments for proper charges made by the recipient and for termination of support. Copies of OMB Circulars are available on the Internet at http://www.whitehouse.gov/omb/grants/grants_circulars.html. The implementation of the circulars at 43 CFR Part 12 is available at http://www.access.gpo.gov/nara/cfr/cfr-table-search.html#page1.

C.1.1. Agreements with colleges and universities shall be in accordance with the following circulars:

Circular A-21, revised May 10, 2004, "Cost Principles for Educational Institutions"

Circular A-110, as amended September 30, 1999, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations"

Circular A-133, revised June 27, 2003, "Audits of States, Local Governments, and Non-Profit Organizations"

C.1.2. Agreements with State and local governments shall be in accordance with the provisions of the following circulars:

Circular A-87, revised May 10, 2004, "Cost Principles for State, Local, and Indian Tribal Governments"

Circular A-102, as amended August 29, 1997, "Grants and Cooperative Agreements with State and Local Governments" (Grants Management Common Rule, Codification by Department of Interior, 43 CFR 12)

Circular A-133, revised June 27, 2003, "Audits of States, Local Governments, and Non-Profit Organizations"

C.1.3. Agreements made with nonprofit organizations shall be in accordance with the following circulars and provisions:

Circular A-110, as amended September 30, 1999, "Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations"

Circular A-122, revised May 10, 2004, "Cost Principles for Non-Profit Organizations"

Circular A-133, revised June 27, 2003, "Audits of States, Local Governments, and Non-Profit Organizations"

C.1.4. All agreements with organizations other than those indicated above shall be in accordance with the basic principles of OMB Circular A-110, and cost principles shall be in accordance with 48 CFR Subpart 31.2 titled "Contracts with Commercial Organizations" which is available on the Internet at http://www.access.gpo.gov/nara/cfr/cfr-table-search.html#page1.

C.2. Debarment and Suspension

The Department of the Interior regulations at 43 CFR 42—Government-wide Debarment and Suspension (Non-procurement), which adopt the common rule for the government-wide system of debarment and suspension for non-procurement activities, are hereby incorporated by reference and made a part of this agreement. By entering into this grant or cooperative agreement with the Bureau of Reclamation, the recipient agrees to comply with 43 CFR 42, Subpart C, and agrees to include a similar term or condition in all lower-tier covered transactions. These regulations are available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_43/43cfr42_00.html.

C.3. Drug-Free Workplace

The Department of the Interior regulations at 43 CFR 43—Government-wide Requirements for Drug-Free Workplace (Financial Assistance), which adopt the portion of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq, as amended) applicable to grants and cooperative agreements, are hereby incorporated by reference and made a part of this agreement. By entering into this grant or cooperative agreement with the Bureau of Reclamation, the recipient agrees to comply with 43 CFR 43, Subpart B, if the recipient is not an individual, or with 43 CFR 43, Subpart C, if the recipient is an individual. These regulations are available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_43/43cfr43_00.html.

C.4. Assurances and Certifications Incorporated by Reference

a. The provisions of the Assurances, SF 424B or SF 424D as applicable, executed by the Recipient in connection with this agreement shall apply with full force and effect to this agreement as if fully set forth in these General Provisions. Such Assurances include, but are not limited to, the promise to comply with all applicable Federal statutes and orders relating to nondiscrimination in employment, assistance, and housing; the Hatch Act; Federal wage and hour laws and regulations and work place safety standards; Federal environmental laws and regulations and the Endangered Species Act; and Federal protection of rivers and waterways and historic and archeological preservation.

b. When required by 43 CFR 18—New Restrictions on Lobbying, recipients shall complete a Certification Regarding Lobbying form. This certification is incorporated by reference and made a part of this agreement. These regulations are available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_43/43cfr18_00.html.

C.5. Covenant Against Contingent Fees

The recipient warrants that no person or agency has been employed or retained to solicit or secure this agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide offices established and maintained by the recipient for the purpose of securing agreements or business. For breach or violation of this warranty, the Government shall have the right to annul this agreement without liability or, in its discretion, to deduct from the agreement amount, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

C.6. Contracting with Small and Minority Firms, and Women's Business Enterprises

It is a national policy to award a fair share of contracts to small and minority business firms. The Department of the Interior is strongly committed to the objectives of this policy and encourages all recipients of its grants and cooperative agreements to take affirmative steps to ensure such fairness.

a. The grantee and sub-grantee shall take all necessary affirmative steps to assure that minority firms, and women's business enterprises are used when possible.

b. Affirmative steps shall include:

(1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

(3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;

(4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises;

(5) Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce as appropriate, and

(6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in b(1) through (5) above.

C.7. Notice Regarding Buy American Act

In accordance with the annual Energy and Water Development Appropriations Act, please be advised that it is and has been the sense of Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made. This provision shall remain in effect unless revoked by a future specific act of Congress.

C.8. Resolving Disagreements

When entering into a cooperative agreement with a recipient, Reclamation commits itself to working with the recipient in a harmonious manner to achieve the objectives of the project successfully. When disagreements arise between the parties, they must be resolved according to the procedures discussed below:

a. Reclamation shall attempt first to resolve disagreements with the recipient through informal discussion among the Grants or Contract Specialist, the Program Officer, and the recipient's Project Director.

b. If the disagreement cannot be resolved through informal discussion between these parties, the Grants Specialist and the Program Officer shall document the nature of the disagreement and bring it to the attention of the Grants Officer.

c. After reviewing the facts of the disagreement, as presented by the Grants and Program Offices, the Grants Officer will arrange a formal meeting. If agreement still cannot be reached, the parties will collectively decide on any varied approaches, which might be used to resolve the disagreement. The parties shall be responsible for their individual expenses related to any approach utilized to resolve the disagreement. If attempts at resolving the disagreement fail, the Chief, Acquisition and Assistance Management Services, or the Regional Director, whichever is applicable, shall make a decision which shall be final and conclusive.

d. Nothing herein shall be construed to delay or limit Reclamations right to take immediate and appropriate action, as set forth at 43 CFR Subpart 12.83 or 12.962, as applicable, in the event of material noncompliance by the recipient, and no attempts at informal resolution shall be necessary.

Any post award issue will be open for resolution in accordance with the above procedures, with the exception of disagreements regarding continuation of the agreement (termination must be in accordance with 43 CFR 12), or other matters specifically addressed by the agreement itself.

C.9. Lobbying Restrictions

In accordance with the annual Energy and Water Development Appropriations Act, please be advised that it is and has been the sense of Congress that none of the funds appropriated by this Act may be used in any way, directly or indirectly, to influence Congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in 18 U.S.C. 1913. This provision shall remain in effect unless revoked by a future specific act of Congress.

C.10. Electronic Funds Transfer (EFT)

In accordance with the Debt Collection Improvement Act of 1996, 31 CFR 208, effective January 2, 1999, all Federal payments to recipients must be made by EFT unless a waiver has been granted in accordance with 31 CFR 208.4. Upon award of a financial assistance agreement, Reclamation will provide the recipient with further instructions for implementation of EFT payments or a certification form to request exemption from

EFT.

C.11. Endorsement of Commercial Products and Services

In accordance with 43 CFR 12.2(d), this provision applies to grants and cooperative agreements whose principal purpose is a partnership where the recipient contributes resources to promote agency programs, publicize agency activities, assists in fund-raising, or provides assistance to the agency. If the agreement is awarded to a recipient, other than a State government, a local government, or a federally-recognized Indian tribal government, and the agreement authorizes joint dissemination of information and promotion of activities being supported, the following provision shall be made a term and condition of the award:

Recipient shall not publicize or otherwise circulate, promotional material (such as advertisements, sales brochures, press releases, speeches, still and motion pictures, articles, manuscripts or other publications) which states or implies governmental, Departmental, bureau, or government employee endorsement of a product, service or position which the recipient represents. No release of information relating to this award may state or imply that the Government approves of the recipient's work products, or considers the recipient's work product to be superior to other products or services.

All information submitted for publication or other public releases of information regarding this project shall carry the following disclaimer:

> The views and conclusions contained in this document are those of the authors and should not be interpreted as representing the opinions or policies of the U.S. Government. Mention of trade names or commercial products does not constitute their endorsement by the U.S. Government.

Recipient must obtain prior Government approval for any public information releases concerning this award, which refer to the Department of the Interior or any bureau or employee (by name or title). The specific text, layout photographs, etc. of the proposed release must be submitted with the request for approval.

A recipient further agrees to include this provision in a sub-award to any sub-recipient, except for a sub-award to a State government, a local government, or to a federally-recognized Indian tribal government.

List of Documents, Exhibits, or Other Attachments (06/04)

D.1 The following documents, exhibits or attachments are incorporated and made a part of this agreement.

Attachment Number	Title	No. of Pages
1	Memorandum of Agreement regarding collaboration on the planning, preliminary design, and environmental compliance for the Delta Habitat Conservation and Conveyance Program in connection with the development of the Bay Delta Conservation Plan.	25

State of California
California Natural Resources Agency
Department of Water Resources

Agreement for Funding Between
The Department of Water Resources and
The San Luis and Delta-Mendota Water Authority
For the Costs of Environmental Analysis, Planning and Design of Delta Conservation Measures, Including Delta Conveyance Options

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THIS AGREEMENT is made and entered into on March 12, 2009, pursuant to the provisions of all applicable laws of the State of California, by and between the State of California, acting by and through its Department of Water Resources ("DWR"), and San Luis and Delta-Mendota Water Authority ("Authority"). DWR and the Authority may also be referred to individually as "Party" or collectively as "Parties."

Recitals

1. **WHEREAS**, DWR, Reclamation, several SWP Contractors, the Authority, and several CVP Contractors are parties to the MOA, which provides that they will collaborate to develop the environmental documents, engineering designs, and other necessary information for possible conservation measures, particularly Delta water conveyance options; and

2. **WHEREAS**, the MOA is intended to support and complement the certain activities of the Bay-Delta Conservation Plan ("BDCP") Steering Committee by establishing procedures to facilitate the funding and planning for the Delta water conveyance and habitat conservation studies, which the Parties refer to as the "Planning Phase" of the Delta Habitat Conservation and Conveyance Program ("DHCCP" or "Program"); and

3. **WHEREAS**, DWR, a group of SWP Contractors, Reclamation, the Authority, and certain CVP Contactors believe the DHCCP Planning Phase is necessary to facilitate the assessment and planning of likely conservation measures of the BDCP, analyze responses to the multiple threats to the State's economic well being posed by the current Delta water conveyance system's vulnerability to seismic risk, climate change, and ongoing regulatory prescriptions, and to consider prudent funding sources for species conservation and improved Delta water conveyance facilities in order to achieve related benefits to water supply, water supply reliability, and ecosystem health and resiliency; and

4. **WHEREAS**, subject to any adjustments provided for in the MOA, DWR will fund fifty percent (50%) of the Total Program Costs and will collect that amount from several SWP Contractors; and

5. **WHEREAS**, subject to any adjustments provided for in the MOA, DWR will collect the remaining 50% of the Total Program Costs from the Authority and, as allowed under Federal appropriations law, via in-kind services and the Cooperative Agreement, from Reclamation (defined more specifically below as the "Federal Share of the Program's Costs"); and

6. **WHEREAS**, DWR, the Authority, and certain CVP Contractors are endeavoring to increase DWR's flexibility to perform work on the DHCCP Planning Phase by the Authority providing funds to DWR so the DHCCP Planning Phase work may start as soon as possible; and

7. **WHEREAS**, because DWR must have a source of funding to repay and fund the costs of the DHCCP Planning Phase starting in 2008 until its expected completion by 2010, the Authority is willing to provide such funds under the terms of this Agreement; and

8. **WHEREAS,** all funds needed to meet the Federal Share of the Program's Costs will be collected by DWR through this Agreement and the Cooperative Agreement, and

9. **WHEREAS**, during FFY08, Reclamation provided in-kind services towards the DHCCP Planning Phase that have a value of approximately $1,000,000.00; and

10. **WHEREAS,** DWR and the Authority expect during FFY09 Reclamation through the Cooperative Agreement will provide to DWR approximately $11,500,000.00 and will make additional contributions through in-kind services; and

11. **WHEREAS**, DWR and the Authority believe during FFY10 and FFY 11 Reclamation through the Cooperative Agreement will provide to DWR money and will make additional contributions through in-kind services; and

12. **WHEREAS**, the Authority is willing to enter into this Agreement to pay up to fifty percent of the DHCCP Planning Phase costs, and, in consideration therefore, DWR is willing to consult with the Authority on decisions related to the budget, scope, schedule and activities of the Program's Planning Phase to ensure its timely completion in a cost-efficient manner.

AGREEMENT

NOW THEREFORE, it is mutually agreed by DWR and the Authority as follows:

1. **Definitions**
When used in this Agreement, the following definitions will apply:

a) "**Calendar Year**" means the period January 1 through December 31.

b) "**Cooperative Agreement**" means the financial assistance agreement by and between the United States and the State of California, a copy of which is attached as Exhibit 1 to this Agreement.

c) **"CVP"** means the Central Valley Project, operated by Reclamation.

d) "**DHCCP"** or **"Program**" means the proposed development of possible BDCP conservation measures, including Delta conveyance options as described in the MOA.

e) "**DHCCP Planning Phase**" or "**Program's Planning Phase**" means the proposed development of environmental documents, planning, engineering designs, and other necessary information for possible BDCP conservation measures, including Delta conveyance options as described in the MOA. It does not include construction activity for any BDCP conservation measure, including any Delta Conveyance option.

f) "**DWR**" means the State of California, Department of Water Resources.

g) **"Federal Share of the Program's Costs"** mean fifty percent (50%) of the Total Program Costs; and

h) **"Federal Fiscal Year" or "FFY"** means the period October 1 through September 30; and

i) **"MOA"** means the "Memorandum of Agreement Regarding Collaboration on the Planning, Preliminary Design and Environmental Compliance for the Delta Habitat Conservation and Conveyance Program in Connection with the Development of the Bay Delta Conservation Plan," a copy of which is attached hereto as Exhibit 2.

j) "**Authority Charge**" means the charge by DWR to the Authority to recover its share of the Federal Share of the Program's Costs, as described in more detail in section 4.

k) "**San Luis & Delta-Mendota Water Authority**" or "**Authority**" means that joint powers authority formed pursuant to California Government Code section 6500 *et seq.*, which consists of 32 member public agencies that contract with Reclamation for water supply from the CVP for distribution and use within areas of San Joaquin, Stanislaus, Merced, Fresno, Kings, San Benito, and Santa Clara Counties, California.

l) **"SWP"** means the State Water Project, operated by DWR. The SWP generally includes the State Water Facilities, as defined in California Water Code section 12934(d), and certain facilities found in the Central Valley Project Act at section 11100, *et seq.*

m) "**SWP Contractors**" mean entities that signed a long-term SWP water supply contract with DWR.

n) **"Reclamation"** means the United States Department of the Interior, Bureau of Reclamation.

o) "**Total Program Costs**" mean all costs for the DHCCP Planning Phase incurred by DWR and Reclamation, including in-kind services provided by DWR and Reclamation.

2. Purpose of the Agreement

The purpose of this Agreement is to establish the terms and conditions under which the Authority will provide funding to DWR that, along with funding from Reclamation and the value of in-kind services provided by Reclamation, will provide all funds needed to pay the actual costs of the Federal Share of the Program's Costs.

3. Effective Date/Term of Agreement

a) This Agreement will become effective when: (i) this Agreement is fully executed by the Parties, (ii) the MOA is fully executed by the parties thereto, (iii) the Cooperative Agreement is executed by Reclamation and DWR; and (iv) DHCCP direct funding agreements are executed between DWR and two or more SWP Contractors identified on the signature page of the MOA and all of the provisions of those agreements are in effect.

b) Unless extended by written agreement, this Agreement will terminate when the DHCCP Planning Phase is completed or on December 31, 2011, whichever occurs first.

4. Federal Share of the Program's Costs

a) DWR will credit towards the Federal Share of the Program's Costs all (i) monies paid by Reclamation to DWR pursuant to the Cooperative Agreement, (ii) the value of in-kind services provided by Reclamation, and (iii) all payments made by the Authority pursuant to this Agreement.

b) DWR will use monies paid to it by the Authority pursuant to this Agreement only for the DHCCP Planning Phase.

c) To the extent allowed by the Cooperative Agreement, DWR will invoice Reclamation for all allowable costs incurred as quickly as possible so that the monies obligated in the Cooperative Agreement are received by DWR as early in the FFY as possible, even if, in that FFY, DWR has collected money from the Authority paid pursuant to this Agreement.

d) Federal Share of the Program's Costs For FFY 2008 – The Authority will pay DWR $ 622,000.00, within 14 days of the effective date of this Agreement, which is the Federal Share of the Program's Costs incurred during FFY08, after accounting for in-kind services provided by Reclamation during FFY08 for the DHCCP Planning Phase.

e) Authority Charge - For every other FFY, DWR will recover the Authority's contribution towards the Federal Share of the Program's Costs through the Authority Charge. Consistent with section 4(a) above, the Authority Charge will be determined pursuant to the formula provided in Exhibit 3 to this Agreement.

f) Except in FFY09, the Authority Charge will be determined on or before September 15 prior to the start of the FFY that it is for. For FFY 2009, the Authority Charge will be determined no less than 10 days before the Authority must make its first Authority Charge monthly payment pursuant to this Agreement.

g) When required, DWR will adjust the Authority Charge and the Authority's monthly payments thereto, as prescribed by section 5(e).

h) The Authority Charge and adjustments thereto will be used to ensure that DWR recovers the Federal Share of the Program's Costs from

the Authority, after deducting any money received from Reclamation pursuant to the Cooperative Agreement and providing credits for the value of Reclamation's in-kind services.

5. Authority Charge

a) For the current FFY and no less than 10 days before the Authority must make its first Authority monthly payment, and thereafter on or before September 15 for the upcoming FFY, DWR will provide to the Authority:

i. The projected Total Program Costs,
ii. The projected Federal Share of the Program's Costs,
iii. The amount of money Reclamation has obligated for the DHCCP Planning Phase,
iv. The estimated value of in-kind services DWR anticipates Reclamation will provide for the DHCCP Planning Phase, and
v. The Authority Charge.

b) Except to account for adjustments required by section 5(e) below, the Authority will pay DWR the Authority Charge in equal monthly payments during each FFY.

c) Except in FFY09, beginning on October 15 and on the 15th day of each month until September of the following Calendar Year, the Authority will pay to DWR the monthly payments provided for in section 5(b) above. For FFY09, beginning on the first 15th day of the month after this Agreement is in effect and on 15th day of each month thereafter, the Authority will pay DWR the 2009 Authority Charge in equal monthly payments in an amount that will fully pay the 2009 Authority Charge by September 15, 2009.

d) Execution of this Agreement, even though it is after October 1, 2008, shall constitute agreement by the Authority to pay the full amount of the Authority Charge for FFY 2009, which may include costs incurred between October 1, 2008 and the date this Agreement becomes effective.

e) Adjustments to the Authority Charge and Monthly Payments Thereto

i. Decrease In Reclamation's Contribution

A. If at anytime during a FFY Reclamation informs DWR in writing that Reclamation will reduce the amount of money it has obligated in that FFY for the DHCCP Planning Phase by more than $250,000.00, DWR will, within 15 days of DWR becoming aware of the change, notify the Authority in writing of the change and the amount the Authority must increase its monthly payment because of the change.

B. DWR will calculate the increase in the monthly payment by dividing the total Reclamation funding reduction by the number of months left in the current FFY or by six, whichever is greater.

C. Based on the notice the Authority receives pursuant to subsections (A) and (B) above, the Authority will increase its monthly payment due during the FFY.

D. The increase in monthly payments will begin no less than 15 days after DWR provides the Authority with a notice required under subsections (A) and (B) above.

E. Subject to subsection (D) above, the increase will be reflected in the payment due on the 15th day of the month and will continue for each month left in the current FFY.

ii. Increase In Reclamation's Contribution

A. If at anytime during a FFY Reclamation informs DWR in writing that Reclamation will increase the amount of money it has obligated in that FFY for the DHCCP Planning Phase by more than $250,000.00, DWR will, within 15 days of DWR becoming aware of the change, notify the Authority in writing of the change and the amount the Authority must decrease its monthly payment due during the FFY because of the change.

B. DWR will calculate the reduction by taking the initial Authority Charge, subtracting both the increase in the amount of monies Reclamation has obligated and the amount the Authority has already paid for the current FFY, and dividing the resulting amount by the number of months left in the current FFY.

C. Based on the notice the Authority receives pursuant to subsections (A) and (B) above, the Authority will reduce its Authority Charge monthly payment due during the FFY.

D. The reduction in monthly payments will be reflected in the payment due on the first 15th day of the month after DWR provides the Authority with notice required under subsection (A) and (B) above and will continue for each month left in the current FFY.

iii. Adjustments To Recover Federal Share of the Program's Costs

A. By or before December 1 of each FFY, DWR will notify the Authority in writing of (1) the actual Federal Share of the Program's Costs for the previous FFY, and (2) the amount of monies paid by the Authority and the monies paid and the value of in-kind services provided by Reclamation during for the previous FFY.

B. Should the monies paid by the Authority and the monies paid and the value of in-kind services provided by Reclamation during for the previous FFY be insufficient to cover or exceed the actual Federal Share of the Program's Costs for the previous FFY, then DWR will notify the Authority of the amount of the insufficiency or exceedance and the amount the Authority must increase or decrease its monthly payments.

C. DWR will calculate the increase or decrease by dividing the amount of the insufficiency or exceedance by nine (9).

D. Based on the notice the Authority receives pursuant to subsections (A), (B), and (C) above, the Authority will adjust its Authority Charge monthly payment due during the FFY.

E. The adjustment will be reflected in the payment due on January 15 and will continue for each month left in the current FFY.

f) The adjustments provided under subsections 5(e) above are limited to adjustments necessary to allow DWR to reasonably expect to recover the Federal Share of the Program's Costs through (i) monies paid by Reclamation to DWR pursuant to the Cooperative Agreement, (ii) the value of in-kind services provided by Reclamation, and (iii) all payments made by the Authority pursuant to this Agreement.

g) Unless otherwise specified, payment made after the 30th of each month will be considered delinquent and interest will accrue at a rate of one percent per month for all delinquencies from the due date until paid.

h) If the Authority disputes the Authority Charge, any monthly payment toward the Authority Charge, or an adjustment thereof, the Authority will make all payments, notwithstanding the dispute, but will submit a notice to DWR identifying the dispute. Within ten (10) days after DWR's receipt of notice of the dispute, the Parties will meet and confer to resolve the

dispute. If the Parties resolve the dispute in a manner that recognizes a payment by the Authority that exceeds what is required under this Agreement, the amount of the excessive payment will be reflected as a credit against the next payment due from the Authority. If the Parties cannot resolve the dispute, they will follow the dispute resolution process described in section 11 below.

i) Upon termination or expiration of this Agreement, DWR will promptly refund to the Authority any monies it paid to DWR that exceeded the actual Federal Share of the Program's Costs; provided, however, nothing in this subsection will cause the Authority to be responsible for costs in excess of those provided for in section 8 below. This subsection will survive termination or expiration of this Agreement.

6. Program Cost, Budget and Allocation

a) As described in the MOA, DWR will work collaboratively with the DHCCP Executive Committee to determine the budget, schedules, and activities of the DHCCP Planning Phase.

b) The total cost for the DHCCP Planning Phase is currently estimated at $140 million. This estimate may change in the future as more information is developed about the costs of planning and designing the potential BDCP conservation measures and water conveyance facilities.

c) DWR is responsible for formulating the DHCCP Planning Phase budget with specific DHCCP Planning Phase elements and will work collaboratively through the MOA to develop the budget.

d) The Parties to the MOA have committed to an initial, three-year budget. A copy of the initial budget is attached hereto as Exhibit 4. DWR, in collaboration with the DHCCP Executive Committee, will consider and approve revised budgets for work as necessary. Revised budget(s) shall be attached hereto as subsequent exhibits, without constituting an amendment of this Agreement, provided they do not exceed the funding limit set forth in section 6(e).

e) Notwithstanding anything set forth in this Agreement or decided through the MOA process, the maximum amount of Federal Share of Program Costs shall not exceed $70,000,000.

f) If the voters in California approve the issuance of a bond and money available from the bond issuance are directed towards the DHCCP Planning Phase, the parties to the MOA: (i) will determine how the additional money will affect cost allocations and/or contributions toward

the DHCCP Planning Phase, and (ii) to accommodate the additional money, will make all appropriate amendments to this Agreement, the Cooperative Agreement, or those separate funding agreements between DWR and several SWP Contractors.

7. Accounting of DHCCP Planning Phase Costs

a) Except as provided under subsection (b) immediately below, if and once the DHCCP is approved and one or more BDCP conservation measures proceeds with implementation, the Authority and Reclamation will not be charged for DHCCP Planning Phase costs previously paid under this Agreement or under the Cooperative Agreement by Reclamation.

b) DWR intends to issue federally tax-exempt Revenue Bonds to pay for the SWP's share of the DHCCP if it is approved to proceed with construction. To the extent allowed by law, if DWR determines that it is able to reimburse the Authority or its member agencies for their share of the DHCCP Planning Phase costs through revenue obtained from a federally tax-exempt Revenue Bond and upon a written request from the Authority or its member agencies, then DWR may include in the first issue of Revenue Bonds, pursuant to and consistent with Treasury Regulation 1.150-2, an amount sufficient to reimburse the Authority or its member agencies for their share of planning costs paid pursuant to this Agreement. Before DWR sells bonds to reimburse the Authority or its member agencies through the issuance of a federally tax-exempt Revenue Bond(s), DWR and the Authority or its member agencies will negotiate and enter into a separate agreement(s) that will allow the Authority and/or its member agencies to amortize the DHCCP Planning Phase costs over a certain period of time through either direct payment to DWR or through payment of costs to DWR associated with the operation, maintenance, and/or use of facilities, if any, constructed as a result of the DHCCP Planning Phase.

c) If the DHCCP is not approved to proceed with construction, no credit or reimbursement will occur to the Authority or any of its member agencies for payments made for DHCCP Planning Phase costs under this Agreement.

d) The Authority recognizes that, should the DHCCP not be approved to proceed with construction, the Authority and/or its member agencies may pay costs for the DHCCP Planning Phase that are greater than the amount it/they would have paid if other means of funding the Program's Planning Phase had been utilized. The Authority waives any claims it may have with respect to the greater amount that may be paid by it under this Agreement.

e) The provisions of this section shall survive termination, withdrawal or expiration of this Agreement and/or the MOA.

8. Withdrawal, Termination, or Addition

a) The Authority may withdraw from this Agreement at any time. However, the Authority shall provide thirty (30) days advanced written notice to DWR, and all Parties to the MOA. The notice of the effective date of its withdrawal will include a detailed written explanation of why it intends to withdraw.

b) DWR will notify the Authority if a SWP Contractor provides written notice of withdrawal or withdraws from the MOA or the DHCCP direct funding agreement between DWR and the SWP Contractor. DWR will provide the Authority with such notice within 5 days of the SWP Contractor providing the written notice of withdrawal or the date of withdrawal.

c) If the MOA terminates, this Agreement shall terminate. However, notwithstanding anything to the contrary set forth in the MOA, DWR agrees that it will not withdraw from the MOA as long as DWR's Share of the Program's Costs remains fully funded.

d) DWR shall remain responsible for administering the provisions of this Agreement that survive termination, withdrawal or expiration.

e) The Authority's withdrawal from the MOA shall terminate this Agreement.

f) In the event of termination of this Agreement or the Authority's noticed withdrawal from this Agreement, the Authority shall no longer be obligated to fund any costs related to DHCCP Planning Phase task orders that are subsequently approved pursuant to the process required under the MOA or that were approved less than sixty (60) days prior to the date the notice of withdrawal was transmitted to DWR pursuant to section 8(a). However, the Authority shall remain responsible for its share of the costs of completing any DHCCP Planning Phase task orders approved prior to the dates set forth above.

g) If termination of the MOA occurs concurrent with or after the Authority's notice of withdrawal from this Agreement but prior to the effective date of the Authority's withdrawal, or the Authority has not withdrawn, the Authority is obligated to pay 50 percent of the costs required to terminate the DHCCP Planning Phase, after deducting any money Reclamation might pay to DWR pursuant to the Cooperative Agreement. DWR will collect the remaining 50 percent of the costs required to terminate the DHCCP Planning Phase from the participating SWP Contractors. As used

in this subsection, termination costs are those costs associated with early termination of consultant contracts.

h) The provisions of subsection (c), (d), (f) and (g) above will survive termination of this Agreement and/or the MOA.

9. DHCCP Costs

Should the funding procedures established by this Agreement, the Cooperative Agreement or all DHCCP SWP Funding Agreements terminate, DWR and the Authority shall use their best efforts to develop a funding plan that will allow for the timely completion of the DHCCP Planning Phase.

10. Submittal of Notices, Payments, Or Other Communications

a) All notices, payments, or other communications required under this Agreement will be in writing, and will be deemed to have been duly given upon the date of service, if: (i) served personally on the Party to whom notice is to be given; (ii) sent by electronic mail, and the Party to whom notice is to be given confirms receipt; or (iii) on the third day after mailing, if mailed to the Party to whom notice, payment, or other communication is directed, by first-class mail, postage prepaid, and properly addressed to the designated representative(s) of the Party set forth below.

DWR: Chief of State Water Project Analysis Office
Department of Water Resources
State Water Project Analysis Office
Department of Water Resources
1416 Ninth Street, Room 1620
Post Office Box 942836
Sacramento, California 94236-0001

Authority: Executive Director
San Luis & Delta-Mendota Water Authority
P.O. Box 2157
Los Banos, CA 93635

b) The time for providing any notices, payments, or other communications specified in this Agreement may be extended within the term of this Agreement with the consent of the Parties, confirmed in writing, without requiring an amendment to this Agreement.

11. Dispute Resolution

a) Unless otherwise specifically addressed, should any material disputes arise concerning a provision of this Agreement, or the rights and obligations of the Parties hereunder, the Party that believes a dispute exists will notify the other Party, and the Parties will promptly meet and confer to attempt to resolve the perceived dispute.

b) If the process described in the preceding subsection fails to resolve the dispute within thirty (30) days, the Parties will submit the dispute to a mediator who has experience in water-related disputes. The costs of any such mediation will be borne equally by the Parties. Initiation of this mediation process will be through written notice by one Party to the other Party. The Parties reserve all of their other remedies that may be provided by law or equity in the event that such mediation fails to resolve a dispute. The Parties, in consultation with the mediator, will use their best efforts to resolve the dispute within thirty days. Under no circumstances, however, will mediation under this section result in a requirement that diminishes, limits or contravenes the discretion, authority or any delegated authority of DWR or the Authority.

c) If mediation fails to resolve the dispute, and prior to commencing any legal action to resolve the dispute, the Party proposing to commence legal action will provide to the other Party thirty (30) days' written notice of such action, provided that such notice will not be required where a delay in commencing an action would prejudice the interests of the Party that intends to file suit. During the 30-day notice period, the Parties will continue to attempt to resolve the dispute.

12. Amendments

Except as otherwise authorized herein, this Agreement may be amended or modified only by a subsequent written agreement approved and executed by the Parties.

13. Applicable Law

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

14. Complete Contract

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

15. Execution in Counterpart

This Agreement may be executed in counterpart, each of which shall constitute an original, but all of which shall constitute one and the same agreement. Each signing Party shall have received a copy of the signature page signed by every other Party.

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

Approved as to legal form
and Sufficiency

Chief Counsel
Department of Water Resources

State of California
Department of Water Resources

Director

3/12/09
Date

Approved as to legal form
and Sufficiency

Counsel for the San Luis & Delta-Mendota Water Authority

San Luis & Delta-Mendota Water Authority

Executive Director

3/12/09
Date

14. Complete Contract

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

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Approved as to legal form
and Sufficiency

_____
Chief Counsel
Department of Water Resources

State of California
Department of Water Resources

_____
Director

_____
Date

Approved as to legal form
and Sufficiency

_____
Counsel for the San Luis & Delta-Mendota Water Authority

San Luis & Delta-Mendota Water Authority

_____
Executive Director

_____
Date

Exhibit 1 (Cooperative Agreement)

Exhibit 2 (MOA)

Exhibit 3 (Formula)

Determination of Annual Authority Charge

Total Program Costs for the FFY	÷	2	-	Projected Amount of Monies to be Paid by Reclamation to DWR pursuant to the Cooperative Agreement for the FFY	-	Projected value of in-kind services to be provided by Reclamation for the FFY	=	Authority Charge

Exhibit 4 (Initial Budget)

Element	2008		2009		2010	
	Jan-Jun	Jul-Dec	Jan-Jun	Jul-Dec	Jan-Jun	Jul-Dec
Management, Planning, & Administration	$ 0	$ 3,134	$ 2,885	$ 2,915	$ 2,995	$ 2,995
Right of Way	$ 611	$ 3,155	$ 2,818	$ 3,568	$ 3,817	$ 3,817
Preliminary Engineering	$ 476	$ 7,840	$11,115	$11,523	$15,903	$15,903
Environmental Services	$ 178	$ 5,645	$ 6,554	$ 11,390	$ 7,141	$ 6,895
Legal Services	$ 0	$ 455	$ 767	$ 767	$ 518	$ 518
General Operating Expenses	$ 5	$ 1,540	$ 438	$ 502	$ 389	$ 477
Six Month Total	$ 1,270	$21,769	$24,577	$30,665	$30,763	$30,605
Calendar Year Total	$ 23,039		$ 55,242		$ 61,368	