



MEMORANDUM

TO: State Water Project Policy Committee
Agenda Item No. 1a

FROM: Jim Ciampa

DATE: July 23, 2026

SUBJECT: Consideration and possible Approval of Resolution No. 45-26, a Resolution of the Board of Directors of Kern County Water Agency: (1) Authorizing the General Manager to Enter into Amendment No. 2 to the Contract Between Kern County Water Agency and its Member Units for Preliminary Planning and Design Costs Related to a Potential Delta Conveyance Project; (2) Authorizing the General Manager to Enter into a Funding Agreement with the Department of Water Resources for Preliminary Planning and Design Costs Related to a Potential Delta Conveyance Project; and (3) Authorizing the General Manager to Execute a Letter Setting Forth the Agency's Agreement to Advance or Contribute Additional Money to the Department of Water Resources for the Agency's Share of the Delta Conveyance Project Planning and Pre-Construction Costs for Calendar Years 2026-2027 including its 8,000 acre-feet share with funds expended from the Water Management Fund

Issue:

Consider adopting Resolution No. 45-26 which authorizes the General Manager to send a letter to the Department of Water Resources committing the Agency to provide additional funding for planning and pre-construction work costs of the Delta Conveyance Project, authorizes the General Manager to execute a funding agreement with the Department of Water Resources for that additional funding (subject to final revisions approved by the General Manager and General Counsel), and authorizes the General Manager to execute an amendment to the Agency's funding agreement with the participating Member Units relative to that additional funding (subject to final revisions approved by the General Manager and General Counsel).

Recommended Motion:

Adopt Resolution No. 45-26 authorizing the General Manager to send a letter to the Department of Water Resources committing the Agency to provide additional funding for planning and pre-construction work costs of the Delta Conveyance Project, authorizing the General Manager to execute a funding agreement with the Department of Water Resources for that additional funding (subject to final revisions approved by the General Manager and General Counsel), and authorizing the General Manager to execute an amendment to the Agency's funding agreement with the participating Member Units relative to that additional funding (subject to final revisions approved by the General Manager and General Counsel).

Discussion:

A. Background – Member Unit Participation. In November 2020, the Agency took action to provide initial funding for pre-construction activities relating to a potential Delta Conveyance project (“DCP”). That initial funding was to cover costs through 2024, but prudent management and unfortunate project delays due to litigation allowed those funds to be used through 2025. The Department of Water Resources (“DWR”) is now requesting entities participating in the DCP to provide funds for additional planning and pre-construction work totaling \$300 million for 2026 and 2027.

In March 2025, the Board approved the authorization to commit funds to the planning and pre-construction work, but new information was released after the votes that made the Member Units reconsider their participation. Over the past few months, some of the Agency’s Member Units have taken action to re-approve their participation in this next round of funding for the DCP. A table identifying the Member Units’ participation levels and the total Agency participation level is provided as Attachment 1.

One of the actions being recommended to be taken at this meeting is approval of Amendment No. 2 to the Contract Between Kern County Water Agency and its Member Units for Preliminary Planning and Design Costs Related to a Potential Delta Conveyance Project, Exhibit B of which will set forth each Member Unit’s commitment to participating in this next round of DCP funding (final revisions to this amendment are pending review by some Member Units’ counsel). Another action under consideration at this meeting is approval of the Agency’s Funding Agreement with DWR for those preliminary planning and design costs. It must be emphasized that this funding being provided under those agreements relates only to planning and pre-construction work and is not an approval of the overall DCP.

B. Funding Commitment to DWR. The Agency’s funding commitment will consist of the cumulative participation by those Member Units who opt to participate in this round of funding for those pre-construction costs and the Agency’s Improvement District No. 4. That commitment will initially be memorialized in a letter the Agency will send to DWR, which will be in the form of Exhibit B to the 2020 initial funding agreement between the Agency and DWR (a draft of that letter is attached to this memorandum). The Agency’s Funding Agreement with DWR includes various provisions relating to DCP funding, including possible funding deferrals, DCP planning milestones, potential off-ramps and potential opportunities to increase participation. The Agency is awaiting final approval by DWR of recent changes relating to the invoicing process.

Although DWR has approved the Delta Conveyance Project, **the Agency is not approving or committing to the broader Delta Conveyance Project at this time.** Instead, the narrow approval action before the Agency’s Board of Directors today is the provision of funding (revised from the funding previously approved in March 2025), at DWR’s request, that would allow DWR to undertake continued Pre-Construction Work. Thus, the Board of Directors is being presented with a potential action to authorize funding for that purpose.

The resolution that would approve an expenditure of funds for the Pre-Construction Work, authorize the General Manager to execute a letter in accordance with the Agency’s existing funding agreement with DWR to commit to contribute additional funding for the DCP (existing funding agreement and that letter are included for the Board’s consideration), authorize the General Manager to execute a funding agreement with the DWR for that additional funding, and authorize the General Manager to execute the second amendment to the Agency’s contract with the Member Units for preliminary planning costs.

Attachments:

- Attachment 1 – Table identifying the Member Units’ participation level and the total Agency participation level;
- Attachment 2 – Agreement for the Advance or Contribution of Money to the Department of Water Resources by the Kern County Water Agency for Preliminary Planning and Design Costs related to a Potential Delta Conveyance Project [executed in 2020];
- Attachment 3 – Letter regarding Agency’s advancement of additional funds in accordance with Section 5 of the above-referenced agreement;
- Attachment 4 – Amendment No. 2 to the Contract Between Kern County Water Agency and its Member Units for Preliminary Planning and Design Costs Related to a Potential Delta Conveyance Project; and
- Attachment 5 - Second Amendment to Agreement for the Advance or Contribution of Money to the Department of Water Resources by the Kern County Water Agency.
- Attachment 6 - Memorandum to Member Units regarding 2026/2027 Delta Conveyance Project Funding — Pass-Through of Participation Rights and Benefits; Water Home Capacity

Delta Conveyance Project -- Planning and Design Costs		EXHIBIT B	
Kern County Water Agency			
Member Unit Participation (Maximum)			
	(1)	(2)	(3)
	Firm	DCP Participation	
	Table 1		
Member Unit	(af)	(af)	(%)
Belridge Water Storage District	121,508	7,290	6.0000%
Berrenda Mesa Water District	92,600	5,556	6.0000%
Buena Vista Water Storage District	21,300	213	1.0000%
Cawelo Water District	38,200	382	1.0000%
Henry Miller Water District	35,500	0	0.0000%
Improvement District No. 4	82,946	82,946	100.0000%
Kern County Water Agency	8,000	8,000	100.0000%
Kern Delta Water District	25,500	0	0.0000%
Lost Hills Water District	119,110	7,147	6.0000%
Rosedale-Rio Bravo Water Storage District	29,900	5,000	16.7200%
Semitropic Water Storage District	155,000	10,850	7.0000%
Tehachapi-Cummings County Water District	19,300	19,300	100.0000%
Tejon-Castac Water District	5,278	5,278	100.0000%
West Kern Water District	31,500	4,999	15.8700%
Wheeler Ridge-Maricopa Water Storage District	197,088	1,971	1.0000%
Total	982,730	158,932	16.1725%

**State of California
California Natural Resources Agency
DEPARTMENT OF WATER RESOURCES**

**AGREEMENT FOR
THE ADVANCE OR CONTRIBUTION OF MONEY TO
THE DEPARTMENT OF WATER RESOURCES
BY
THE KERN COUNTY WATER AGENCY**

**FOR PRELIMINARY PLANNING AND DESIGN COSTS RELATED TO A
POTENTIAL DELTA CONVEYANCE PROJECT**

THIS AGREEMENT is made, 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 (“Department” or “DWR”), and the Kern County Water Agency (“Contractor”), each herein referred to individually as a “Party” and collectively as the “Parties”.

Recitals

WHEREAS, DWR and the Contractor listed on the signature page hereto have entered into and subsequently amended a long-term water supply contract, herein referred to as a “Water Supply Contract,” providing that DWR will supply certain quantities of water to the Contractor, providing that Contractor shall make certain payments to DWR, and setting forth the terms and conditions of such supply and such payments; and

WHEREAS, the Bay Delta Conservation Plan (“BDCP”) process was initiated in 2005-2006 and the Delta Habitat Conservation and Conveyance Program (“DHCCP”) was initiated in 2008; and

WHEREAS, the Bay Delta Conservation Plan (“BDCP”) and (“DHCCP”) resulted in development of a project known as the California WaterFix (“WaterFix”); and

WHEREAS, on July 21, 2017, DWR approved the California WaterFix project; and

WHEREAS, certain Contractors have entered into that certain Joint Powers Agreement dated May 14, 2018 forming the Delta Conveyance Design and Construction Authority (“DCA”); and

WHEREAS, DWR and DCA have entered into that certain Joint Powers Agreement (“JEPA”), dated May 22, 2018, as amended and restated, and as the same has or may be further amended, wherein the DCA will provide preliminary design, planning and other preconstruction activities to

assist the environmental planning process for a potential Delta conveyance project under the supervision of DWR (the “Work” as defined in the JEPA); and

WHEREAS, a copy of the resolution of the Board of Directors of Contractor authorizing its General Manager to execute this Agreement is attached hereto as Exhibit A; and

WHEREAS, a State Agency may advance or contribute funds to DWR for SWP purposes pursuant to Water Code section 11135 and (ii) DWR may accept such advanced or contributed funds and thereafter use such funds in accordance with the terms of this Agreement pursuant to Water Code section 11141; and

WHEREAS, DWR and Contractor desire to enter into this funding Agreement to provide for the contribution or advance of funds to DWR and authorize the use of the contributed funds for purposes related to environmental review, planning and design of a Delta conveyance project as described below.

AGREEMENT

NOW, THEREFORE, it is mutually agreed by the Parties as follows:

1. When used in this Agreement, terms defined in the Water Supply Contract (as defined herein) shall be defined by reference to the Water Supply Contractor. In addition, the following definitions shall apply:
 - a. “**Calendar Year**” means the period January 1 through December 31.
 - b. “**Contributed Funds**” means money contributed or advanced to DWR by Contractor pursuant to this Agreement. The total initial amount Contractor agrees to provide is [amount] and is comprised of the following annual amounts to be paid to DWR in the manner described in Section 5 of this Agreement are [amount] for 2020, [amount] 2021...
 - c. “**Contribution Payment(s)**” means the payments of Contributed Funds that Contractor agrees to provide to DWR pursuant this Agreement
 - d. “**Contractor**” means a State Agency that is a party to a Water Supply Contract with DWR.
 - e. “**Department**” or “**DWR**” means the California Department of Water Resources.
 - f. “**Effective Date**” has the meaning ascribed to it in section 11 hereof.
 - g. “**JEPA**” means the Joint Exercise of Powers Agreement between DWR and the DCA dated May 22, 2018, as amended and restated and as may be further amended from time to time.

- h. **“Pay-Go Charge”** means the charge included on Contractor’s Statements of Charges for the purpose of collecting Contributed Funds that Contractor agrees to advance or contribute to DWR pursuant to this Agreement.
 - i. **“Party”** or **“Parties”** means DWR, the undersigned Contractor, or all signatories to this Agreement.
 - j. **“State Agency”** has the meaning ascribed to it by Water Code section 11102.
 - k. **“SWP”** or **“State Water Project”** 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 authorized by the Central Valley Project Act at section 11100 *et. seq.*
 - l. **“Water Supply Contract”** means the long-term water supply contract, as amended and as may be amended in the future, between Contractor and DWR.
 - m. **“Work”** has the meaning ascribed to it in the Recitals to this Agreement.
- 2. Effect of Agreement. DWR and Contractor agree that nothing in this Agreement supersedes previous funding agreements or the obligations under those funding agreements unless specifically addressed in this Agreement.
 - 3. Purposes of Agreement. This Agreement documents Contractor’s agreement to provide Contributed Funds to DWR for the purposes set forth in Section 4, the manner of providing those funds as set forth in Section 5, and the means by which future contributions may be made.
 - 4. Use of Funds. DWR shall use the Contributed Funds and any future Contributed Funds collected from Contractor pursuant to section 5 hereof, for the payment of DCA invoices submitted to DWR on or after October 1, 2020 for the Work done or costs incurred by DCA, or for Delta conveyance project planning work done by DWR through the Delta Conveyance Office (“DCO”) and any other purpose consistent with the JEPA, as the same has been, and may be, amended from time to time. DWR will not use funds provided under this Agreement for the activities described in the Mitigated Negative Declaration for Soil Investigations for Data Collection in the Delta adopted by DWR on July 9, 2020.
 - 5. Charge Procedure. Contractor shall pay its Pay-Go Charge on the date(s) and in the amount(s) set forth on the revised Statement of Charges for 2021, and subsequent Statements of Charges issued to Contractor by DWR. The annual amounts will be paid in twelve monthly installments. Contractor may agree, without amending this Agreement, to advance additional funds after the Effective Date, which shall be considered Contributed Funds, by delivery to DWR of a letter in substantially the form attached hereto as Exhibit B, which letter shall specify the amount to be advanced or contributed, whether the payments will be in the form of one or more lump sums or in 12 equal installments, and together with such other information the Parties deem necessary or desirable to effectuate

the advance or contribution. A copy of the resolution, or other Board authorization, of Contractor's Board of Directors approving the subject contribution shall be enclosed with the letter. Upon receipt of a contribution letter DWR shall indicate its agreement by returning a counter signed copy of the letter to Contractor. The agreed upon advance or contribution shall thereafter be included in Contractor's Statement of Charges or a revised Statement of Charges, as appropriate. The charge shall be designated by reference to the year in which the charge is to begin, followed, if there be more than one such subsequent advance or contribution in a year by a dash and an integer followed by the words Pay-Go Charge.

6. Limitation. With respect to the Work and the DCA, nothing in this Agreement imposes any duty or obligation either expressly or by implication on DWR other than the duty to use Contributed Funds to pay the undisputed portion of DCA invoices submitted to DWR during the term of this Agreement in accordance with the terms of this Agreement and the JEPA if, as and when Contributed Funds have been received by DWR under this Agreement and other similar agreements or arrangements with other Contractors for purposes substantially the same as those described herein and is available for the payment thereof.
7. Reporting. DWR, through its DCO and in coordination with its State Water Project Analysis Office (SWPAO), shall annually prepare a report summarizing the advances or contributions received, and expenditures made pursuant to, this Agreement. The first such report shall be completed not later than March 31, 2021 and thereafter not later than March 31 of each subsequent year. Contractor may request in writing a summary of the advances, contributions, and expenditures at any time during the term of this Agreement and DWR shall provide such within thirty (30) days of such written request.
8. Status of Project. Contractor recognizes that the funds contributed pursuant to this Agreement are for the planning activities in support of DWR's environmental review and permitting process, including but not limited to the Work, for a potential Delta Conveyance project. The advance or contribution of Contributed Funds is not contingent on, or in exchange for, DWR's agreement to exercise its discretion in future to approve a Delta conveyance project.
9. Unspent Funds. Upon termination of this Agreement, it is the intent of the Parties that any unspent Contributed Funds remaining after payment of all costs for which the funds were contributed will be returned to Contractor as a credit on Contractor's Statement of Charges in proportion to its percentage share of advances or contributions made by all Contractors that entered into Agreements similar to this Agreement.
10. Reimbursement of Contributed Funds. If a Delta conveyance project is approved by DWR and is implemented it is the intent of the Parties hereto that the Contributed Funds spent in accordance with this Agreement be reimbursed or credited to Contractor according to the relative amount each such Contractor paid pursuant to this Agreement, upon the issuance and sale of revenue bonds by either the Department or a Joint Powers Authority established, whichever occurs earlier, for the purpose of, among other things, funding a future Delta conveyance facility. The Department shall be under no obligation to issue and sell bonds

for the purpose(s) described in the foregoing sentence or to undertake any reimbursement or credit as so described, unless a determination is first made by DWR in its sole discretion that such issuance and sale of revenue bonds, such reimbursement, or such credit as applicable is consistent with applicable law, applicable judicial rulings, and applicable contractual obligations of DWR, and the Parties have negotiated and executed such further agreements as may be necessary to accomplish such credit or reimbursement on terms acceptable to DWR.

11. Effective Date and Term. This Agreement shall become effective on the date the last Party hereto signs the Agreement as set forth on the signature page(s) hereto ("Effective Date") and shall continue in effect until terminated in writing by the Parties. The Parties obligations under Section 10 shall survive termination of this Agreement.
12. Invoices, Notices or Other Communications. 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: Pedro Villalobos
Chief, State Water Project Analysis Office
Department of Water Resources
1416 Ninth Street, Room 1620
Post Office Box 94236
Sacramento, California 94236-0001

Copy to:
Anthony Meyers
Executive Director, Delta Conveyance Office
Department of Water Resources
901 P Street, Room 413
Sacramento, California 94236-0001

Copy to:
Christopher Martin
Office of the Chief Counsel
Department of Water Resources
1416 Ninth Street, Room 1620
Post Office Box 94236
Sacramento, California 94236-0001

Contractor: Thomas McCarthy
General Manager
Kern County Water Agency
3200 Rio Mirada Drive
Bakersfield, CA 93308

Copy to:
Holly Melton
Water Resources Manager
Kern County Water Agency
3200 Rio Mirada Drive
Bakersfield, CA 93308

13. No Delegation of Authority. Nothing in this Agreement constitutes a delegation by any Party of its existing authority to make any decision it is mandated to make. Nothing in this Agreement shall limit DWR's final decision-making authority at the time of consideration of future Delta conveyance facility related approvals. All provisions of this Agreement are intended to be, and shall to the extent reasonable be interpreted to be, consistent with all applicable provisions of State and federal law. The undersigned recognize that the Parties are public agencies and have specific statutory responsibilities, and that actions of these public agencies must be consistent with applicable procedural and substantive requirements of State and federal law. Nothing in this Agreement is intended to, nor will have the effect of, constraining or limiting any public agency in carrying out its statutory responsibilities or requiring an agency to take any action inconsistent with applicable law. Nothing in this Agreement constitutes an admission by any Party as to the proper interpretation of any provision of law, nor will it have the effect of, waiving or limiting any public entity's rights and remedies under applicable law except as expressly provided elsewhere in this Agreement. Execution of this Agreement does not constitute pre-approval of any project or preferred project alternative, or waive or otherwise abridge responsible trustee duties required, or discretion authorized or granted by, State and federal law.
14. Amendment. Except as otherwise set forth above, this Agreement may only be amended or modified by a subsequent written agreement approved and executed by both Parties.
15. 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.
16. Integration. 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.
17. Counterparts. This Agreement may be executed in counterparts, 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.

Exhibits attached and incorporated herein:

Exhibit A Board Resolution or other Board Authorization

Exhibit B Form of Letter Regarding Future Contributions

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

Approved as to Legal Form
and Sufficiency

State of California
Department of Water Resources

Spencer Kenner, Chief Counsel

Karla A. Nemeth,
Director

Date

Date

Approved as to Legal Form
and Sufficiency

Kern County Water Agency

Amelia T. Minaberrigarai,
General Counsel

Holly Melton,
Water Resources Manager

Date

Date

Exhibit A

Resolution of the Board of Directors of Contractor

Exhibit B

Form of Contribution Letter

[date]
[address]

Re: Contribution or Advance of Money for Delta Conveyance Planning Activities

Dear Mr. Villalobos:

This letter is sent pursuant to section 5 of the Agreement for the Advance of Contribution of Money to the Department of Water Resources for Preliminary Planning and Design Costs Related to a Potential Delta conveyance Project dated _____, 2019 between Department of Water Resources and the [agency] ("Funding Agreement").

On [date] the Board of Directors of [agency] approved the contribution or advance of \$[amount] to the Department for use in accordance with the terms of the Funding Agreement. A copy of the Board's resolution is enclosed with this letter. The contribution or advance will be collected from [agency] in [a lump sum][equal monthly installments] by inclusion of a charge [on its Statement of Charges for [year]][on a revised Statement of Charges for [year] that Department will issue to [agency]]. The charge shall be referred to as the [year] Pay-go Charge. As provided by section 5 of the Agreement the contribution or advance described herein will be subject to the terms and conditions of the Agreement.

Please confirm your agreement to the foregoing by countersigning in the space provided below and returning an original copy of this letter agreement to [agency] at [address].

[signature blocks for agency and Department]

Enclosure(s)

cc: Anthony Meyers, Executive Director of Delta Conveyance Office

[AGENCY LETTERHEAD]

July xx, 2026

[address]

Re: Contribution or Advance of Money for Delta Conveyance Planning Activities

Dear Ms. Lin:

This letter is sent pursuant to section 5 of the Agreement for the Advance of Contribution of Money to the Department of Water Resources for Preliminary Planning and Design Costs Related to a Potential Delta Conveyance Project approved on November 18, 2020 between Department of Water Resources and the Kern County Water Agency ("Funding Agreement").

On July 23, 2026, the Board of Directors of the Kern County Water Agency approved the contribution or advance of \$11,754,802 to the Department for use in accordance with the terms of the Funding Agreement. A copy of the Board's resolution is enclosed with this letter. The contribution or advance will be collected from Kern County Water Agency by inclusion of charges on its Statement of Charges in 2027 for the 2026 and 2027 years that Department will issue to the Agency. The charge shall be referred to as Pay-go Charges for 2026 and 2027. As provided by section 5 of the Agreement the contribution or advance described herein will be subject to the terms and conditions of the Funding Agreement.

Please confirm your agreement to the foregoing by countersigning in the space provided below and returning an original copy of this letter agreement to Kern County Water Agency at 3200 Rio Mirada Drive, Bakersfield, California 93308.

Eric Averett, General Manager

Department of Water Resources

By_____

Its_____

Enclosure

cc: Carrie Buckman, Delta Conveyance Office

**AMENDMENT NO. 2 TO CONTRACT BETWEEN KERN COUNTY WATER AGENCY AND ITS
MEMBER UNITS FOR PRELIMINARY PLANNING AND DESIGN COSTS RELATED TO A
POTENTIAL DELTA CONVEYANCE PROJECT**

This Amendment No. 2 to the Contract Between Kern County Water Agency and its Member Units for Preliminary Planning and Design Costs Related to a Potential Delta Conveyance Project (“Amendment”) is made by and between the KERN COUNTY WATER AGENCY (“Agency”) on behalf of itself and its IMPROVEMENT DISTRICT NO. 4, and BELRIDGE WATER STORAGE DISTRICT, BERRENDA MESA WATER DISTRICT, BUENA VISTA WATER STORAGE DISTRICT, CAWELO WATER DISTRICT, LOST HILLS WATER DISTRICT, ROSEDALE-RIO BRAVO WATER STORAGE DISTRICT, SEMITROPIC WATER STORAGE DISTRICT on behalf of itself and its BUTTONWILLOW IMPROVEMENT DISTRICT and POND-POSO IMPROVEMENT DISTRICT, TEHACHAPI-CUMMINGS COUNTY WATER DISTRICT, TEJON-CASTAC WATER DISTRICT, WEST KERN WATER DISTRICT AND WHEELER RIDGE-MARICOPA WATER STORAGE DISTRICT (each, a “Member Unit” and collectively, “Member Units”). The Agency and the Member Units are referred to individually as a “Party” and collectively as “Parties.”

WHEREAS, the Agency and the State of California, Department of Water Resources (“Department” or “DWR”) have entered into and subsequently amended a long-term water supply contract providing that DWR shall supply certain quantities of water to the Agency, providing that the Agency shall make certain payments to the Department, and setting forth the terms and conditions of such supply and payments (“Master Contract”); and

WHEREAS, the Agency and each Member Unit have entered into and subsequently amended a water supply contract, (the “Member Unit’s Contract”) wherein the Agency agreed to deliver a portion of the annual water supply it receives from the Department under the Master Contract, and in return the Member Unit agreed to annually pay the Agency a percentage of the Agency’s obligation to pay the Department for that water; and

WHEREAS, on December 15, 2020 the Agency and the Member Units entered into the Contract Between Kern County Water Agency and its Member Units for Preliminary Planning and Design Costs Related to a Potential Delta Conveyance Project (“MU Agreement”) to provide the Agency’s share of funding for the environmental review, planning and design of a potential Delta conveyance project (“DCP”) for the first two years; and

WHEREAS, on January 6, 2021 the Agency entered into a funding agreement with the Department (the “DWR Funding Agreement”) to pay for the Agency’s share of

environmental review, planning and design costs associated with the potential DCP for the first two years, out of the four years of required funding; and

WHEREAS, on June 2, 2022, the Agency submitted a contribution letter to the Department indicating that the Agency's Board of Directors approved contributing funds for certain pre-construction work on the proposed project for calendar years 2023-2024, which monies have been conserved and were expended through 2025; and

WHEREAS, the Agency and the Member Units entered into Amendment No. 1 to the MU Agreement (the "First Amendment") with respect to the additional funding discussed in the preceding paragraph; and

WHEREAS, the Department is requesting each contractor who intends to participate in the potential DCP to provide additional funding for environmental review, planning, and design costs of the proposed project for 2026 and 2027; and

WHEREAS, based on feedback and conditional commitments from the Member Units, on July 23, 2026, the Agency's Board of Directors approved an additional contribution or advance of \$11,754,802 for pre-construction work on the potential DCP planned for calendar years 2026-2027; and

WHEREAS, the Agency has provided the Member Units with monthly updates on the environmental review, planning and design of a potential Delta conveyance project, including budget and progress updates when available as required by Article 5 of the Agreement; and

WHEREAS, prior to the Agency's submittal of a letter and Board resolution to the Department committing to provide any additional contributed funds for 2026 and 2027, the Agency has reviewed with the Member Units, as required by Article 5 of the Agreement, the progress of the potential DCP, including its environmental review, planning and design, to determine whether the Member Units will contribute additional funds; and

WHEREAS, in order for the Agency to be able to provide its remaining share of the funding for the environmental review, planning and design of a potential DCP, the Agency must receive additional funding from its Member Units.

NOW, THEREFORE, it is hereby mutually agreed by the Parties hereto as follows:

- I. The following subparagraph (a) is added to Article 1 - Definitions, to read as follows:

"(a) "Major Permits" means Biological Opinions from the U.S. Fish and Wildlife Service and National Marine Fisheries Service under the federal

Endangered Species Act; an Incidental Take Permit from the California Department of Fish and Wildlife under the California Endangered Species Act; an order from the State Water Resources Control Board (SWRCB) approving a change in points of diversion for the State Water Project's water rights under the California Water Code; and Delta Reform Act compliance, which includes a certification of consistency with the Delta Plan under the Delta Reform Act to be submitted to and, if appealed, adjudicated by the Delta Stewardship Council."

- II. The following sentence is added to the end of Article 2 – EFFECT OF AGREEMENT (the remainder of that article to remain unchanged):

"The funding provided by each Member Unit under this Agreement, as amended, relates to funding approved for work during the planning phase for calendar years 2026 and 2027, not any such Member Unit's participation in the construction, operation, maintenance and benefits of the Delta Conveyance Project. The purpose of this Agreement is not to establish or otherwise determine a Member Unit's right to the DCP or those benefits associated therewith."

- III. The following provision is added as a new subparagraph following the existing Article 4 – MEMBER UNIT'S FINANCIAL OBLIGATIONS:

"Notwithstanding the foregoing provisions of this Article 4, each Member Unit will be billed by the Agency for its proportionate share of costs based on the funding commitment specified on Exhibit B hereto. The billing will consist of two (2) 2027 rebills, with the first to be issued on or about December 1, 2027 for the 2026 charges, which shall be payable in two (2) installments of 60 percent due January 4, 2027 and 40 percent due July 1, 2027. The second rebill will occur in June 2027 for the 2027 payments and shall be payable in two installments of 60 percent due July 1, 2027 and 40 percent due January 4, 2028.

If the 2027 State Water Project Allocation percentage triggers the deferral process under Article 5, as set forth below, then each Member Unit and the Agency will identify the payment schedule based on this Agreement, including interest. Conversely, if the 2027 State Water Project Allocation percentage does not trigger the deferral process under Article 5, as set forth below, or a Member Unit elects not to defer payment, the Agency will rebill the Member Unit in June 2027 to include the full year of payments as specified above.

If a Member Unit is satisfied with applicable DCP conditions and if capacity for additional participation in the DCP is then available, a Member Unit may increase its level of participation in DCP as otherwise permitted under applicable agreements. The Agency will invoice each Member Unit for its annual contribution payment, as adjusted, in the manner specified above. The amount to be invoiced will not be revised if the Department issues a revised SWP water supply allocation on or after May 31st of the year. A portion of each Member Unit's annual contribution payable hereunder may be deferred at the election of the Member Unit depending upon the annual SWP water supply allocation forecast and the amount payable in such year correspondingly reduced ("Reduced Annual Contribution"); provided, however, that the amount deferred ("Deferred Amount") shall be due and payable to the Agency no later than July 1, 2029, and shall accrue interest at the State of California Surplus Money Investment Fund rate from July 1st of the applicable year until payment has been made by the Member Unit. The Member Unit shall provide the Agency at least 30 days advance notice of its election to pay any amount deferred under this Agreement.

If, in any year, the calculated "Cost per AF" is greater than \$55.00 ("First Formula"), then, for a Member Unit electing to pay any amount deferred under this Agreement, the Member Unit's annual contribution for that year shall be reduced ("Second Formula") and a portion deferred ("Third formula").

Formula to determine if a reduction is in order (First Formula):

Annual Contribution / (Member Unit's Table 1 * SWP Allocation Percentage) = Cost per AF

Formula to determine the Member Unit's reduced annual contribution (Second Formula):

Reduced Annual Contribution = \$55 (Member Unit's Table 1 * SWP Allocation Percentage)

Formula to determine deferred amount (Third Formula):

Deferred Amount = Annual Contribution – Reduced Annual Contribution

provided that if DWR does not obtain all Major Permits on or before December 31, 2026, or if anything occurs that results in a material adverse change, individually or cumulatively, in the benefits or costs of the DCP relative to the 2024 Cost Estimate and 2024 Benefit-Cost Analysis, or the projected capital costs of the SWP, a Member Unit may request that the

Agency pause or adjust payments or terminate the DWR Funding Agreement in the Agency's sole discretion as follows:

If a Member Unit determines there has been a material adverse change, the Member Unit shall provide written notice to the Agency, the other Member Units, and DWR. The Agency, the Member Unit, and any other interested Member Units shall promptly meet and confer in good faith with one another to resolve the Member Unit's concern(s), as applicable. The Agency shall thereafter meet and confer with DWR. If, after meeting and conferring, DWR and the Agency are unable to reach agreement regarding how to address the Member Unit's concern(s) regarding delay in Major Permits or the material adverse change to the DCP to the satisfaction of the Member Unit who made said determination of material adverse change, then the Member Unit may, in its sole discretion, pause or adjust payments under or terminate participation in this Agreement, and in such event the effective date of the pause in payments, adjustment of payments, or termination shall be the date upon which the Member Unit provided the Agency and DWR with notice of determination of a material adverse change.

Upon such decision by the Member Unit, DWR, the Agency, other State Water Project contractors funding the 2026-2027 pre-construction work and the DCA shall enter into a written agreement or other instrument ("plan") to accommodate the Agency's pause in payments, adjustment of payments, or termination of the DWR Funding Agreement in a manner that ensures DWR's and the DCA's abilities to fund any outstanding contractual obligations and liabilities incurred prior to the pause or adjustment in funding or termination of this Agreement and the Agency will use its best efforts to ensure that pause or termination occurs as early as possibly in relation to the date upon which the Member Unit provided the Agency and DWR with notice of determination of a material adverse change; provided however that the Agency and the Member Units shall not be responsible for the funding of any new obligations and liabilities incurred by DWR and the DCA after the pause or adjustment in funding or termination of that Agreement, , except as otherwise provided in the aforementioned plan if any such exception has been agreed to by the Member Unit(s) providing notice of intent to pause payments under or terminate their participation under this Agreement. In no instance shall any pause, adjustment, or termination by a Member Unit relieve that Member Unit from any obligation to pay for costs incurred prior to the good faith completion of the required consultation and delivery of subsequent written notice of pause, adjustment, or termination. No costs incurred or otherwise obligated prior to that time shall be shifted to other participants because of a Member Unit's pause, adjustment, or termination.

The Member Units agree that new actions or obligations may be needed to minimize DCA and DWR total obligations incurred prior to the pause in or adjustment in funding or termination of the DWR Funding Agreement or to facilitate an orderly termination or suspension of the work, and in either case so as to ensure their full payment and that such actions would facilitate an orderly pause or adjustment in funding or termination of that Agreement. The Agency will use its best efforts to ensure that any financial obligations to the Member Unit in connection with the pause or termination occurs as minimized to the greatest extent possible. All scheduled Agency payments to DWR, and corresponding Member Unit payments to the Agency, shall continue to be made for obligations and liabilities incurred prior to the pause or adjustment in funding or termination of the DWR Funding Agreement. If, under the plan, there are Agency contributed funds remaining in DWR's account after satisfying DWR's and the DCA's existing obligations and liabilities as well as those relating to such new actions or obligations, DWR shall refund that amount to the Agency and the Agency shall refund those monies to the Member Units in proportion to their prior payments.

If the process for pausing or adjusting funding under or terminating the DWR Funding Agreement requires the Agency to make additional payment(s) to DWR of contributed funds, the Agency shall make such payment(s) consistent with the negotiated plan and shall collect any unpaid amounts from the Member Units in proportion to their respective payment obligations.

Examples of events that may result in a material adverse change, individually or cumulatively, in a Member Unit's ability to participate in the DCP include, without limitation, Major Permit conditions that diminish the DCP's water supply benefits or that impose costly additional mitigation measures, delay in obtaining one or more Major Permits that incurs significant cost escalation, changes DWR makes to the DCP or the DCP Final Environmental Impact Report, adopted Findings, or the Statement of Overriding Considerations and Mitigation and Monitoring and Reporting Program in response to any court order in litigation, adoption of or amendment to the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta Plan) resulting in limits on SWP exports beyond those contemplated in the Agreements to Support Healthy Rivers and Landscapes (formerly known as the Voluntary Agreements), other conditions arise that materially impact the SWP's ability to convey DCP water, and discovery of new information by the DCA about soil or other conditions in the DCP alignment and project footprint that significantly increases the cost of construction.

In addition, if DWR is prohibited by court order from conducting any geotechnical work planned for calendar years 2026 or 2027, the Agency will meet and confer with DWR to revise the Pay-Go Charge such that the costs to

perform such work shall not be due until the court order enjoining such work is lifted and the Member Units' charges will be adjusted accordingly.

- IV. The following sentence is added to the end of Article 5 of the Agreement (the remainder of that article to remain unchanged):

"The Agency will promptly provide the Member Units with updated information the Agency receives from DWR regarding the status of the work and the DCP overall, including updated yield projections for the DCP and timelines for its implementation when DWR becomes aware of material changes concerning yield assumptions or regarding changes to the DCP timeline."

V. Exhibit B to the Contract Between Kern County Water Agency and its Member Units for Preliminary Planning and Design Costs Related to a Potential Delta Conveyance Project dated December 15, 2020 is hereby replaced with the attached Exhibit B which has been updated to establish each participating Member Unit's share of the Agency's funding commitment for 2026 and 2027.

VI. All other provisions of the Contract Between Kern County Water Agency and its Member Units for Preliminary Planning and Design Costs Related to a Potential Delta Conveyance Project dated December 15, 2020 shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date(s) set forth below.

KERN COUNTY WATER AGENCY
on behalf of itself and its IMPROVEMENT
DISTRICT NO. 4

Eric Averett, General Manager

Date

BELRIDGE WATER STORAGE DISTRICT

Justin Rowe, General Manager

Date

BERRENDA MESA WATER DISTRICT

Justin Rowe, General Manager

Date

BUENA VISTA WATER STORAGE DISTRICT

Tim Ashlock, Engineer-Manager

Date

CAWELO WATER DISTRICT

David Ansolabehere, General Manager

Date

LOST HILLS WATER DISTRICT

Justin Rowe, General Manager

Date

ROSEDALE-RIO BRAVO WATER STORAGE DISTRICT

Dan Bartel, Engineer-Manager

Date

SEMITROPIC WATER STORAGE DISTRICT on behalf of itself and its BUTTONWILLOW
IMPROVEMENT DISTRICT and POND-POSO IMPROVEMENT DISTRICT

Jason Gianquinto, General Manager

Date

TEHACHAPI-CUMMINGS COUNTY WATER DISTRICT

Tom Neisler, General Manager

Date

TEJON-CASTAC WATER DISTRICT

Angelica Martin, Secretary

Date

WEST KERN WATER DISTRICT

Greg Hammett, General Manager

Date

WHEELER RIDGE-MARICOPA WATER STORAGE DISTRICT

Sheridan Nicholas, Engineer-Manager

Date

Delta Conveyance Project -- Planning and Design Costs		EXHIBIT B	
Kern County Water Agency			
Member Unit Participation (Maximum)			
	(1)	(2)	(3)
	Firm	DCP Participation	
	Table 1		
Member Unit	(af)	(af)	(%)
Belridge Water Storage District	121,508	7,290	6.0000%
Berrenda Mesa Water District	92,600	5,556	6.0000%
Buena Vista Water Storage District	21,300	213	1.0000%
Cawelo Water District	38,200	382	1.0000%
Henry Miller Water District	35,500	0	0.0000%
Improvement District No. 4	82,946	82,946	100.0000%
Kern County Water Agency	8,000	8,000	100.0000%
Kern Delta Water District	25,500	0	0.0000%
Lost Hills Water District	119,110	7,147	6.0000%
Rosedale-Rio Bravo Water Storage District	29,900	5,000	16.7200%
Semitropic Water Storage District	155,000	10,850	7.0000%
Tehachapi-Cummings County Water District	19,300	19,300	100.0000%
Tejon-Castac Water District	5,278	5,278	100.0000%
West Kern Water District	31,500	4,999	15.8700%
Wheeler Ridge-Maricopa Water Storage District	197,088	1,971	1.0000%
Total	982,730	158,932	16.1725%

**Second Amendment to Agreement for the Advance or Contribution of Money to the
Department of Water Resources by the Kern County Water Agency**

This SECOND AMENDMENT TO AGREEMENT FOR THE ADVANCE OR CONTRIBUTION OF MONEY TO THE DEPARTMENT OF WATER RESOURCES (DWR) BY THE KERN COUNTY WATER AGENCY (Contractor), which shall be effective on the date the last Party hereto signs the Amendment, is entered into by and between DWR and CONTRACTOR. DWR and Contractor are referred to individually as a "Party" and collectively as the "Parties."

Whereas, on January 6, 2021, the Parties executed that certain Agreement for the Advance or Contribution of Money to the Department of Water Resources by Contractor for Preliminary Planning and Design Costs Related to a Potential Delta Conveyance Project (DCP) (Original Agreement) for calendar years 2021-2022. The Original Agreement is referred to herein as the Agreement.

Whereas, on June 2, 2022, Contractor submitted a Form of Contribution Letter pursuant to Section 5 of the Agreement (Contribution Letter) indicating that Contractor's legislative body (Contractor's Board) approved an additional contribution of funds for preconstruction work on the DCP planned for calendar years 2023-2024.

Whereas, on July 23, 2026, Contractor's Board approved an additional contribution or advance of \$4,583,587 for preconstruction work on the DCP planned for calendar year 2026 and \$6,875,383 for calendar year 2027.

Whereas, each Contribution Letter is an amendment to the Agreement. The Original Agreement and all amendments constitute the Agreement.

Whereas, the Parties agree to amend the terms of the Agreement to reflect certain conditions for the expenditure of Contractor's share of funding. All capitalized terms and specialized words of art used herein shall have the same meaning as that provided in the Agreement, unless specifically defined otherwise herein.

Now, therefore, the Parties agree that the following provisions of the main body of the Agreement are amended as follows:

Section 1.b. The definition of "Contributed Funds" is amended and restated in its entirety: "Contributed Funds" means money contributed or advanced to DWR by Contractor pursuant to this Agreement. The total amount Contractor agrees to provide for calendar years 2026-2027 is \$11,458,970 and is comprised of the following annual amounts to be paid to be paid to DWR in the manner described in Section 5 of this Agreement, \$4,583,587 for 2026, and \$6,875,383 for 2027.

Section 1.n Section 1.n is added and provides the definition of "Major Permits:" Major Permits means Biological Opinions from the U.S. Fish and Wildlife Service and National Marine Fisheries Service under the federal Endangered Species Act; an Incidental Take Permit from the California Department of Fish and Wildlife under the California Endangered Species Act; an order from the State Water Resources Control Board (SWRCB) approving a change in points of diversion

for the State Water Project's water rights under the California Water Code; and Delta Reform Act compliance, which may include a certification of consistency with the Delta Plan under the Delta Reform Act to be submitted to and, if appealed, adjudicated by the Delta Stewardship Council.

- Section 3 Section 3 of the Agreement is amended to add: "The purpose of this Agreement is not to establish or otherwise determine Contractor's right to the DCP or those benefits associated therewith."
- Section 4 Section 4 is amended to add the following after the last sentence: DWR will not use funds provided under this Agreement to construct the DCP, since Contractor's Board has only approved funding for Work during the planning phase for calendar years 2026 and 2027, not its participation in the construction, operation, maintenance and benefits of the DCP.
- Section 5 Section 5 is deleted and replaced with the following: DWR will invoice Contractor for two (2) 2027 rebills, with the first to be issued on or about _____, 2027 for the 2026 payments, which shall be payable in twelve (12) equal installments within thirty (30) days of the date of the invoice rendered by DWR. The second rebill will occur in June 2027 for the 2027 payments and shall be payable through seven (7) monthly payments due within thirty (30) days of the date of the invoice rendered by DWR. If Contractor is satisfied with applicable DCP conditions and if capacity for additional participation in the DCP is then available, Contractor may increase its level of participation in DCP as otherwise permitted under applicable agreements. DWR will invoice Contractor for its annual Contribution Payments as specified above. The amount to be invoiced will not be revised if the Department issues a revised SWP water supply allocation on or after May 31st of the year. A portion of the Contractor's annual Contribution for 2026 and 2027 may be deferred depending upon the annual SWP water supply allocation forecast and the amount payable in such year correspondingly reduced (Reduced Annual Contribution); provided, however, that the amount deferred (Deferred Amount) shall be due and payable to DWR no later than July 1, 2029, and shall accrue interest at the State of California Surplus Money Investment Fund rate from July 1st of the applicable year until payment has been made by Contractor. Contractor shall provide Department 30 days advance notice of intention to pay any amount deferred under the Agreement.

If the 2027 State Water Project Allocation percentage triggers the deferral process under Article 5, as set forth below, then Contractor and DWR will identify the payment schedule based on this Agreement, including interest. Conversely, if the 2027 State Water Project Allocation percentage does not trigger the deferral process under Article 5, as set forth below, and Contractor elects not to defer payment, then DWR will rebill the Agency in June 2027 to include the full year of payments over seven (7) months.

If, in any year, the calculated "Cost per AF" is greater than \$55.00 (first formula), then Contractors annual contribution for that year shall be reduced (second formula) and a portion deferred (third formula)

Formula to determine if a reduction is in order:

$$\text{Annual Contribution} / (\text{Contractor's Table A} * \text{SWP Allocation Percentage}) = \text{Cost per AF}$$

Formula to determine Contractor's reduced annual contribution:

$$\text{Reduced Annual Contribution} = \$55 (\text{Contractor's Table A} * \text{SWP Allocation Percentage})$$

Formula to determine deferred amount:

Deferred Amount = Annual Contribution – Reduced Annual Contribution provided that if DWR does not obtain all Major Permits on or before December 31, 2026, or if anything occurs that results in a material adverse change, individually or cumulatively, in the benefits or costs of the DCP relative to the 2024 Cost Estimate and 2024 Benefit-Cost Analysis or the projected capital costs of the SWP, Contractor may pause or adjust payments or terminate the Agreement in its sole discretion as follows: If Contractor determines there has been a material adverse change, it shall provide written notice to DWR, and the Parties shall meet and confer in good faith with one another and with the other State Water Project contractors that have entered into agreements with DWR to contribute funds for 2026-2027 Work to resolve Contractor's concerns. If, after meeting and conferring, DWR and Contractor are unable to reach agreement regarding how to address Contractor's concerns regarding delays in Major Permits or the material adverse change, Contractor may in its sole discretion give written notice of its intent to pause payments under or terminate this Agreement.

Upon such written notice, DWR, Contractor, other State Water Project contractors funding the 2026-2027 Work and the DCA shall enter into a written agreement or other instrument ("plan") to accommodate Contractor's orderly pause or adjustment in funding or termination of this Agreement in a manner that ensures DWR's and the DCA's abilities to fund any outstanding contractual obligations and liabilities incurred prior to the pause or adjustment in funding or termination of this Agreement; provided however that the Contractor shall not be responsible for the funding of any new obligations and liabilities incurred by DWR and the DCA after the pause or adjustment in funding or termination of the Agreement, except as otherwise provided in the aforementioned written agreement or other instrument. In no instance shall any pause, adjustment, or termination by Contractor relieve Contractor from any obligation to pay for costs incurred prior to the good faith completion of the required consultation and delivery of subsequent written notice of pause, adjustment, or termination. No costs incurred or otherwise obligated prior to that time shall be shifted to other participants because of Contractor's pause, adjustment, or termination.

The Parties agree that new actions or obligations may be needed to minimize DCA and DWR total obligations incurred prior to the pause or adjustment in funding or termination of this Agreement or to facilitate an orderly termination

or suspension of the Work, and in either case so as to ensure their full payment and that such actions would facilitate an orderly pause or adjustment in funding or termination of this Agreement. All scheduled Contractor payments shall continue to be made for obligations and liabilities incurred by DWR or the DCA prior to the pause or adjustment in funding or termination of this Agreement. If, under the plan, there are Contractor-Contributed Funds remaining in DWR's account after satisfying DWR's and the DCA's existing obligations and liabilities as well as those relating to such new actions or obligations, DWR shall refund that amount to Contractor. If the process for pausing or adjusting funding under or terminating this Agreement requires Contractor to make additional payment(s) of Contributed Funds, Contractor shall make such payment(s) consistent with the negotiated plan.

Examples of events that may result in a material adverse change, individually or cumulatively, in the Contractor's ability to participate in the DCP include, without limitation, Major Permit conditions that diminish the DCP's water supply benefits or that impose costly additional mitigation measures, delay in obtaining one or more Major Permits that incurs significant cost escalation, changes DWR makes to the DCP or the DCP Final Environmental Impact Report, adopted Findings, or the Statement of Overriding Considerations and Mitigation and Monitoring and Reporting Program in response to any court order in litigation, adoption of or amendment to the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta Plan) resulting in limits on SWP exports beyond those contemplated in the Agreements to Support Healthy Rivers and Landscapes (formerly known as the Voluntary Agreements), other conditions arise that materially impact the SWP's ability to convey DCP water, and discovery of new information by the DCA about soil or other conditions in the DCP alignment and project footprint that significantly increases the cost of construction.

In addition, if DWR is prohibited by court order from conducting any geotechnical work planned for calendar years 2026 or 2027, the Parties shall meet and confer to revise the Pay-Go Charge such that the costs to perform such work shall not be due until the court order enjoining such work is lifted.

Section 8 Section 8 is amended to read: "Status of Project. Contractor recognizes that that the initial funds contributed pursuant to this Agreement from 2021 to 2024 are for the planning activities in support of DWR's environmental review and permitting process, including but not limited to the Work, for a potential Delta conveyance project. Contractor recognizes that the funds contributed in calendar years 2026 and 2027 are for the Preconstruction Work, which includes advancing the design and engineering of the DCP, further planning and permitting, and any additional environmental review. The advance or contribution of Contributed Funds is not contingent on, or in exchange for, DWR's agreement to exercise its discretion in future to approve a Delta conveyance project or any changes to the approved DCP. DWR does, however, agree to periodically provide Contractor with updated information regarding the status of the Work and the DCP overall. DWR will provide Contractor with updated yield projections for the DCP and timelines for its implementation,

promptly upon DWR becoming aware of material changes concerning yield assumptions or regarding such changes to the DCP timeline.”.

Section 12 [update designated representative where appropriate]

This Second Amendment does not amend any other provision of the Agreement.

Kern County Water Agency

Date

Eric Averett, General Manager
Kern County Water Agency

Department of Water Resources

Date

Hong Lin
State Water Project Financial Manager
California Department of Water Resources



MEMORANDUM

TO: KCWA Member Units

FROM: Eric Averett, General Manager

DATE: July 23, 2026

SUBJECT: 2026/2027 Delta Conveyance Project Funding — Pass-Through of Participation Rights and Benefits; Water Home Capacity

Issue:

This memorandum is intended to respond to concerns raised by the Member Units regarding the Kern County Water Agency's ("Agency") execution of the Delta Conveyance Project ("DCP") funding agreement ("Agreement") and affirms the Agency's intent regarding the pass-through of all rights and obligations in connection with the Agreement as well as the preservation and application of the 2006 policy commonly referred to as Water, Home and Capacity ("WHC").

Recommended Motion:

None – information only.

Discussion:

This memorandum is intended to introduce and guide the discussion at the June 11, 2026 Member Unit Managers meeting as well as the development of an memorandum of agreement ("MOA") or other formal agreement between the Agency and its Member Units.

Background

Upon execution of the DCP funding agreement, the Agency will participate as a single contractor with one allocation factor; Department of Water Resources has no visibility into the Agency's individual Member Units. Internally, the Agency determines how the rights, benefits, and costs of its participation are distributed among its Member Units. The Agreement is an interim step in the overall DCP Project that preserves the Agency's position and options while project economics and Member Unit support continue to develop.

1. Pass-Through of All Participation Rights and Benefits

The Agency confirms that it is passing through to its Member Units all rights and benefits associated with its participation in the DCP funding agreement. Specifically:

- **Funding does not fix ultimate participation.** The Agreement funding allocations are interim and do not establish or limit any Member Unit's ultimate DCP participation percentage.

- **Member Units retain the Agency's flexibility.** Member Units retain the same flexibility afforded to the Agency with respect to future adjustments in participation levels — including the right to reduce and/or increase participation — as the Agency pursues upward and downward adjustment provisions in the funding agreement at defined intervals. The Agency participation is determined by the sum of Member Unit & Agency participation, as adjusted.
- **Reallocation of unclaimed shares.** Where a Member Unit elects not to take its full share, that unclaimed portion remains available to participating Member Units, preserving the ability to pick up additional participation as opportunities arise.
- **No additional financial burden.** The Agency will pursue these adjustments collaboratively and, to the greatest extent possible, without renegotiation or penalty to the Member Units.

2. Water Home Capacity and Maximizing Water Into Kern County

The Agency recognizes the importance of high-flow (Interruptible) water to the Member Units' banking projects and to their financial viability, and it reaffirms the central role of the Agency's WHC policy in protecting those interests.

The WHC policy, adopted by the Agency in November 2006, governs the orderly scheduling of deliveries when there is competition for water supplies, points of delivery, or conveyance capacity. Importantly, the policy does not affect any district's rights to water supplies, points of delivery, or conveyance; it provides a fair, rights-based mechanism for scheduling that water. As such, WHC is a foundational component of the Agency's focus on maximizing the volume of water delivered into Kern County.

Accordingly, the Agency commits to:

- work collaboratively and in good faith to protect the Water Home Capacity of the Member Units' banking projects; and
- maximize the beneficial use of Article 21 and DCP Interruptible Water within Kern County, in a manner that avoids imposing additional financial burdens on the Member Units.
- To the extent that DCP interruptible Water is declared "unallocated" (exceeds the demands of the DCP participants), the Agency shall then allocate such supply based upon "Home", recognizing the Member Units priority rights to each facility and/or banking project available to it, consistent with the existing WHC policy.

3. Next Steps

If requested by the Member Units, the Agency will work with the Member Units to memorialize these commitments in an MOA or other formal agreement.

BEFORE THE BOARD OF DIRECTORS
OF THE
KERN COUNTY WATER AGENCY

In the matter of:

(1) AUTHORIZATION OF THE GENERAL	*
MANAGER TO ENTER INTO AMENDMENT	*
NO. 2 TO THE CONTRACT BETWEEN KERN	*
COUNTY WATER AGENCY AND ITS MEMBER	*
UNITS FOR PRELIMINARY PLANNING AND	*
DESIGN COSTS RELATED TO A POTENTIAL	*
DELTA CONVEYANCE PROJECT;	*
(2) AUTHORIZING THE GENERAL MANAGER	*
TO ENTER INTO A FUNDING AGREEMENT WITH	*
THE DEPARTMENT OF WATER RESOURCES	*
FOR PRELIMINARY PLANNING AND DESIGN	*
COSTS RELATED TO A POTENTIAL DELTA	*
CONVEYANCE PROJECT; AND	*
(3) AUTHORIZING THE GENERAL MANAGER	*
TO EXECUTE A LETTER SETTING FORTH	*
THE AGENCY'S AGREEMENT TO ADVANCE	*
OR CONTRIBUTE ADDITIONAL MONEY TO	*
THE DEPARTMENT OF WATER RESOURCES	*
FOR THE AGENCY'S SHARE OF THE DELTA	*
CONVEYANCE PROJECT PLANNING AND	*
PRE-CONSTRUCTION COSTS FOR CALENDAR	*
YEARS 2026-2027 INCLUDING ITS 8,000	*
ACRE-FEET SHARE WITH FUNDS	*
EXPENDED FROM THE WATER MANAGEMENT	*
FUND	*

I, Stephanie N. Prince, Secretary of the Board of Directors of the Kern County Water Agency, of the County of Kern, State of California, do hereby certify that the following resolution proposed by Director _____, and seconded by Director _____, was duly passed and adopted by said Board of Directors at an official meeting hereof this 23rd day of July, 2026, by the following vote, to wit:

Ayes:

Noes:

Absent:

Secretary of the Board of Directors
of the Kern County Water Agency

Resolution No. 45-26

WHEREAS, the Kern County Water Agency (Agency) has a long-term water supply contract with the State of California Department of Water Resources (DWR) for the delivery of State Water Project (SWP) water; and

WHEREAS, on July 21, 2017, DWR approved the project known as the California WaterFix, which was a dual conveyance project that involved two new diversion points and two tunnels moving water from the Sacramento River north of the Sacramento-San Joaquin Delta (Delta) under the Delta to SWP and Central Valley Project water pumping facilities in the South Delta; and

WHEREAS, the purpose of the WaterFix was to improve the reliability of SWP water for the Agency and other SWP contractors; and

WHEREAS, the Agency previously expressed interest in participating in WaterFix and participated in a funding agreement to pay a share of preconstruction planning activities associated with the WaterFix; and

WHEREAS, in 2019, Governor Newsom announced that he did not support the WaterFix but he instead supported a one tunnel conveyance project and DWR subsequently rescinded its approvals of the WaterFix and began planning for a single tunnel option; and

WHEREAS, DWR previously requested that the Agency identify the level of its desired participation in a potential Delta Conveyance Project (DCP) assuming a 6,000 cubic feet per second (cfs) facility, which will be used to inform the percentage of DCP planning funding allocated to the Agency; and

WHEREAS, by Resolution No. 46-20 adopted on November 13, 2020, the Agency provided its initial authorization for participation in the DCP and by Resolution No. 08-20, adopted on March 27, 2025, the Agency further authorized its participation in the DCP and agreed to proportionately fund planning and design costs for the DCP for calendar years 2026 and 2027; and

WHEREAS, since the last Agency action regarding DCP participation was taken on March 27, 2025, the desired participation by certain Agency Member Units has changed and further negotiations have occurred between the Agency and DWR with respect to the Funding Agreement to provide payment by the Agency to DWR of additional monies to be used for planning and design work on the DCP for calendar years 2026 and 2027, and between the Agency and its Member Units with respect to the amendment to the previous agreement under which the Member Units provided funding to the Agency for those DCP funding and design costs; and

WHEREAS, by taking this action, the Agency is not approving or committing to the broader Delta Conveyance Project at this time; and

WHEREAS, by this resolution, the Board of Directors desires to authorize the Agency's General Manager to enter into Amendment No. 2 to the Contract Between Kern County Water Agency and its Member Units for preliminary planning and design costs related to a potential Delta Conveyance Project; to authorize the General Manager to enter into a Funding Agreement with the Department of Water Resources for preliminary planning and design costs related to a potential Delta Conveyance Project; and to authorizing the General Manager to execute a letter setting forth the Agency's agreement to advance or contribute additional money to the Department of Water Resources for the Agency's share of the Delta Conveyance Project planning and pre-construction costs for calendar years 2026-2027 including its 8,000 acre-feet share with funds expended from the Water Management Fund; and

WHEREAS, previous actions taken with respect to payment of the contemplated planning and design costs were reviewed under CEQA and the actions taken by this resolution will not result in any material changes that would alter the conclusions under those prior CEQA analyses and therefore no further review under CEQA is necessary.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Directors of the Kern County Water Agency that:

1. The foregoing recitals are true and correct.

2. The General Manager is authorized, subject to any final revisions to be approved by the General Manager and by General Counsel, to (a) execute the Amendment No. 2 to the Contract Between Kern County Water Agency and its Member Units for preliminary planning and design costs related to a potential Delta Conveyance Project in the form attached hereto as Exhibit A; (b) to enter into a Funding Agreement with the Department of Water Resources for preliminary planning and design costs related to a potential Delta Conveyance Project in the form attached hereto as Exhibit B; and (c) to execute a letter setting forth the Agency's agreement to advance or contribute additional money to the Department of Water Resources for the Agency's share of the Delta Conveyance Project planning and pre-construction costs for calendar years 2026-2027 including its 8,000 acre-feet share with funds expended from the Water Management Fund, in the form attached hereto as Exhibit C.

**AMENDMENT NO. 2 TO CONTRACT BETWEEN KERN COUNTY WATER AGENCY AND ITS
MEMBER UNITS FOR PRELIMINARY PLANNING AND DESIGN COSTS RELATED TO A
POTENTIAL DELTA CONVEYANCE PROJECT**

This Amendment No. 2 to the Contract Between Kern County Water Agency and its Member Units for Preliminary Planning and Design Costs Related to a Potential Delta Conveyance Project (“Amendment”) is made by and between the KERN COUNTY WATER AGENCY (“Agency”) on behalf of itself and its IMPROVEMENT DISTRICT NO. 4, and BELRIDGE WATER STORAGE DISTRICT, BERRENDA MESA WATER DISTRICT, BUENA VISTA WATER STORAGE DISTRICT, CAWELO WATER DISTRICT, LOST HILLS WATER DISTRICT, ROSEDALE-RIO BRAVO WATER STORAGE DISTRICT, SEMITROPIC WATER STORAGE DISTRICT on behalf of itself and its BUTTONWILLOW IMPROVEMENT DISTRICT and POND-POSO IMPROVEMENT DISTRICT, TEHACHAPI-CUMMINGS COUNTY WATER DISTRICT, TEJON-CASTAC WATER DISTRICT, WEST KERN WATER DISTRICT AND WHEELER RIDGE-MARICOPA WATER STORAGE DISTRICT (each, a “Member Unit” and collectively, “Member Units”). The Agency and the Member Units are referred to individually as a “Party” and collectively as “Parties.”

WHEREAS, the Agency and the State of California, Department of Water Resources (“Department” or “DWR”) have entered into and subsequently amended a long-term water supply contract providing that DWR shall supply certain quantities of water to the Agency, providing that the Agency shall make certain payments to the Department, and setting forth the terms and conditions of such supply and payments (“Master Contract”); and

WHEREAS, the Agency and each Member Unit have entered into and subsequently amended a water supply contract, (the “Member Unit’s Contract”) wherein the Agency agreed to deliver a portion of the annual water supply it receives from the Department under the Master Contract, and in return the Member Unit agreed to annually pay the Agency a percentage of the Agency’s obligation to pay the Department for that water; and

WHEREAS, on December 15, 2020 the Agency and the Member Units entered into the Contract Between Kern County Water Agency and its Member Units for Preliminary Planning and Design Costs Related to a Potential Delta Conveyance Project (“MU Agreement”) to provide the Agency’s share of funding for the environmental review, planning and design of a potential Delta conveyance project (“DCP”) for the first two years; and

WHEREAS, on January 6, 2021 the Agency entered into a funding agreement with the Department (the “DWR Funding Agreement”) to pay for the Agency’s share of

environmental review, planning and design costs associated with the potential DCP for the first two years, out of the four years of required funding; and

WHEREAS, on June 2, 2022, the Agency submitted a contribution letter to the Department indicating that the Agency's Board of Directors approved contributing funds for certain pre-construction work on the proposed project for calendar years 2023-2024, which monies have been conserved and were expended through 2025; and

WHEREAS, the Agency and the Member Units entered into Amendment No. 1 to the MU Agreement (the "First Amendment") with respect to the additional funding discussed in the preceding paragraph; and

WHEREAS, the Department is requesting each contractor who intends to participate in the potential DCP to provide additional funding for environmental review, planning, and design costs of the proposed project for 2026 and 2027; and

WHEREAS, based on feedback and conditional commitments from the Member Units, on July 23, 2026, the Agency's Board of Directors approved an additional contribution or advance of \$11,754,802 for pre-construction work on the potential DCP planned for calendar years 2026-2027; and

WHEREAS, the Agency has provided the Member Units with monthly updates on the environmental review, planning and design of a potential Delta conveyance project, including budget and progress updates when available as required by Article 5 of the Agreement; and

WHEREAS, prior to the Agency's submittal of a letter and Board resolution to the Department committing to provide any additional contributed funds for 2026 and 2027, the Agency has reviewed with the Member Units, as required by Article 5 of the Agreement, the progress of the potential DCP, including its environmental review, planning and design, to determine whether the Member Units will contribute additional funds; and

WHEREAS, in order for the Agency to be able to provide its remaining share of the funding for the environmental review, planning and design of a potential DCP, the Agency must receive additional funding from its Member Units.

NOW, THEREFORE, it is hereby mutually agreed by the Parties hereto as follows:

- I. The following subparagraph (a) is added to Article 1 - Definitions, to read as follows:

"(a) "Major Permits" means Biological Opinions from the U.S. Fish and Wildlife Service and National Marine Fisheries Service under the federal

Endangered Species Act; an Incidental Take Permit from the California Department of Fish and Wildlife under the California Endangered Species Act; an order from the State Water Resources Control Board (SWRCB) approving a change in points of diversion for the State Water Project's water rights under the California Water Code; and Delta Reform Act compliance, which includes a certification of consistency with the Delta Plan under the Delta Reform Act to be submitted to and, if appealed, adjudicated by the Delta Stewardship Council."

- II. The following sentence is added to the end of Article 2 – EFFECT OF AGREEMENT (the remainder of that article to remain unchanged):

"The funding provided by each Member Unit under this Agreement, as amended, relates to funding approved for work during the planning phase for calendar years 2026 and 2027, not any such Member Unit's participation in the construction, operation, maintenance and benefits of the Delta Conveyance Project. The purpose of this Agreement is not to establish or otherwise determine a Member Unit's right to the DCP or those benefits associated therewith."

- III. The following provision is added as a new subparagraph following the existing Article 4 – MEMBER UNIT'S FINANCIAL OBLIGATIONS:

"Notwithstanding the foregoing provisions of this Article 4, each Member Unit will be billed by the Agency for its proportionate share of costs based on the funding commitment specified on Exhibit B hereto. The billing will consist of two (2) 2027 rebills, with the first to be issued on or about December 1, 2027 for the 2026 charges, which shall be payable in two (2) installments of 60 percent due January 4, 2027 and 40 percent due July 1, 2027. The second rebill will occur in June 2027 for the 2027 payments and shall be payable in two installments of 60 percent due July 1, 2027 and 40 percent due January 4, 2028.

If the 2027 State Water Project Allocation percentage triggers the deferral process under Article 5, as set forth below, then each Member Unit and the Agency will identify the payment schedule based on this Agreement, including interest. Conversely, if the 2027 State Water Project Allocation percentage does not trigger the deferral process under Article 5, as set forth below, or a Member Unit elects not to defer payment, the Agency will rebill the Member Unit in June 2027 to include the full year of payments as specified above.

If a Member Unit is satisfied with applicable DCP conditions and if capacity for additional participation in the DCP is then available, a Member Unit may increase its level of participation in DCP as otherwise permitted under applicable agreements. The Agency will invoice each Member Unit for its annual contribution payment, as adjusted, in the manner specified above. The amount to be invoiced will not be revised if the Department issues a revised SWP water supply allocation on or after May 31st of the year. A portion of each Member Unit's annual contribution payable hereunder may be deferred at the election of the Member Unit depending upon the annual SWP water supply allocation forecast and the amount payable in such year correspondingly reduced ("Reduced Annual Contribution"); provided, however, that the amount deferred ("Deferred Amount") shall be due and payable to the Agency no later than July 1, 2029, and shall accrue interest at the State of California Surplus Money Investment Fund rate from July 1st of the applicable year until payment has been made by the Member Unit. The Member Unit shall provide the Agency at least 30 days advance notice of its election to pay any amount deferred under this Agreement.

If, in any year, the calculated "Cost per AF" is greater than \$55.00 ("First Formula"), then, for a Member Unit electing to pay any amount deferred under this Agreement, the Member Unit's annual contribution for that year shall be reduced ("Second Formula") and a portion deferred ("Third formula").

Formula to determine if a reduction is in order (First Formula):

Annual Contribution/(Member Unit's Table 1 * SWP Allocation Percentage) =
Cost per AF

Formula to determine the Member Unit's reduced annual contribution (Second Formula):

Reduced Annual Contribution = \$55 (Member Unit's Table 1 * SWP Allocation Percentage)

Formula to determine deferred amount (Third Formula):

Deferred Amount = Annual Contribution – Reduced Annual Contribution

provided that if DWR does not obtain all Major Permits on or before December 31, 2026, or if anything occurs that results in a material adverse change, individually or cumulatively, in the benefits or costs of the DCP relative to the 2024 Cost Estimate and 2024 Benefit-Cost Analysis, or the projected capital costs of the SWP, a Member Unit may request that the

Agency pause or adjust payments or terminate the DWR Funding Agreement in the Agency's sole discretion as follows:

If a Member Unit determines there has been a material adverse change, the Member Unit shall provide written notice to the Agency, the other Member Units, and DWR. The Agency, the Member Unit, and any other interested Member Units shall promptly meet and confer in good faith with one another to resolve the Member Unit's concern(s), as applicable. The Agency shall thereafter meet and confer with DWR. If, after meeting and conferring, DWR and the Agency are unable to reach agreement regarding how to address the Member Unit's concern(s) regarding delay in Major Permits or the material adverse change to the DCP to the satisfaction of the Member Unit who made said determination of material adverse change, then the Member Unit may, in its sole discretion, pause or adjust payments under or terminate participation in this Agreement, and in such event the effective date of the pause in payments, adjustment of payments, or termination shall be the date upon which the Member Unit provided the Agency and DWR with notice of determination of a material adverse change.

Upon such decision by the Member Unit, DWR, the Agency, other State Water Project contractors funding the 2026-2027 pre-construction work and the DCA shall enter into a written agreement or other instrument ("plan") to accommodate the Agency's pause in payments, adjustment of payments, or termination of the DWR Funding Agreement in a manner that ensures DWR's and the DCA's abilities to fund any outstanding contractual obligations and liabilities incurred prior to the pause or adjustment in funding or termination of this Agreement and the Agency will use its best efforts to ensure that pause or termination occurs as early as possibly in relation to the date upon which the Member Unit provided the Agency and DWR with notice of determination of a material adverse change; provided however that the Agency and the Member Units shall not be responsible for the funding of any new obligations and liabilities incurred by DWR and the DCA after the pause or adjustment in funding or termination of that Agreement, , except as otherwise provided in the aforementioned plan if any such exception has been agreed to by the Member Unit(s) providing notice of intent to pause payments under or terminate their participation under this Agreement. In no instance shall any pause, adjustment, or termination by a Member Unit relieve that Member Unit from any obligation to pay for costs incurred prior to the good faith completion of the required consultation and delivery of subsequent written notice of pause, adjustment, or termination. No costs incurred or otherwise obligated prior to that time shall be shifted to other participants because of a Member Unit's pause, adjustment, or termination.

The Member Units agree that new actions or obligations may be needed to minimize DCA and DWR total obligations incurred prior to the pause in or adjustment in funding or termination of the DWR Funding Agreement or to facilitate an orderly termination or suspension of the work, and in either case so as to ensure their full payment and that such actions would facilitate an orderly pause or adjustment in funding or termination of that Agreement. The Agency will use its best efforts to ensure that any financial obligations to the Member Unit in connection with the pause or termination occurs as minimized to the greatest extent possible. All scheduled Agency payments to DWR, and corresponding Member Unit payments to the Agency, shall continue to be made for obligations and liabilities incurred prior to the pause or adjustment in funding or termination of the DWR Funding Agreement. If, under the plan, there are Agency contributed funds remaining in DWR's account after satisfying DWR's and the DCA's existing obligations and liabilities as well as those relating to such new actions or obligations, DWR shall refund that amount to the Agency and the Agency shall refund those monies to the Member Units in proportion to their prior payments.

If the process for pausing or adjusting funding under or terminating the DWR Funding Agreement requires the Agency to make additional payment(s) to DWR of contributed funds, the Agency shall make such payment(s) consistent with the negotiated plan and shall collect any unpaid amounts from the Member Units in proportion to their respective payment obligations.

Examples of events that may result in a material adverse change, individually or cumulatively, in a Member Unit's ability to participate in the DCP include, without limitation, Major Permit conditions that diminish the DCP's water supply benefits or that impose costly additional mitigation measures, delay in obtaining one or more Major Permits that incurs significant cost escalation, changes DWR makes to the DCP or the DCP Final Environmental Impact Report, adopted Findings, or the Statement of Overriding Considerations and Mitigation and Monitoring and Reporting Program in response to any court order in litigation, adoption of or amendment to the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta Plan) resulting in limits on SWP exports beyond those contemplated in the Agreements to Support Healthy Rivers and Landscapes (formerly known as the Voluntary Agreements), other conditions arise that materially impact the SWP's ability to convey DCP water, and discovery of new information by the DCA about soil or other conditions in the DCP alignment and project footprint that significantly increases the cost of construction.

In addition, if DWR is prohibited by court order from conducting any geotechnical work planned for calendar years 2026 or 2027, the Agency will meet and confer with DWR to revise the Pay-Go Charge such that the costs to

perform such work shall not be due until the court order enjoining such work is lifted and the Member Units' charges will be adjusted accordingly.

- IV. The following sentence is added to the end of Article 5 of the Agreement (the remainder of that article to remain unchanged):

"The Agency will promptly provide the Member Units with updated information the Agency receives from DWR regarding the status of the work and the DCP overall, including updated yield projections for the DCP and timelines for its implementation when DWR becomes aware of material changes concerning yield assumptions or regarding changes to the DCP timeline."

V. Exhibit B to the Contract Between Kern County Water Agency and its Member Units for Preliminary Planning and Design Costs Related to a Potential Delta Conveyance Project dated December 15, 2020 is hereby replaced with the attached Exhibit B which has been updated to establish each participating Member Unit's share of the Agency's funding commitment for 2026 and 2027.

VI. All other provisions of the Contract Between Kern County Water Agency and its Member Units for Preliminary Planning and Design Costs Related to a Potential Delta Conveyance Project dated December 15, 2020 shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date(s) set forth below.

KERN COUNTY WATER AGENCY
on behalf of itself and its IMPROVEMENT
DISTRICT NO. 4

Eric Averett, General Manager

Date

BELRIDGE WATER STORAGE DISTRICT

Justin Rowe, General Manager

Date

BERRENDA MESA WATER DISTRICT

Justin Rowe, General Manager

Date

BUENA VISTA WATER STORAGE DISTRICT

Tim Ashlock, Engineer-Manager

Date

CAWELO WATER DISTRICT

David Ansolabehere, General Manager

Date

LOST HILLS WATER DISTRICT

Justin Rowe, General Manager

Date

ROSEDALE-RIO BRAVO WATER STORAGE DISTRICT

Dan Bartel, Engineer-Manager

Date

SEMITROPIC WATER STORAGE DISTRICT on behalf of itself and its BUTTONWILLOW
IMPROVEMENT DISTRICT and POND-POSO IMPROVEMENT DISTRICT

Jason Gianquinto, General Manager

Date

TEHACHAPI-CUMMINGS COUNTY WATER DISTRICT

Tom Neisler, General Manager

Date

TEJON-CASTAC WATER DISTRICT

Angelica Martin, Secretary

Date

WEST KERN WATER DISTRICT

Greg Hammett, General Manager

Date

WHEELER RIDGE-MARICOPA WATER STORAGE DISTRICT

Sheridan Nicholas, Engineer-Manager

Date

Delta Conveyance Project -- Planning and Design Costs		EXHIBIT B	
Kern County Water Agency			
Member Unit Participation (Maximum)			
	(1)	(2)	(3)
	Firm	DCP Participation	
	Table 1		
Member Unit	(af)	(af)	(%)
Belridge Water Storage District	121,508	7,290	6.0000%
Berrenda Mesa Water District	92,600	5,556	6.0000%
Buena Vista Water Storage District	21,300	213	1.0000%
Cawelo Water District	38,200	382	1.0000%
Henry Miller Water District	35,500	0	0.0000%
Improvement District No. 4	82,946	82,946	100.0000%
Kern County Water Agency	8,000	8,000	100.0000%
Kern Delta Water District	25,500	0	0.0000%
Lost Hills Water District	119,110	7,147	6.0000%
Rosedale-Rio Bravo Water Storage District	29,900	5,000	16.7200%
Semitropic Water Storage District	155,000	10,850	7.0000%
Tehachapi-Cummings County Water District	19,300	19,300	100.0000%
Tejon-Castac Water District	5,278	5,278	100.0000%
West Kern Water District	31,500	4,999	15.8700%
Wheeler Ridge-Maricopa Water Storage District	197,088	1,971	1.0000%
Total	982,730	158,932	16.1725%

**Second Amendment to Agreement for the Advance or Contribution of Money to the
Department of Water Resources by the Kern County Water Agency**

This SECOND AMENDMENT TO AGREEMENT FOR THE ADVANCE OR CONTRIBUTION OF MONEY TO THE DEPARTMENT OF WATER RESOURCES (DWR) BY THE KERN COUNTY WATER AGENCY (Contractor), which shall be effective on the date the last Party hereto signs the Amendment, is entered into by and between DWR and CONTRACTOR. DWR and Contractor are referred to individually as a "Party" and collectively as the "Parties."

Whereas, on January 6, 2021, the Parties executed that certain Agreement for the Advance or Contribution of Money to the Department of Water Resources by Contractor for Preliminary Planning and Design Costs Related to a Potential Delta Conveyance Project (DCP) (Original Agreement) for calendar years 2021-2022. The Original Agreement is referred to herein as the Agreement.

Whereas, on June 2, 2022, Contractor submitted a Form of Contribution Letter pursuant to Section 5 of the Agreement (Contribution Letter) indicating that Contractor's legislative body (Contractor's Board) approved an additional contribution of funds for preconstruction work on the DCP planned for calendar years 2023-2024.

Whereas, on July 23, 2026, Contractor's Board approved an additional contribution or advance of \$4,583,587 for preconstruction work on the DCP planned for calendar year 2026 and \$6,875,383 for calendar year 2027.

Whereas, each Contribution Letter is an amendment to the Agreement. The Original Agreement and all amendments constitute the Agreement.

Whereas, the Parties agree to amend the terms of the Agreement to reflect certain conditions for the expenditure of Contractor's share of funding. All capitalized terms and specialized words of art used herein shall have the same meaning as that provided in the Agreement, unless specifically defined otherwise herein.

Now, therefore, the Parties agree that the following provisions of the main body of the Agreement are amended as follows:

Section 1.b. The definition of "Contributed Funds" is amended and restated in its entirety: "Contributed Funds" means money contributed or advanced to DWR by Contractor pursuant to this Agreement. The total amount Contractor agrees to provide for calendar years 2026-2027 is \$11,458,970 and is comprised of the following annual amounts to be paid to be paid to DWR in the manner described in Section 5 of this Agreement, \$4,583,587 for 2026, and \$6,875,383 for 2027.

Section 1.n Section 1.n is added and provides the definition of "Major Permits:" Major Permits means Biological Opinions from the U.S. Fish and Wildlife Service and National Marine Fisheries Service under the federal Endangered Species Act; an Incidental Take Permit from the California Department of Fish and Wildlife under the California Endangered Species Act; an order from the State Water Resources Control Board (SWRCB) approving a change in points of diversion

for the State Water Project's water rights under the California Water Code; and Delta Reform Act compliance, which may include a certification of consistency with the Delta Plan under the Delta Reform Act to be submitted to and, if appealed, adjudicated by the Delta Stewardship Council.

- Section 3 Section 3 of the Agreement is amended to add: "The purpose of this Agreement is not to establish or otherwise determine Contractor's right to the DCP or those benefits associated therewith."
- Section 4 Section 4 is amended to add the following after the last sentence: DWR will not use funds provided under this Agreement to construct the DCP, since Contractor's Board has only approved funding for Work during the planning phase for calendar years 2026 and 2027, not its participation in the construction, operation, maintenance and benefits of the DCP.
- Section 5 Section 5 is deleted and replaced with the following: DWR will invoice Contractor for two (2) 2027 rebills, with the first to be issued on or about _____, 2027 for the 2026 payments, which shall be payable in twelve (12) equal installments within thirty (30) days of the date of the invoice rendered by DWR. The second rebill will occur in June 2027 for the 2027 payments and shall be payable through seven (7) monthly payments due within thirty (30) days of the date of the invoice rendered by DWR. If Contractor is satisfied with applicable DCP conditions and if capacity for additional participation in the DCP is then available, Contractor may increase its level of participation in DCP as otherwise permitted under applicable agreements. DWR will invoice Contractor for its annual Contribution Payments as specified above. The amount to be invoiced will not be revised if the Department issues a revised SWP water supply allocation on or after May 31st of the year. A portion of the Contractor's annual Contribution for 2026 and 2027 may be deferred depending upon the annual SWP water supply allocation forecast and the amount payable in such year correspondingly reduced (Reduced Annual Contribution); provided, however, that the amount deferred (Deferred Amount) shall be due and payable to DWR no later than July 1, 2029, and shall accrue interest at the State of California Surplus Money Investment Fund rate from July 1st of the applicable year until payment has been made by Contractor. Contractor shall provide Department 30 days advance notice of intention to pay any amount deferred under the Agreement.

If the 2027 State Water Project Allocation percentage triggers the deferral process under Article 5, as set forth below, then Contractor and DWR will identify the payment schedule based on this Agreement, including interest. Conversely, if the 2027 State Water Project Allocation percentage does not trigger the deferral process under Article 5, as set forth below, and Contractor elects not to defer payment, then DWR will rebill the Agency in June 2027 to include the full year of payments over seven (7) months.

If, in any year, the calculated "Cost per AF" is greater than \$55.00 (first formula), then Contractors annual contribution for that year shall be reduced (second formula) and a portion deferred (third formula)

Formula to determine if a reduction is in order:

Annual Contribution/(Contractor's Table A * SWP Allocation Percentage) = Cost per AF

Formula to determine Contractor's reduced annual contribution:

Reduced Annual Contribution = \$55 (Contractor's Table A * SWP Allocation Percentage)

Formula to determine deferred amount:

Deferred Amount = Annual Contribution – Reduced Annual Contribution provided that if DWR does not obtain all Major Permits on or before December 31, 2026, or if anything occurs that results in a material adverse change, individually or cumulatively, in the benefits or costs of the DCP relative to the 2024 Cost Estimate and 2024 Benefit-Cost Analysis or the projected capital costs of the SWP, Contractor may pause or adjust payments or terminate the Agreement in its sole discretion as follows: If Contractor determines there has been a material adverse change, it shall provide written notice to DWR, and the Parties shall meet and confer in good faith with one another and with the other State Water Project contractors that have entered into agreements with DWR to contribute funds for 2026-2027 Work to resolve Contractor's concerns. If, after meeting and conferring, DWR and Contractor are unable to reach agreement regarding how to address Contractor's concerns regarding delays in Major Permits or the material adverse change, Contractor may in its sole discretion give written notice of its intent to pause payments under or terminate this Agreement.

Upon such written notice, DWR, Contractor, other State Water Project contractors funding the 2026-2027 Work and the DCA shall enter into a written agreement or other instrument ("plan") to accommodate Contractor's orderly pause or adjustment in funding or termination of this Agreement in a manner that ensures DWR's and the DCA's abilities to fund any outstanding contractual obligations and liabilities incurred prior to the pause or adjustment in funding or termination of this Agreement; provided however that the Contractor shall not be responsible for the funding of any new obligations and liabilities incurred by DWR and the DCA after the pause or adjustment in funding or termination of the Agreement, except as otherwise provided in the aforementioned written agreement or other instrument. In no instance shall any pause, adjustment, or termination by Contractor relieve Contractor from any obligation to pay for costs incurred prior to the good faith completion of the required consultation and delivery of subsequent written notice of pause, adjustment, or termination. No costs incurred or otherwise obligated prior to that time shall be shifted to other participants because of Contractor's pause, adjustment, or termination.

The Parties agree that new actions or obligations may be needed to minimize DCA and DWR total obligations incurred prior to the pause or adjustment in funding or termination of this Agreement or to facilitate an orderly termination

or suspension of the Work, and in either case so as to ensure their full payment and that such actions would facilitate an orderly pause or adjustment in funding or termination of this Agreement. All scheduled Contractor payments shall continue to be made for obligations and liabilities incurred by DWR or the DCA prior to the pause or adjustment in funding or termination of this Agreement. If, under the plan, there are Contractor-Contributed Funds remaining in DWR's account after satisfying DWR's and the DCA's existing obligations and liabilities as well as those relating to such new actions or obligations, DWR shall refund that amount to Contractor. If the process for pausing or adjusting funding under or terminating this Agreement requires Contractor to make additional payment(s) of Contributed Funds, Contractor shall make such payment(s) consistent with the negotiated plan.

Examples of events that may result in a material adverse change, individually or cumulatively, in the Contractor's ability to participate in the DCP include, without limitation, Major Permit conditions that diminish the DCP's water supply benefits or that impose costly additional mitigation measures, delay in obtaining one or more Major Permits that incurs significant cost escalation, changes DWR makes to the DCP or the DCP Final Environmental Impact Report, adopted Findings, or the Statement of Overriding Considerations and Mitigation and Monitoring and Reporting Program in response to any court order in litigation, adoption of or amendment to the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta Plan) resulting in limits on SWP exports beyond those contemplated in the Agreements to Support Healthy Rivers and Landscapes (formerly known as the Voluntary Agreements), other conditions arise that materially impact the SWP's ability to convey DCP water, and discovery of new information by the DCA about soil or other conditions in the DCP alignment and project footprint that significantly increases the cost of construction.

In addition, if DWR is prohibited by court order from conducting any geotechnical work planned for calendar years 2026 or 2027, the Parties shall meet and confer to revise the Pay-Go Charge such that the costs to perform such work shall not be due until the court order enjoining such work is lifted.

Section 8 Section 8 is amended to read: "Status of Project. Contractor recognizes that that the initial funds contributed pursuant to this Agreement from 2021 to 2024 are for the planning activities in support of DWR's environmental review and permitting process, including but not limited to the Work, for a potential Delta conveyance project. Contractor recognizes that the funds contributed in calendar years 2026 and 2027 are for the Preconstruction Work, which includes advancing the design and engineering of the DCP, further planning and permitting, and any additional environmental review. The advance or contribution of Contributed Funds is not contingent on, or in exchange for, DWR's agreement to exercise its discretion in future to approve a Delta conveyance project or any changes to the approved DCP. DWR does, however, agree to periodically provide Contractor with updated information regarding the status of the Work and the DCP overall. DWR will provide Contractor with updated yield projections for the DCP and timelines for its implementation,

promptly upon DWR becoming aware of material changes concerning yield assumptions or regarding such changes to the DCP timeline.”.

Section 12 [update designated representative where appropriate]

This Second Amendment does not amend any other provision of the Agreement.

Kern County Water Agency

Date

Eric Averett, General Manager
Kern County Water Agency

Department of Water Resources

Date

Hong Lin
State Water Project Financial Manager
California Department of Water Resources

[AGENCY LETTERHEAD]

July xx, 2026

[address]

Re: Contribution or Advance of Money for Delta Conveyance Planning Activities

Dear Ms. Lin:

This letter is sent pursuant to section 5 of the Agreement for the Advance of Contribution of Money to the Department of Water Resources for Preliminary Planning and Design Costs Related to a Potential Delta Conveyance Project approved on November 18, 2020 between Department of Water Resources and the Kern County Water Agency ("Funding Agreement").

On July 23, 2026, the Board of Directors of the Kern County Water Agency approved the contribution or advance of \$11,754,802 to the Department for use in accordance with the terms of the Funding Agreement. A copy of the Board's resolution is enclosed with this letter. The contribution or advance will be collected from Kern County Water Agency by inclusion of charges on its Statement of Charges in 2027 for the 2026 and 2027 years that Department will issue to the Agency. The charge shall be referred to as Pay-go Charges for 2026 and 2027. As provided by section 5 of the Agreement the contribution or advance described herein will be subject to the terms and conditions of the Funding Agreement.

Please confirm your agreement to the foregoing by countersigning in the space provided below and returning an original copy of this letter agreement to Kern County Water Agency at 3200 Rio Mirada Drive, Bakersfield, California 93308.

Eric Averett, General Manager

Department of Water Resources

By_____

Its_____

Enclosure

cc: Carrie Buckman, Delta Conveyance Office