



ZONE 3 ADVISORY COMMITTEE

San Luis Obispo County Flood Control and Water Conservation District

AGENDA

Thursday, Sept 17, 2020 6:30 P.M.

Due to COVID-19 Meeting Protocols
we will hold the meeting via Goto Meeting or via Phone

Phone line: +1 (646) 749-3122

Access Code: 369-990-789

OR

Webinar: <https://global.gotomeeting.com/join/369990789>

- I. CALL TO ORDER AND ROLL CALL
- II. PUBLIC COMMENT
This is also an opportunity for members of the public to address the Committee on items that are not on the Agenda
- III. APPROVAL OF MEETING MINUTES
 - A. July 16, 2020 Regular Meeting and Special Meeting Aug. 27, 2020 – [Attachment 1](#)
- IV. OPERATIONS REPORT
 - A. Water Plant Operations, Reservoir Storage, Downstream Releases - [Verbal Update](#)
 - B. Projected Reservoir Levels – [Attachment 2](#)
 - C. July & August Monthly Operations Report – [Attachment 3](#)
- V. INFORMATION ITEMS
 - A. Cloudseeding Final Report – [Presentation by Consultant](#)
 - B. 4th Quarter Budget Status - [Attachment 4](#)
- VI. CAPITAL PROJECTS UPDATE
 - A. Bi-Monthly Update – [Attachment 5](#)
- VII. ACTION ITEMS (No Subsequent Board of Supervisors Action Required)
- VIII. ACTION ITEMS (Board of Supervisors Action is Subsequently Required)
 - A. Water Supply Contract Changes – CEQA – [Attachment 6 & Presentation](#)
- IX. FUTURE AGENDA ITEMS
 - A. Terminal Dam De-Commissioning
- X. COMMITTEE MEMBER COMMENTS

Next Regular Meeting is Tentatively Scheduled for
November 12, 2020 at 6:30 PM
Agendas accessible online at www.slocounty.ca.gov/pw/zone3



**SAN LUIS OBISPO COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT
ZONE 3 ADVISORY COMMITTEE
DRAFT MEETING MINUTES
THURSDAY July 16, 2020**

- I. **Call to Order and Roll Call** -- The Zone 3 Advisory Committee Meeting was called to order at 6:30 PM via GoTo Meeting due to the Covid-19 pandemic by Representative, Karen Bright.

County Public Works Utilities Division Senior Engineer and Secretary to the Advisory Committee, Jill Ogren, called roll. Quorum was present. Members in attendance were:

- Kristen Barneich, City of Arroyo Grande
- Karen Bright, City of Grover Beach
- Marcia Guthrie, City of Pismo Beach
- Shirley Gibson, Oceano CSD
- Brad Hagemann, County Services Area 12
- Brian Talley, Agriculture Member
- Jim Garing, Member at Large

- II. **Public Comment** – No public comment was given.

III. **Recognition of Jim Garing's 39 Years of Service to the Zone 3 Lopez Water Project**

IV. **Officer Rotations**

- A. Committee Chair rotating from City of Arroyo Grande Representative to City of Grover Beach Representative.
- B. Committee Vice-Chair rotating from City of Grover Beach Representative to City of Pismo Beach.

V. **Approval of Meeting Minutes**

- A. **May 21, 2020 and Special Meeting May 28th Budget Endorsement** – *Member Barneich motioned approval of the minutes* and Member Talley seconded. Member Bright requested roll call for approval. Quorum was met and *motion passed*.

VI. **Operations Report**

- A. **Water Plant Operations, Reservoir Storage, Downstream Releases** – Lopez Water Plant Operations report was unavailable.

- B. **Projected Reservoir Levels** – Ms. Ogren discussed the Lopez Reservoir Projections Chart and noted that the yellow line shows anticipated storage if no further rain is received. Long-range predictions show rain is expected in the coming months.

C. May and June Monthly Operations Report -- Ms. Ogren reviewed the monthly operations reports with the committee. Surplus water declared by Zone 3 agencies was presented to the Board of Supervisors for approval in June. Column for surplus water requested shows zero for agencies as requested water is still being compiled but expected to be available in July. Currently 4 of the 5 agencies have requested surplus water. As of the end of June, 1,500 AF of State Water is stored and will not change until agencies start requesting State Water. Downstream releases are at 2.3 MGD to accommodate the AG Creek Flood Control Channel project of sediment and vegetation removal.

Member Barneich requested a timeframe for how long the downstream releases will be kept to a minimum concerning the AG Creek project. Ms. Ogren stated downstream releases will stay at the minimum through the end of July and begin increases at the start of August.

Member Garing requested an additional downstream release increase once the AG Creek project was completed for an ag well being monitored in Cienega Valley. Ms. Ogren stated she would review the request.

No public comment was given.

VII. Information Items

A. Terminal Reservoir De-Commissioning – Jill Ogren provided an informational Power Point presentation on the Lopez Terminal Reservoir Dam and discussed two alternatives – Seismic Remediation and Legislation/Decommission (Attachments 4 and 5 of the Agenda Packet).

Seismic Remediation process will require a geotechnical assessment, project planning, and remediation design development. Estimated seismic remediation project amount of \$10.5M. The remediation allows for continued use of the reservoir which provides storage for up to 7 days of water in an emergency and a status quo in terms of operations. However, there will be a high cost of remediation and continued maintenance costs for tule removal, seismic monitoring, meeting DSOD requirements, inspections, and water quality issues.

Seismic Remediation		
Item	Cost	Time
Geotechnical Field Investigation	\$300,000	<1 yr
Seismic Retrofit: Including design, construction, permitting, EAP, and Construction Management	\$10,225,000	>2-5 yrs
Total	\$10,525,000	

Legislation process will require conducting a feasibility study, amend the Health and safety Code to allow direct intake from Lopez Lake Reservoir, conduct Lopez Water Treatment Plant assessment, conduct Lopez Lake water quality intake assessment, update watershed sanitary survey and determine new setback and relocate log boom.

Decommissioning the Terminal Dam process will require conducting an environmental assessment, permits (CDFW, Regional Water Quality Control Board, Source Water), dam removal (partial or full) and environmental mitigation/restoration efforts.

Legislation/Decommissioning of the Terminal Dam will allow potential mitigation bank for local projects, long term maintenance savings, potential grant funding and public safety. However, there will be 2-3 years for legislation process, legislative support from local congressman, unknown environmental impacts/mitigation/costs/timing, new recreation set back at Lopez Lake, additional water quality testing, additional maintenance on the bypass pipeline, and loss of 7-day storage.

Legislation/Decommissioning Terminal Reservoir		
Item	Cost	Time
Legislative Process to Amend Health and Safety Code	\$35,000.00	-2 yrs
Lopez Water Treatment Assessment: Hiring a consultant, Ozone requirements, new equipment	\$625,000.00	>1 yr
Update Watershed Sanitary Survey	-	
Relocate Log Boom	\$15,000.00	
Dam Decommissioning	\$50,000.00	
Dam Removal		
Environmental EIR/EA	\$3,210,000.00	
Environmental Mitigation/Restoration Efforts 30-50 Acres	\$150,000.00	
Environmental CDFW Permit	\$1,000,000.00	
Environmental RWQCB Permit	\$175,000.00	
Updating Source Water Permit	\$175,000.00	
Total	\$5,440,000.00	

On July 8th, Zone 3 Technical Advisory Committee recommended moving forward with the feasibility study to better understand the alternative of decommissioning the Terminal Reservoir and Dam. \$50,000 of the Zone 3 District Designated Reserves was earmarked for this study during the 20/21 budget review. Total costs could potentially be higher than current estimates and may need an additional transfer of the District Designated Reserves into the Zone 3 Operations Fund. If the additional transfer requires more than \$50,000, other options will need to be reviewed to cover further funding.

Member Guthrie agreed with the Technical Advisory Committee's assessment of a further study but questioned if there were any penalties for not acting within a specific timeframe. Ms. Ogren stated that it is noted in the staff report included in the agenda packet that there is a timeframe the study would need to be completed. When DSOD was approached to obtain a permit for a geotechnical study, it alerted them to a potential issue with the Terminal Dam. The County asked for an extension to do the feasibility study and a one year extension was granted to conduct the study with the expectation of a detailed report in how the County wished to proceed be submitted to DSOD by June of 2021. The estimated \$10.5M for the Seismic Remediation is a worst-case scenario estimate, but costs have the potential to be less.

Member Gibson asked why there is a wide range of cost estimates between \$3.2M and \$10.5M as a worst-case scenario, Ms. Ogren stated that the costs are unknown at this time as further studies need to be done in order to assess which direction to go with the Terminal Reservoir. The best-case scenario would be to reconnect the drainage which would only require removal of the spillway.

Member Hagemann asked if the potential mitigation bank for local project implied that the County might be able to use or make that available to other projects to offset impacts and Ms. Ogren confirmed this, however, it is currently hard to determine at this time if this option would be a cost to the County or a benefit. At this time, Environmental believes it would be a benefit as a mitigation bank and other agencies would pay into the area to be able to mitigate their projects while only paying for maintenance costs. It is unknown what 40 acres of potential mitigation area would be worth. Member Hagemann followed up in asking if DSOD would care if there is no water behind an earthen dam, Ms. Ogren responded that the County would not know until the feasibility study is conducted.

Member Bright asked what kind of recreational setback or loss there would be for Lopez Lake regarding public access, Ms. Ogren stated that the intake structure for Lopez Lake is located on the far side of Lopez Dam. This is the area where the log boom would be located and there is not a beach near this structure, but 500 feet out there could still be a potential impact for water activities such as water skiing. Public access to the beach would not be hindered or lost. Member Bright followed up in asking about the loss of the watershed storage as the staff report states the water treatment plant would be able to deliver up to 8 hours of water and at that point State Water would be utilized but City of Grover Beach does not use State Water and wondered if they would not be concerned with this aspect. Ms. Ogren clarified that if the County did not use the Terminal Reservoir and there was an issue with the water treatment plant requiring a shutdown, the clear well reservoir is available to hold 8 hours' worth of water and it would be during this situation where State Water would be used since State Water is already treated. For City of Grover Beach, an exchange would take place or Lopez water would not be taken and ground water would need to be utilized.

Member Barneich questioned when the Advisory Committee will know more regarding the costs of the feasibility study, Ms. Ogren stated that a Request for Proposals (RFP) would be issued and can be handled two different ways. The County would put together the scope of work and include it in the RFP for people to bid on or the County would ask for a request for qualifications to determine if a consultant is qualified to do the work. Once the County chooses a qualified consultant under the request for qualifications, the County and consultant would work together to create a scope of work and cost.

No public comment was given.

B. Water Supply Contract – Jill Ogren provided an update on the water supply contract (Attachment 5 of the Agenda Packet). Currently, the District and Zone 3 Agency Staff have been working to develop the specific contract language changes required to meet the goals and objectives of the Contract Change initiative and a subcommittee was formed to work through the process of modifying the contracts. The subcommittee has completed their review and prepared specific contract language edits for review by the Zone 3 TAC and District Legal Counsel. The proposed contract

changes have been provided to the District Environmental team for review and to initiate the CEQA process. The Environmental team are in the process of preparing a draft Project Description and Notice of Preparation for the Contract Change initiative.

The next step would be for the Advisory Committee to review the proposed contract edits and the draft Project Description at the September Advisory Committee Meeting on September 17th with the goal to obtain input on the proposed changes and a recommendation to formally initiate the CEQA process. This will include the District Environmental Staff publicly releasing the Notice of Preparation and Project description to local, regional, and statewide stakeholders and regulatory agencies and preparing the appropriate CEQA Document (e.g. Negative Declaration, Mitigate Negative Declaration, etc.).

No public comment was given.

VIII. Capital Projects Update

B. Bi-Monthly Update – Jill Ogren provided updates on capital projects (Attachment 6 of the Agenda Packet), and there are a couple of notable changes.

Concerning the Spillway Assessment, DSOD responded to the work plan assessment by GEI and the District is preparing comments for resubmittal. DSOD had agreed with the condition assessment and the recommendations for the work plan. DSOD has given the District one year to determine the feasibility of remediating the dam or decommissioning the terminal reservoir. A cost benefit assessment has been prepared by the District.

Regarding the Cathodic Protection Survey, this project could potentially be costly based on the report received from the consultant and a list of various repairs were included. There may an opportunity to install some cathodic protection where there was not already. This is another big-ticket item that will be the next highest priority.

Ms. Ogren stated that there may be additional projects added by the next Advisory Committee meeting on September 17th and this will be work that was budgeted for the 20/21 FY.

No Public comment was given.

IX. Action Items (No Subsequent Board of Supervisors Action Required)

No Action Items discussed.

X. Action Items (Board of Supervisors Action is Subsequently Required)

XI. Future Agenda Items

A. Contract Changes

B. Cloudseeding Final Report

XII. Committee Member Comments

Meeting Adjourned at 7:30 PM

Respectfully Submitted,

Jenny Williamson
County of San Luis Obispo Public Works Department



**SAN LUIS OBISPO COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT
ZONE 3 ADVISORY COMMITTEE
DRAFT MEETING MINUTES
THURSDAY August 27, 2020**

- I. Call to Order and Roll Call** -- The Zone 3 Advisory Committee Meeting was called to order at 1:30 PM via GoTo Meeting due to the Covid-19 pandemic by Chairperson, Karen Bright.

County Public Works Utilities Division Senior Engineer and Secretary to the Advisory Committee, Jill Ogren, called roll. Quorum was present. Members in attendance were:

- Kristen Barneich, City of Arroyo Grande
- Karen Bright, City of Grover Beach
- Marcia Guthrie, City of Pismo Beach
- Shirley Gibson, Oceano CSD
- Brad Hagemann, County Services Area 12
- Brian Talley, Agriculture Member

- II. Public Comment** – Jill Ogren announced receiving Jim Garing’s formal resignation from the Advisory Committee. A vacancy will be posted about the Member At Large position and applications for the open position are being accepted. Once an applicant is selected, their application will be brought forth to the Board of Supervisors for approval.

III. Action Items (Board of Supervisors Action is Subsequently Required)

A. Agreement with Tesla for Energy Battery Storage Project at Lopez Water Treatment Plant – Presentation by County Energy & Water Coordinator Annie Secrest and Tesla Associate Account Manager Caleb Patrick (see Attachment 1 and the Power Point Presentation PDF in the August 27th Agenda Packet). It is recommended that the Zone 3 Advisory Committee support Zone 3 entering into a Tesla Power Products Agreement for Battery Energy Storage for the Lopez Water Treatment Plant.

Jill Ogren stated that this is an opportunity for the County to receive free battery storage units, the main benefit would be the ability shave off peak usage at the Water Treatment Plant. The plant currently has a backup generator on site in the event of loss of power, however, this agreement has been deemed beneficial for the plant due to certain processes that need to be maintained for public safety during a power outage.

The opportunity for battery storage is coming from The California Public Utilities Commission’s (CPUC) Self-Generation Incentive Program (SGIP) which promotes

the use of energy storage through incentives to install battery storage systems to a customer's utility. Tesla's roll is to a group potential projects and submit them to the SGIP program to obtain the grant. Tesla gets the benefit of this partnering by being paid 50% of the cost of the battery after installation, the other 50% is performance based and is paid out over the first 5 years. Tesla will handle the Operations and Maintenance (O&M) for the first ten years and the County will take responsibility for O&M from year 10 to year 20 which is the anticipated life of the battery system. The County owns the battery as soon as it is installed. The provisions in the contract allow the County to walk away from the project if Tesla changes the price or if the County decides against the project. The County can also return the batteries at the end of 20 years by sending to Tesla's recycling facility

The County identified eligible sites through data collection and analyses, received Tesla proposals and prepared applications to SGIP. The next steps will be to receive approval from the Flood Control District for Tesla to submit to SGIP and, if approved, implement project with Tesla, receive approval from the County Board of Supervisors, and receive approval from the State. Once approval is received, Tesla will install battery energy storage systems.

Jill Ogren stated that this proposal was originally brought to the Technical Advisory Committee (TAC) through an email poll and received support from Oceano, Pismo, CSA-12 and verbal phone approval from Grover Beach. Arroyo Grande, in general, did not approve the proposal due to the rushed way the project is being pushed without proper vetting.

Member Talley asked Ms. Ogren if she had seen Greg Ray's (City of Grover Beach) email on the project. Mr. Ray said he was generally in support but he wanted to be sure it would produce at least 75% of savings or else it could potentially void the contracts and had concerns about extensions for the "act of God" events. Mr. Patrick answered that it is advisable that the equipment be insured to cover such events so Tesla can cover the repairs per the workmanship warranty. There is no performance guarantee in the contract, the savings come from the operation of the battery per the performance-based incentive of the SGIP. This is the mechanism by which Tesla gets paid back and so the battery must be cycled (charged) in a certain way to get paid back for the battery. As a result of the battery being cycled, the site will benefit in the forecasted savings amount Ms. Secrest covered in the presentation.

Member Gibson asked if Tesla has ever had battery failures or major catastrophes. Mr. Patrick stated they have never had any thermal run-away events in their storage systems and their testing reports can be provided upon request. The battery is structured to keep core components shielded from outside elements and the battery uses food grade coolant. The battery is not able to emit any pollutants due to its structure. At the time of removal there are no risks of any failures or major catastrophes as it is self-contained.

Member Barneich asked Ms. Ogren if the rushed timing is due to the funds running out if there is a delay in deciding to participate in the program. Ms. Secrest stated that

the reason for the rush is due to the constrained timeline to receive funding. Ms. Secrest is hoping to couple the Water Treatment Plant with three other sites being considered for the program and trying to submit approvals before the State's funding runs out. Mr. Patrick elaborated in stating that this is a first come first serve program and a contract needs to be in place before earmarking and receiving funding for the program. Tesla puts a deposit down for each project and has 250 days from the time of receipt of submission is approved to cancel and receive the deposit back. Tesla has until the end of September to get the application in for the program and receive State funding. Ms. Secrest stated that the House Campus in SLO, the Public Health Building in SLO and the Santa Margarita Booster Station are the other three potential locations to be coupled with Lopez Water Treatment Plant.

Member Talley asked if solar was ever considered in the future, would the Tesla battery be able to accommodate a solar option. Mr. Patrick confirmed the Tesla battery would have that capability. Member Talley followed up asking if there have been any batteries in service for over 10 years, Mr. Patrick stated there are none at this time as the oldest battery in service is 8 years old. There is battery degradation and a 15-year warranty can be provided upon request that details coverage and battery expectancy. As part of the contract, if the County decides to keep the Tesla battery after pulling from the project they can as the contract does not require the battery's return. County counsel did not suggest or recommend any negotiations for this contract.

Member Gibson noted that the County is the 5th or 6th highest energy users and wanted to know if that is due to the peak usage. Ms. Secrest stated that the location has peak hours due to the operations, services and demands compared to a normal office building.

Member Barneich asked if having previous shutdowns in conjunction with PG&E's PSP program would be considered negative markings in being considered for Tesla's Battery Storage Program, Mr. Patrick responded that it does not count against the application as the areas being considered for installation in the County are located in what is considered a "high fire threat" district. It is an either/or for the PSP or being in a "high fire threat" district or you needed to have experienced 2 or more PSP events. Member Barneich followed up asking if it will be a requirement to have the three other sites approved for Lopez to received contract approval. Mr. Patrick stated that each site would be evaluated separately, and the contracts are not considered an "all or nothing" when other sites are included – one site can be approved while the others may be denied.

Ms. Ogren requested the Advisory Committee to move to make a motion to support Zone 3 entering into the Tesla Battery Storage project as per the staff report for recommendation. Member Bright motioned approval of the recommendation in the staff report to support Zone 3 entering into the Tesla Power Products Agreement for Battery Energy Storage, Member Gibson seconded. Ms. Ogren conducted roll call for approval. **Motion passed.**

IV. Committee Member Comments

No committee member comments.

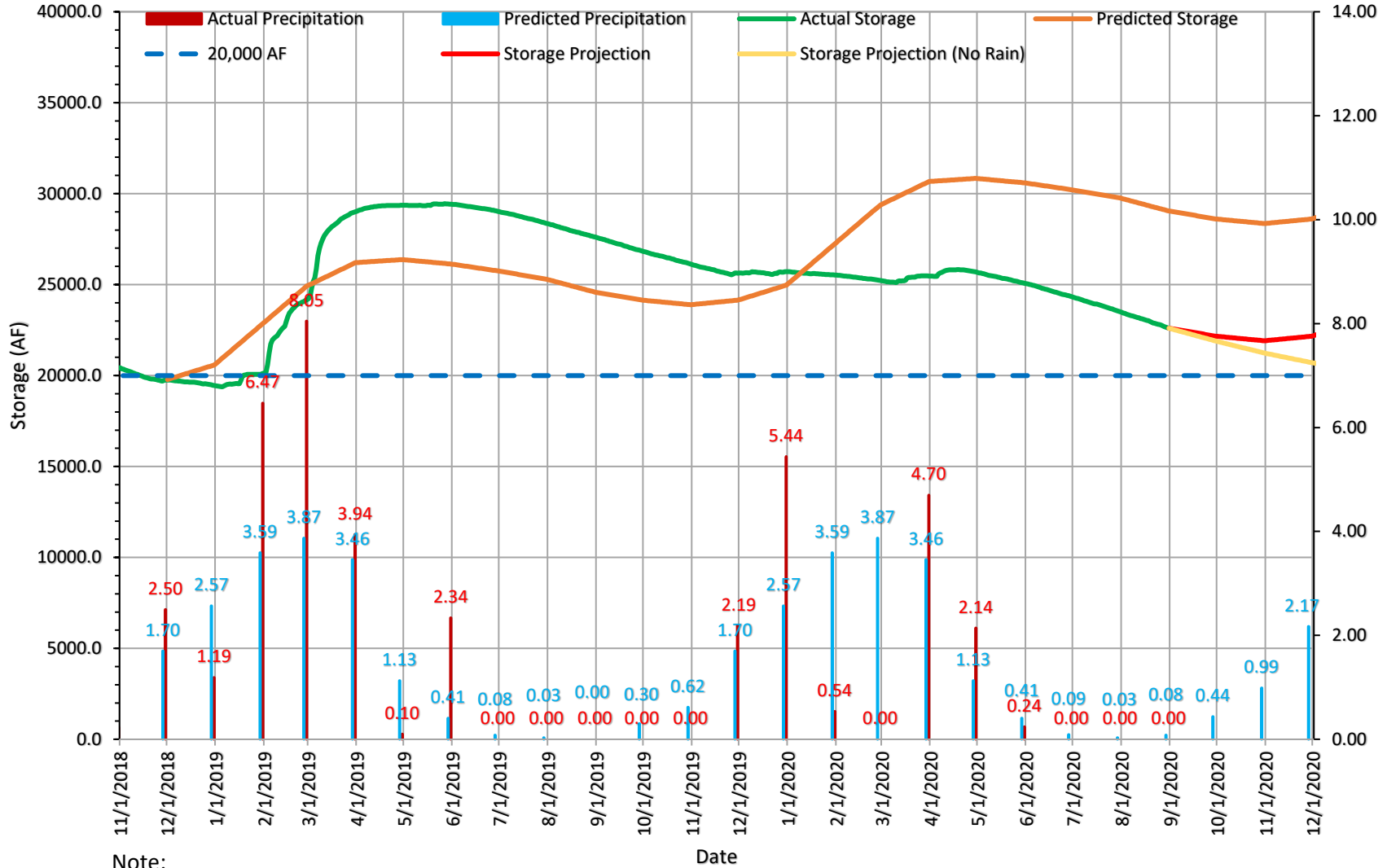
Meeting Adjourned at 2:45 PM

Respectfully Submitted,

Jenny Williamson
County of San Luis Obispo Public Works Department

LOPEZ RESERVOIR STORAGE PROJECTION

ATTACHMENT 2

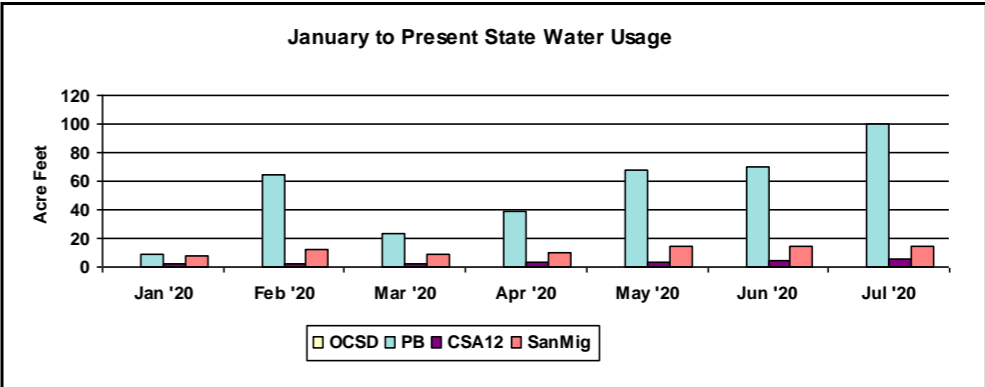
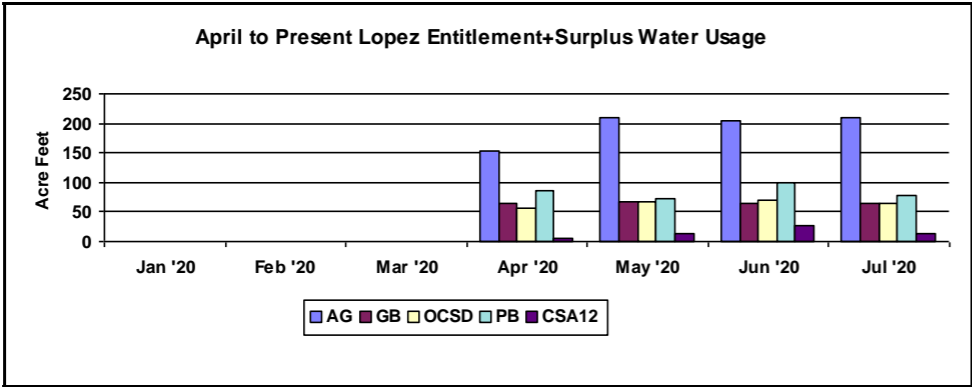


Note:

1. Storage projection is based on predicted rainfall from longrangeweather.com, historic inflow based on predicted rainfall, 20-21 downstream release requests, and municipal usage.
2. Municipal Usage is based on 2010-2017 average monthly deliveries.

San Luis Obispo County Flood Control and Water District
 Zone 3 - Lopez Project - Monthly Operations Report
 July, 2020

Contractor	Lopez Water Deliveries										State Water Deliveries							Total Water Deliveries This Month							
	Entl.	Surplus Water Declared	Surplus Requested	Total Available Water	This Month				April to Present						Annual Request	This Month				January to Present					
					Entitlement		Surplus		Entitlement		Surplus		Total			Usage	% of Annual Request		SWP Deliveries	Change in Storage	Usage	% of Annual Request	SWP Deliveries		
					Usage	%	Usage	%	Usage	%	Usage	%	Usage	%											
Arroyo Grande	2290	911.00	111.00	2401.00	209.87	9.2%	0.00	0.0%	776.56	33.9%	0.00	0.0%	776.56	32.3%										209.87	
Oceano CSD	303	121.00	321.00	624.00	65.76	21.7%	0.00	0.0%	260.86	86.1%	0.00	0.0%	260.86	41.8%	227	0.00	0.0%				0.00	0.0%			65.76
Grover Beach	800	318.00	100.00	900.00	64.97	8.1%	0.00	0.0%	261.11	32.6%	0.00	0.0%	261.11	29.0%											64.97
Pismo Beach	892	355.00	655.00	1547.00	77.72	8.7%	0.00	0.0%	335.92	37.7%	0.00	0.0%	335.92	21.7%	1120	100.00	8.9%				374.27	33.4%			177.72
CSA 12	245	98.00	0.00	245.00	12.10	4.9%	0.00	0.0%	57.72	23.6%	0.00	0.0%	57.72	23.6%	27	5.46	20.2%				22.17	82.1%			17.56
San Miguelito															127	14.53	11.4%				81.34	64.0%			14.53
Total	4530	1803.00	1187.00	5717.00	430.42	9.5%	0.00	0.0%	1692.17	37.4%	0.00	0.0%	1692.17	29.6%	1501	119.99	8.0%	70	-49.99		477.78	31.8%	481.00		550.41
													Last Month Stored State Water		1509.46			This Month Stored State Water		1459.47					



Note: Deliveries are in acre feet. One acre foot = 325, 850 gallons or 43, 560 cubic feet. Safe yield is 8,730 acre feet.

"Year to Date" is January to present for State water, April to present for Lopez deliveries, and July to present for rainfall.

Lopez Dam Operations	This Month	Year to Date		
Lake Elevation (full at 522.37 feet)	487.42		Difference (feet)	-34.95
Storage (full at 49200 acre feet)	23532		% Full	47.8%
Rainfall	0	0.00		
Downstream Release (4200 acre feet/year)	182.6	877.39		
Spillage (acre feet)	0	0.00		

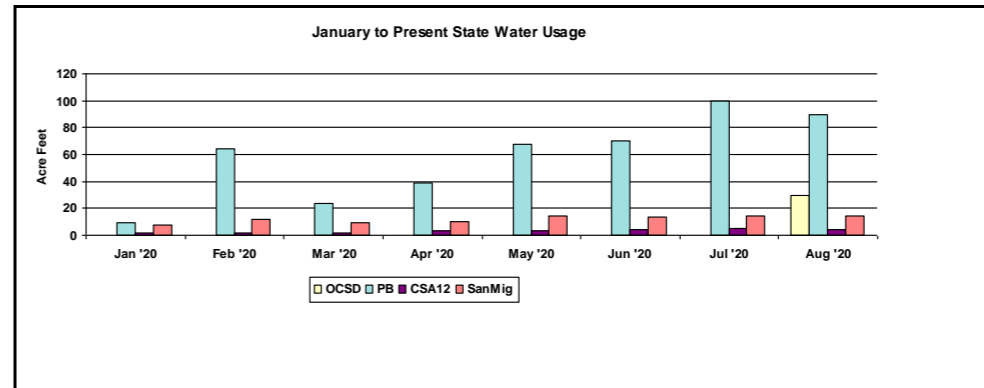
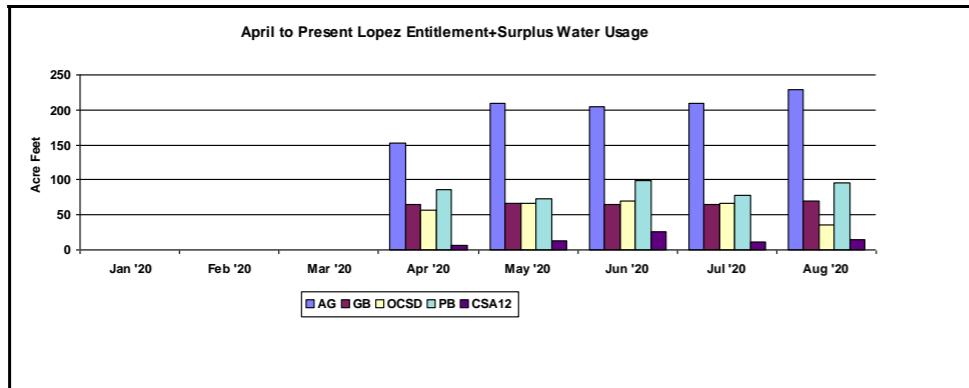
Comments:

1) Oceano supplied water to Canyon Crest via Arroyo Grande's Edna turn out. A total of 2.22 AF delivered to Canyon Crest was added to Oceano's water usage this month and 2.22 AF was subtracted from Arroyo Grande's usage this month.

San Luis Obispo County Flood Control and Water District
 Zone 3 - Lopez Project - Monthly Operations Report
 August, 2020

ATTACHMENT 3

Contractor	Lopez Water Deliveries										State Water Deliveries					Total Water Deliveries This Month									
	Entl.	Surplus Water Declared	Surplus Requested	Total Available Water	This Month				April to Present						Annual Request		This Month				January to Present				
					Entitlement		Surplus		Entitlement		Surplus		Total				Usage	% of Annual Request	SWP Deliveries	Change in Storage	Usage	% of Annual Request	SWP Deliveries		
					Usage	%	Usage	%	Usage	%	Usage	%	Usage	%											
Arroyo Grande	2290	911.00	111.00	2401.00	228.74	10.0%	0.00	0.0%	1005.30	43.9%	0.00	0.0%	1005.30	41.9%											228.74
Oceano CSD	303	121.00	321.00	624.00	35.85	11.8%	0.00	0.0%	296.71	97.9%	0.00	0.0%	296.71	47.5%	227	30.00	13.2%					30.00	13.2%		65.85
Grover Beach	800	318.00	100.00	900.00	69.10	8.6%	0.00	0.0%	330.21	41.3%	0.00	0.0%	330.21	36.7%											69.1
Pismo Beach	892	355.00	655.00	1547.00	95.42	10.7%	0.00	0.0%	431.34	48.4%	0.00	0.0%	431.34	27.9%	1120	90.00	8.0%					464.27	41.5%		185.42
CSA 12	245	98.00	0.00	245.00	15.31	6.2%	0.00	0.0%	73.03	29.8%	0.00	0.0%	73.03	29.8%	27	4.50	16.7%					26.67	98.8%		19.81
San Miguelito															127	14.76	11.6%					96.10	75.7%		14.76
Total	4530	1803.00	1187.00	5717.00	444.42	9.8%	0.00	0.0%	2136.59	47.2%	0.00	0.0%	2136.59	37.4%	1501	139.26	9.3%	72	-67.26			617.04	41.1%	553.00	583.68
													Last Month Stored State Water		1459.47			This Month Stored State Water		1392.21					



Note: Deliveries are in acre feet. One acre foot = 325, 850 gallons or 43, 560 cubic feet. Safe yield is 8,730 acre feet.

"Year to Date" is January to present for State water, April to present for Lopez deliveries, and July to present for rainfall.

Lopez Dam Operations	This Month	Year to Date		
Lake Elevation (full at 522.37 feet)	485.72		Difference (feet)	-36.65
Storage (full at 49200 acre feet)	22580		% Full	45.9%
Rainfall	0.06	0.06		
Downstream Release (4200 acre feet/year)	260.86	1138.25		
Spillage (acre feet)	0	0.00		

Comments:

1) Oceano supplied water to Canyon Crest via Arroyo Grande's Edna turn out. A total of 2.43 AF delivered to Canyon Crest was added to Oceano's water usage this month and 2.43 AF was subtracted from Arroyo Grande's usage this month.



September 17, 2020

MEMORANDUM

TO: Flood Control Zone 3 Advisory Committee
FROM: Kristi Smith, Accountant
SUBJECT: Flood Control Zone 3, Fourth Quarter Budget Status, Fiscal Year 2019-20

Recommendation

The item to be received and filed.

Summary

Attached please find a comparison of the budget to actual expenses for the fourth quarter of fiscal year 2019-20. The \$5.8M budget was broken into three categories: Routine Operations & Maintenance, Non-Routine Operations & Maintenance, and Capital Outlay. At the end of the fiscal year, 70% of the total annual budget had been expended.

Total Budget	Expenses through Q4	Balance Available	% of Budget Expended
5,798,347	4,044,998	1,753,349	70%

Routine O&M: This category had a budget of \$3.9M dollars. At the end of the fiscal year, expenses were 96% of the annual budget, which resulted in a savings of \$163,909.

Total Budget	Expenses through Q4	Balance Available	% of Budget Expended
3,894,400	3,736,634	163,909	96%

Non-Routine O&M: This category had a budget of \$872,073. At the end of the fiscal year, expenses were 30% of the annual budget. As shown in the table, the remaining budget is comprised of approximately \$597,000 that will be carried forward into FY 2020-21 for continued work and a savings of approximately \$10,000 that will be credited back to the agencies during the FY 2019-20 true-up. The bulk of the budget being carried forward is for the Lopez Water Rights/Habitat Conservation Plan (HCP) efforts and the Cloud Seeding Program.

Total Budget	Expenses through Q4	Balance Available	% of Budget Expended
872,073	264,681	607,392	30%
Estimated Carryforward:		597,376	
Estimated Savings:		10,016	

Capital Outlay: This category had a budget of just over \$1M. At the end of the fiscal year, expenses were 4% of the annual budget. Most of the unspent budget will be carried forward into FY 2020-21 to continue the projects through to completion. Approximately \$69,000 in unspent budget will be credited back to the agencies.

Total Budget	Expenses through Q4	Balance Available	% of Budget Expended
1,031,874	43,683	988,191	4%
Estimated Carryforward:		918,849	
Estimated Savings:		69,342	

Other Agency Involvement/Impact

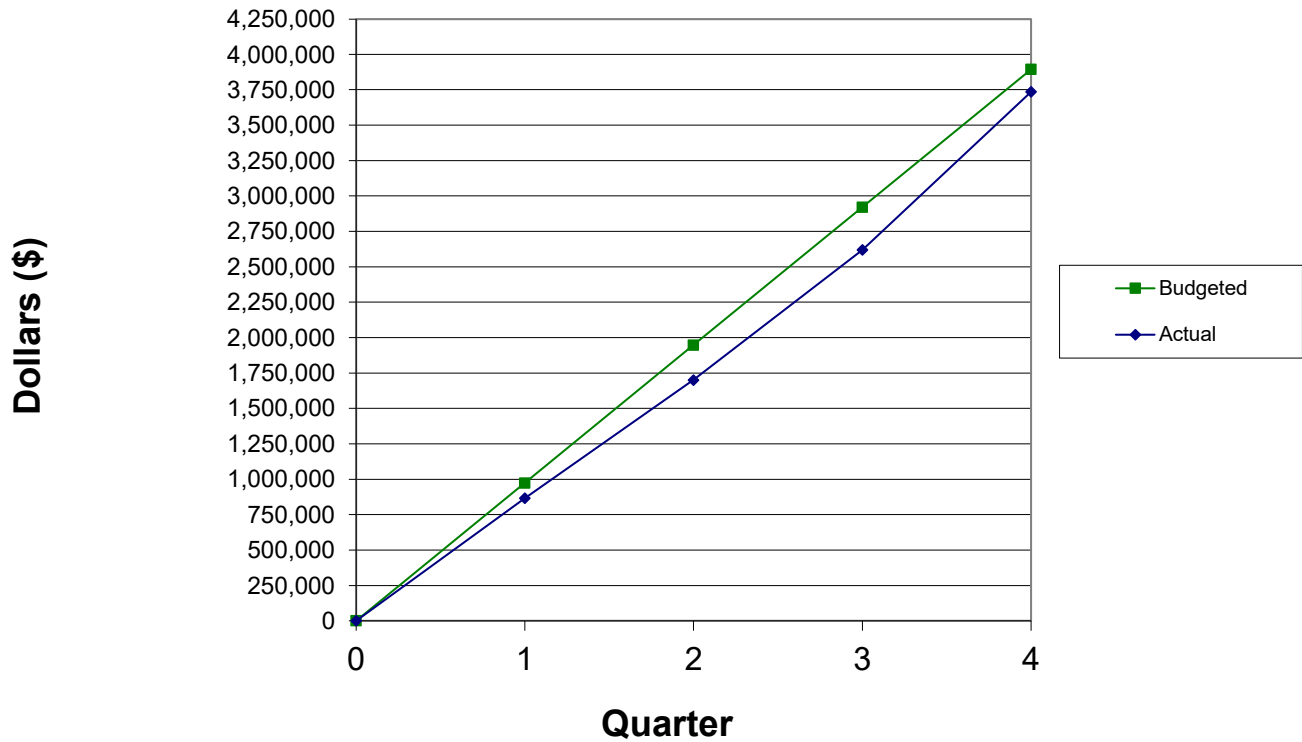
The agencies involved are: City of Arroyo Grande, City of Grover Beach, City of Pismo Beach, Oceano Community Services District, and County Service Area 12. Subcontractors of CSA 12 include Port San Luis Harbor District and Avila Beach Community Services District.

Financial Consideration

All agencies are current on their payments. The estimated credits for FY 2019-20 total \$243,267, which will be allocated to the agencies and mailed along with the 2nd installment of the FY 2020-21 billings that are due January 1, 2021.

Zone 3 Budget Status
4th Quarter FY19/20

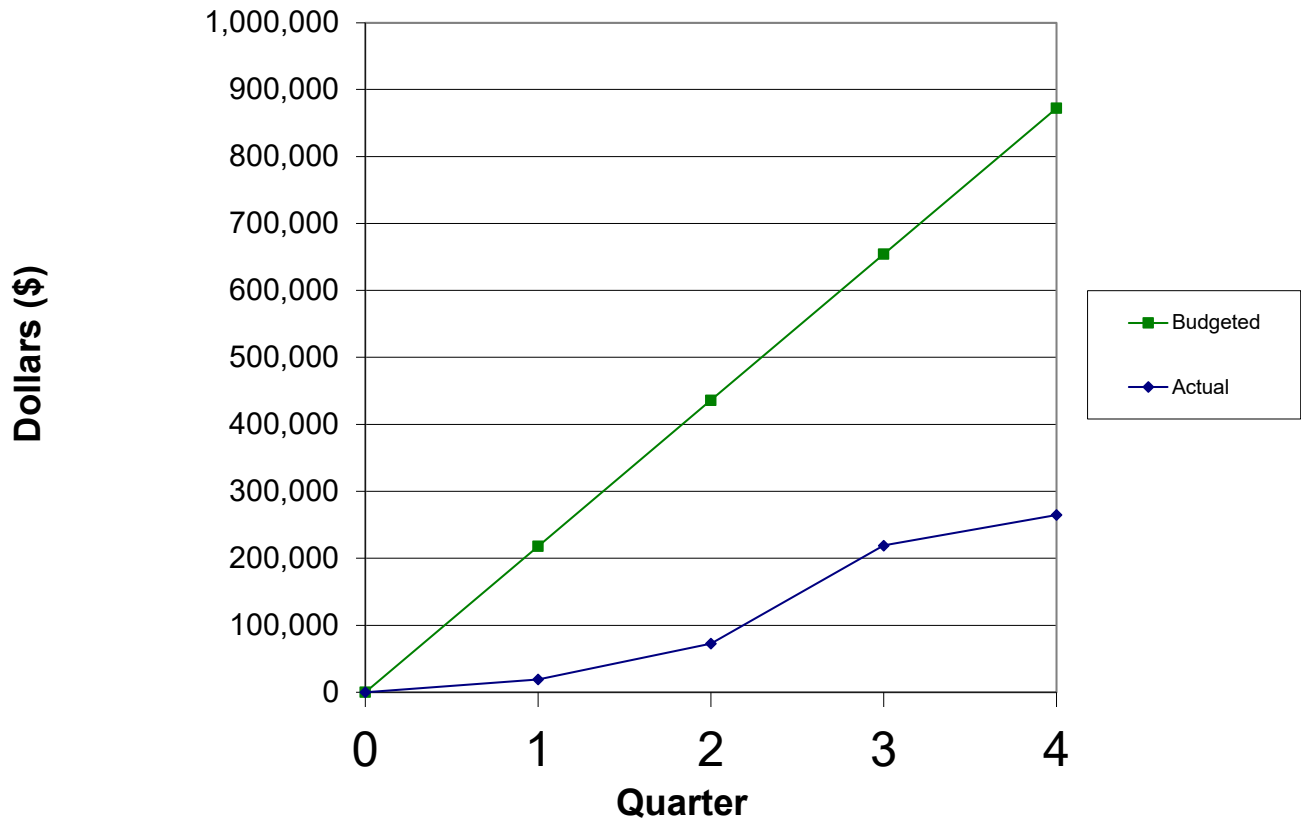
Routine Operation and Maintenance



O&M Routine Category	Total Budget	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	Total	Total Exp as % of Budget	Total Balance Avail
Labor Hours	23,302	4,992	5,074	5,520	5,923	21,509	92%	
Chemicals - Water Treatment Plant	\$ 408,791	\$ 95,951	\$ 104,655	\$ 91,526	\$ 134,199	\$ 426,332	104%	\$ (17,540)
Water Quality Testing - Treatment Plant	56,773	14,394	9,455	9,918	11,336	45,103	79%	11,670
Electricity - Water Treatment Plant	237,747	88,365	70,339	56,473	70,054	285,231	120%	(47,484)
All Other Costs - Water Treatment Plant	1,779,397	360,891	395,446	426,098	464,469	1,646,905	93%	132,492
Terminal	186,695	31,375	20,323	53,139	74,131	178,969	96%	7,727
Main Dam	320,073	89,538	30,308	47,531	128,007	295,384	92%	24,689
Other	904,924	186,052	203,675	233,643	235,341	858,711	95%	46,213
Expenses		866,567	834,202	918,327	1,117,538	3,736,634	96%	157,766
Budget	3,894,400	973,600	973,600	973,600	973,600	3,894,404		
Variance (over)/under		107,033	139,398	55,273	(143,938)	157,766		
% Variance		11%	14%	6%	-15%			

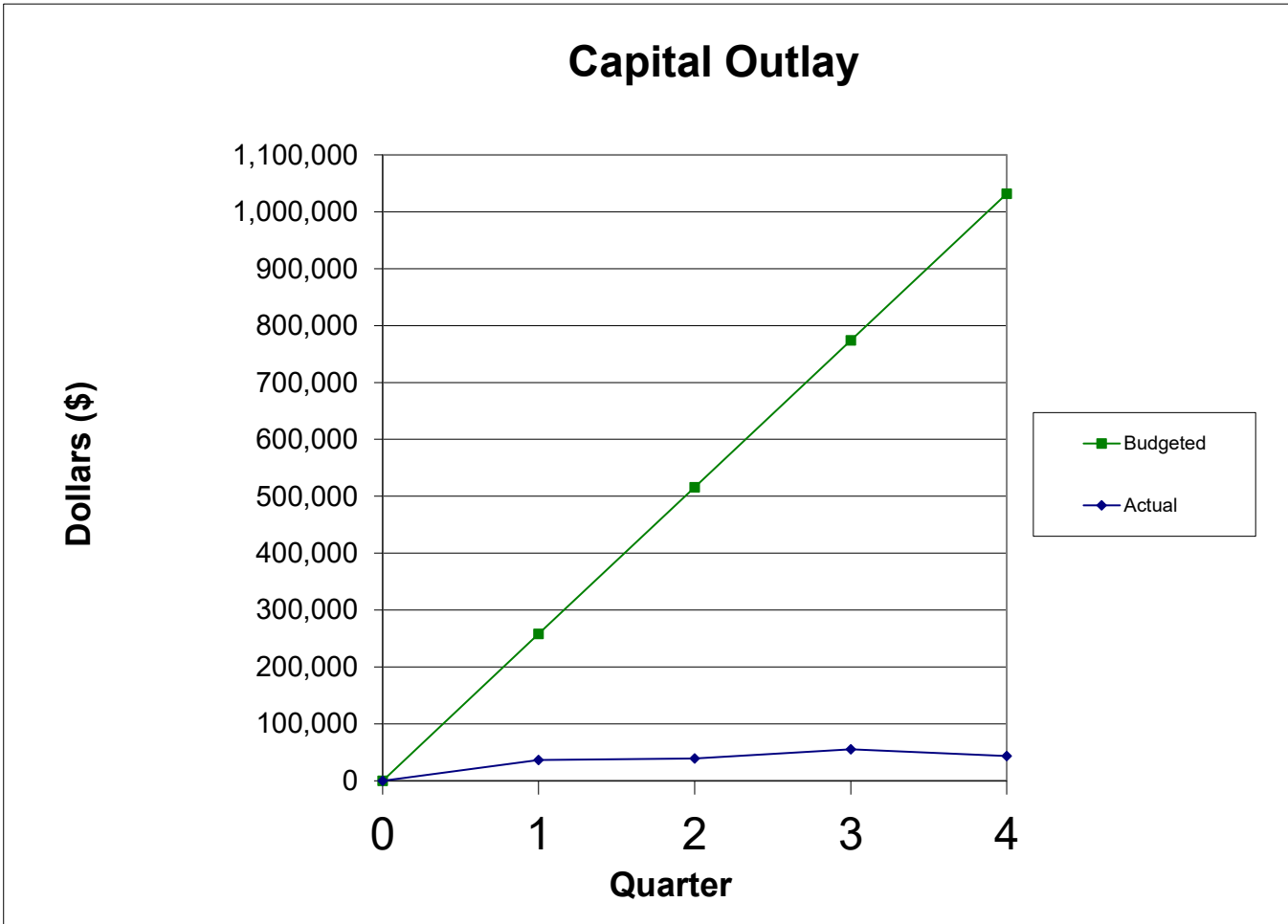
Zone 3 Budget Status
4th Quarter FY19/20

Non-Routine Operation and Maintenance



O&M Non Routine Category	Total Budget	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	Total	Total Exp as % of Budget	Total Balance Avail
Lopez Water Rights /HCP	\$ 431,424	\$ 14,800	\$ 1,706	\$ 8,632	\$ 21,426	\$ 46,563	11%	\$ 384,861
Contribution to ISF for Shared New Equip	37,982	-	744	17	-	762	2%	37,220
Domestic & Fireflow Tank Assessment compl	42,667	-	-	-	-	-	0%	42,667
Cloud Seeding Program	300,000	1,136	24	136,707	21,460	159,328	53%	140,672
Equipment Audit/Replacement Plan	25,000	-	-	-	-	-	0%	25,000
Water Treatment Alternatives Study	35,000	-	-	-	-	-	0%	35,000
Other	-	3,305	50,694	1,285	2,745	58,029		(58,029)
Expenses		19,241	53,168	146,641	45,631	264,681	30%	607,392
Budget	872,073	218,018	218,018	218,018	218,018	872,073		
Variance (over)/under		198,777	164,850	71,377	172,387	607,392		
% Variance		91%	76%	33%	79%			

Zone 3 Budget Status
4th Quarter FY19/20



Capital Outlay Projects	Total Budget	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	Total	Total Exp as % of Budget	Total Balance Avail
Cathodic Protection Maint	153,921	28,705	-	12,440	58	41,202	27%	112,719
Structural Assessment Term Resv Dam	90,000	171	-	-	-	171	0%	89,829
Safety Upgrades to WTP	53,282	-	-	-	-	-	0%	53,282
Rebuild Membrane Feed Pumps completed	23,213	-	-	-	-	-	0%	23,213
Spillway Physical Investigation	200,000	6,188	800	2,730	-	9,718	5%	190,282
Improved Boat Access at Term Res	50,000	-	-	-	-	-	0%	50,000
Ammonia Analyzer Equip Repl	36,609	-	-	-	(20,605)	(20,605)	-56%	57,214
Repair Fault Zone Left Dam Abutment	180,000	-	-	-	-	-	0%	180,000
Equip Storage Garage Design	89,849	-	-	-	-	-	0%	89,849
Domestic Tank Repair	15,000	1,548	2,150	628	-	4,326	29%	10,674
Fireflow Tank Repair	85,000	-	-	-	-	-	0%	85,000
Various Equipment Replacement	55,000	-	-	-	8,871	8,871	16%	46,129
Expenses		36,611	2,950	15,798	(11,675)	43,683	4%	988,191
Budget	1,031,874	257,969	257,969	257,969	257,969	1,031,874		
Variance (over)/under		221,357	255,019	242,171	269,644	988,191		
% Variance		86%	99%	94%	105%			



ZONE 3 Lopez Project

San Luis Obispo County Flood Control and Water Conservation District

TO: Zone 3 Advisory Committee
FROM: David Spiegel, PE
DATE: September 17, 2020
SUBJECT: Zone 3 Projects Update

Project Updates:

- Spillway Assessment (No Change)
 - DSOD responded to the assessment by GEI. The District is preparing comments for resubmittal
 - DSOD agreed with the condition assessment and the recommendations in the report
- Structural Assessment of Terminal Reservoir Dam (No Change)
 - Additional Geotechnical information is needed to understand all the options associated with remediating the dam.
 - The Department of Safety of Dams has given the District one year to determine the feasibility of remediating the dam or decommissioning the terminal reservoir
- Fault Zone Risk Assessment for Dam Left Abutment (No Change)
 - Received one quote at \$39,000
 - Additional quotes needed
- Lopez WTP Safety Upgrades (No Change)
 - Determining options for membrane building safety upgrades
 - Consultant has reviewed the facility and is working on a proposal
- Cathodic Protection Survey (No Change)
 - Developing scope/estimates/quotes for repairs
- Equipment Storage Building (No Change)
 - Potential new site is being investigated, previous two sites had multiple challenges for construction
 - Quotes are being solicited for structural design of new building site



ZONE 3 Lopez Project

San Luis Obispo County Flood Control and Water Conservation District

Upcoming Projects for 20/21:

- Replacement of Hach Turbidimeter
- EQ Pump Upgrade
- CO2 Injection System
- Improved Boat Access

Completed Projects

- Repairs to Terminal Dam Spillway
- Lopez Terminal Dam Monument Survey
- Domestic Tank Repairs



September 17, 2020

TO: Flood Control Zone 3 Advisory Committee
FROM: Jill Ogren, Public Works -Utilities Division Senior Engineer
SUBJECT: Zone 3 Contract Change Project Description

Recommendation

It is recommended that the Zone 3 Advisory Committee (Committee) approve the District moving forward with preparing the California Environmental Quality Act (CEQA) Evaluation for the Project of changing existing Zone 3 water supply contracts to allow the contractors to store water in the reservoir year over year.

Discussion

The Zone 3 Technical Advisory Committee (TAC) has been evaluating potential changes to the existing Zone 3 Water Supply Contracts to allow for individual Zone 3 Contractors year-over-year storage to provide the following benefits:

- To address unintended results of the Low Reservoir Response Plan after Zone 3 Contractors lost water that had been stored in Lopez during the drought
- Provides enhanced ability for each agency to store water during future drought
- Improves flexibility of multi-year water resource planning
- Allows for enhanced conjunctive use or water supply portfolio management
- Provides incentive for agencies to import State Water and preserve water in the reservoir

Background

September 2019 - staff provided an overview presentation to the Committee on the status of the Project to change the Contracts (Project). The presentation included a review of the drivers for the changes, a summary of current contract provisions, proposed changes, and the process to complete the Project.

January 2020 - staff provided a presentation on the Reservoir Modeling results. The modeling was completed to support the Project and its required CEQA evaluation. The modeling compared future operations of the reservoir under the current contracts and under the proposed contract changes to help stakeholders understand how the reservoir would operate under the proposed changes.

July 2020 - Staff provided an update on the status of the Zone 3 Contract Changes. A Project description for CEQA was under development and would be presented again in September for approval to move forward with the CEQA evaluation.

Additional detail regarding these updates can be found in the Staff Reports for these meetings.

Current Status

Since July, the Zone 3 TAC subcommittee has reviewed the draft amended and restated contract which includes the needed changes to incorporate storage provisions for the individual contractors as well as reviewing and commenting on the proposed CEQA project Description. Legal Counsels from several of the Zone 3 Contractors have also reviewed the draft amended and restated contract.

Contract Changes

Attachment 1 of this report is the red-line version of the Contract showing the proposed changes and includes narrative comments explaining the reasoning for the proposed changes for the Committee to review and provide input. A summary of the changes that are included in the amended and restated contracts and the articles in which they are included is provided below:

Summary of changes included in Amended and Restated Zone 3 Contract

- Individual agency storage (Article 4, 7, 9, 15, 21)
- Surplus water cost modifications (Article 4)
- Storage of State Water Project Water (Article 7)
 - District Initiated Exchanges
 - Agency Initiated Exchanges
- Evaporation losses (Article 7)
- Address need to meet downstream release obligations (Article 4, 7, 17)
- Spill provisions (Article 4, 7)
- Turnout delivery capacity limitations (Article 9)
- Cost calculation changes (Article 14)
- Remove antiquated language

Additionally, the primary changes to the contract are further described below:

Stored Lopez Water

- Unused Entitlement and/or Surplus Water eligible for individual agency storage
- Subject to Losses
 - Evaporation – Lost proportional to amount of water in storage
 - Spill – Lost proportional to amount of water in storage
 - Downstream Releases – If needed, stored water would be made available for downstream releases. Stored water would only be used for downstream releases after Un-Entitled Water, Entitlements, and Surplus Water for that Water Year were

used first. Stored water provided for downstream releases would be taken proportional to Zone 3 Contractor Entitlements

Stored State Water

- District Initiated Exchanges
 - Short term exchange to provide water to Zone 3 Agencies during Lopez Project shutdowns
 - Requires request from non-SWP agencies to initiate exchange
 - Limited to available SWP Allocation of SWP Subcontractors
- Agency Initiated Exchanges
 - Exchanges by SWP Subcontractors to provide SWP water to replace requested delivery of Lopez Water by another Zone 3 Agency
 - Subject to Losses
 - Evaporation – Lost proportional to amount of water in storage
 - Spill – Lost prior Stored Lopez Water; Lost proportion to amount of water in storage
 - Downstream Releases – Not available for downstream releases

CEQA

The specific contract language edits were provided to the Zone 3 TAC and District Legal Counsel and Environmental for review. Based on the proposed contract changes, the District Environmental team prepared a draft Project Description (Attachment 2) for the Contract Changes for the purposes of initiating the CEQA process. It is requested that the Committee recommend to formally initiate the CEQA process based on the project description, which will include District Environmental Staff publicly releasing the Notice of Preparation and Project Description to local, regional and statewide stakeholders and regulatory agencies and preparing the appropriate CEQA Document (e.g. Negative Declaration, Mitigate Negative Declaration, etc.).

It is anticipated that the resource agencies (National Marine Fisheries Service (NMFS), US Fish and Wildlife Service, etc.) and/or regulatory agencies (i.e. State Water Resources Control Board) may comment on the CEQA analysis for the Contract Change initiative regarding the status of the Habitat Conservation Plan and other ongoing regulatory compliance initiatives currently underway for the Lopez Project. The proposed strategy to addressing comments from these agencies is to outline the current status and workplan for the Habitat Conservation Plan (e.g. Instream Habitat Study, Arroyo Grande Valley Subbasin GSP and modeling toolsets, etc.).

Next Steps

If the Committee approves moving forward with the CEQA process, the anticipated next steps for Zone 3 are outlined below:

CEQA Process:

- 1) outreach to NMFS regarding the upcoming CEQA evaluation for the Contract Changes;
- 2) release of the Notice of Preparation and Project Description;

- 3) receive responses/comments on Notice Of Preparation;
- 4) Prepare and release draft Mitigated Negative Declaration (MND);
- 5) respond to comments on Draft MND;
- 6) District Board of Supervisors certifies the MND.

Legal Review Process:

- 1) District legal counsel completes review of proposed specific contract language edits;
- 2) Zone 3 agency legal counsel reviews of proposed specific contract language edits;
- 3) finalize language edits between District and Zone 3 Agencies;
- 4) Zone 3 Contractor's Governing Boards approve the amended and restated Zone 3 Contracts;
- 5) District Board of Supervisors approve the amended and restate Zone 3 Contracts at same meeting that MND is certified.

Attachment 1 – Contract Changes

Attachment 2 – Proposed CEQA Project Description

ATTACHMENT 1

CONTRACT BETWEEN
SAN LUIS OBISPO COUNTY FLOOD CONTROL
AND
WATER CONSERVATION DISTRICT
AND
OCEANO COMMUNITY SERVICES DISTRICT
FOR A WATER SUPPLY

Dated as of
August __, 2000

Commented [DH1]: Develop individual versions for each Zone
3 Agency

Commented [DH2]: Update date once finalized

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**CONTRACT BETWEEN SAN LUIS OBISPO COUNTY
FLOOD CONTROL AND WATER CONSERVATION
DISTRICT AND OCEANO COMMUNITY SERVICES DISTRICT
FOR A WATER SUPPLY**

This Contract (the "Contract"), made this ___ day of August, 2000, by and between the San Luis Obispo County Flood Control and Water Conservation District (the "District"), established under and pursuant to Chapter 1294 of the 1945 Statutes of the State of California (the "State") and [redacted] Oceano Community Services District, a public agency organized and existing under the laws of the State of California, acting pursuant to the laws of such State (the "Agency"), amends and restates that certain contract for a water supply by and between the District and the Agency, dated [redacted] ~~October August 24XX, 1966~~2000, as amended (the "Prior Supply Contract"), with reference to the following facts:

Commented [DH4]: Customize individual versions for each Zone 3 Agency

Commented [DH5]: Customize individual versions for each Zone 3 Agency

WITNESSETH:

WHEREAS, the District has heretofore constructed, improved and operated a public works project (the "Project," as more particularly defined below) that provides a supply of water available for use within the District; and

~~WHEREAS, the State now requires, the District to make certain repairs and improvements to the Project for public safety reasons, which improvements (the "Seismic Remediation Improvements") must be financed with the proceeds of certain future obligations of the District; and~~

Commented [DH6]: Deleted, no longer relevant

WHEREAS, the lands and inhabitants within the jurisdiction of the Agency are in need of water provided by the Project for beneficial uses; and

WHEREAS, the District has provided water from the Project to the City of Grover Beach, the City of Pismo Beach, the City of Arroyo Grande, the Oceano Community Services District and County of San Luis Obispo Service Area No. 12 (being, collectively, the Agency and the Other Agencies, as hereinafter defined) since 1966, pursuant to several water supply contracts, including the Prior Supply Contract (collectively, the "Prior Supply Contracts"), and the parties now wish to amend and restate the Prior Supply Contracts, preserving the same basic structure and obligations; and

WHEREAS, the District desires to sell to public water distribution agencies, including the Agency and the Other Agencies, the water provided by the Project under terms and conditions which, as far as practicable and consistent with the ultimate use of the water, shall be fair and equitable to all such agencies and to the inhabitants of the District; and

WHEREAS, the Agency desires to contract with the District for a water supply to be for the use and benefit of the lands and inhabitants served by the Agency and for which the Agency will make payment to the District upon the terms and conditions hereinafter set forth; and

WHEREAS, the District and the Agency wish to provide ~~for the financing of the Seismic Remediation Improvements and Additional Projects (as defined herein)~~ storage rights in the Lopez Reservoir for the Agency and Other Agencies, make technical amendments to provide clarity for existing contract provisions, and for the future maintenance of the Project in order to preserve the water supply provided by the Project to the Agency; and

WHEREAS, the intent of the District and the Agency to construe language in the contract liberally to provide additional flexibility for water resource management and that as conditions

Commented [DH7]: Deleted, no longer relevant

Commented [DH8]: Added to describe intent of current contract changes

change and operational experience is obtained it may be necessary to make modifications to the contract. This in no way would remove the necessity for unanimous approval for contract or operation changes.

Commented [DH9]: Added to describe intent of contract changes is to improve water supply management and that changes may need to be made as additional operational experience is obtained.

WHEREAS, ~~obtaining the necessary financing for the Seismic Remediation Improvements and Additional Projects (as defined herein)~~ these amendments to the Prior Supply Contracts will aid the District in meeting its intended communitywide results of: ~~maintaining and encouraging a safe, healthful and pleasant living environment, and encouraging a strong and viable economy enhancing the economic, environmental and social quality of life in San Luis Obispo County;~~

Commented [DH10]: Deleted, no longer relevant

Commented [DH11]: Updated to match current County goals

NOW, THEREFORE, IT IS HEREBY MUTUALLY AGREED by the parties hereto, as follows:

Article 1. Definitions. When used in this Contract, the following terms shall have the meanings hereinafter set forth:

"Additional Projects" shall mean those capital projects to be undertaken by the District ~~in addition to the Seismic Remediation Improvements~~ which have the effect of (i) preserving and maintaining the Safe Yield of the Project (a "Type I Additional Project"); (ii) maintaining the quality of water provided by the Project (a "Type II Additional Project"); or (iii) any other capital project agreed to by the Agency and all of the Other Agencies (a "Type III Additional Project").

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"Agency Initiated Exchanges" shall mean an exchange initiated by a State Project Subcontractor to deliver State Project water to the Lopez Project to replace Lopez Water requested by the Agency.

Commented [DH13]: Definition added to describe Agency Initiated Exchanges. Agency Initiated Exchanges further described in Article 7(C)(B).

"Calendar Quarter" shall mean each three-month period commencing on January 1, April 1, July 1 and October 1 of each year.

"Calendar Year" shall mean the twelve-month period from January 1 of a calendar year to December 31 of the same calendar year, both dates inclusive.

"Capital Costs" shall mean costs expended by the District at or appurtenant to the Project, for permanent improvements to the Project or equipment which is capitalizable on the books of the District.

"Capital Reserves" shall mean those reserves established by the District for the Scheduled Maintenance of the Project or for anticipated costs of upgrade and improvements likely to be imposed by Governmental Authority (each, an "External Requirement") in order for the District to continue to operate the Project for water supply purposes, established either (a) on a year-to-year basis by the District in its annual budgets, copies of which shall be provided to the Agency promptly following adoption, or (b) on a multi-year basis by the District through the development and promulgation to the Agency of a long-term capital improvement plan of the District; provided, however, that no Type III Additional Projects shall be funded from Capital Reserves; and provided further, that the District shall not expend any portion of Capital Reserves for any External Requirement until and unless such External Requirement becomes a final order of such Governmental Authority, not subject to further appeal.

"Contract Payments" shall mean those payments due from the Agency to the District hereunder, as more particularly set forth in Article 14 hereof.

"County Board" shall mean the Board of Supervisors of the County of San Luis Obispo, California.

"Coverage Account" shall mean the account established for the Agency either with the District or with a Depository, as provided in Article 18 hereof.

"Coverage Factor" shall mean 25% of Agency Debt Service, determined in accordance with Article 14 hereof, calculated for each Fiscal Year.

"Debt Service" shall mean, in the aggregate; (a) principal and interest (or mandatory sinking fund payments, installment or lease or similar payments due) with respect to all Tax-Exempt Obligations at the time outstanding in accordance with their terms, provided that capitalized interest funded from the proceeds of Tax-Exempt Obligations need not be taken into account; (b) annual costs of administering the Tax-Exempt Obligations, including the annual fees of any trustee or paying agent ~~therefor~~ ~~thereof~~, ~~and~~; (c) the costs, if any, of annual credit enhancement for the Tax-Exempt Obligations; ~~and (d) principal, interest, annual fees and reserve requirements on any other debt obligation.~~

Commented [DH14]: Grammar edit

Commented [DH15]: Added to allow for other types of debt that have been (e.g. Clean Water State Revolving Fund) or may be incurred

"Depository" shall mean a ~~a~~ financial institution designated for the deposit and administration of the Coverage Account of the Agency, as and when appointed in accordance with Article 18 hereof.

"District Initiated Exchanges" shall mean an exchange initiated by the District to provide State Project water to the Agency during a Lopez WTP shutdown or other incident that prevents treatment and/or delivery of Lopez Water.

Commented [DH16]: Definition added to describe District Initiated Exchanges. Agency Initiated Exchanges further described in Article 7(C)(A).

"Entitlements" shall mean the quantity of water to be distributed to the Agency under this Contract and to the Other Agencies under their Water Supply Contracts with the District, as established in Article 4(B) hereof and of such other Water Supply Contracts.

"Fiscal Year" shall mean the twelve-month period from July 1 of a Calendar Year to June 30 of the immediately following Calendar Year, both dates inclusive.

"General Obligation Bonds" shall mean those certain general obligation bonds of the District, issued pursuant to authorization received from the voters of the District at the election conducted on March 7, 2000, in an aggregate principal amount of not to exceed \$13,200,000, supported by a levy of *ad valorem* taxes throughout the District.

"Governmental Authority" shall mean any State, federal or local governmental authority with cognizance over the District or the Project, or any portion thereof, empowered to regulate or control any aspect of its or their operations.

"Operating Segment," as to the Agency, shall mean the segment of the Project constructed for, and providing service directly to, the Agency, which, as at the date hereof, consists of Unit(s) A, B and D.

"Operation and Maintenance Costs" shall mean the reasonable and necessary current expenses of maintaining, repairing and operating the Project, including District administrative expenses directly attributable to Project function, but excluding Capital Reserves and Debt Service, all computed in accordance with generally accepted accounting principles applicable to enterprise funds of government agencies.

"Other Agency" shall mean any other water-distributing public agency of the State, which, having the legal power to do so, executes a water supply contract with the District substantially identical to this Contract, except for agency information, dates, Unit participations, Proportionate Share and Percentage Share, other than for the purpose of purchasing Surplus Water, including, as of the date hereof, the County of San Luis Obispo on behalf of Service Area No. 12, The City of Arroyo Grande, The City of Grover Beach, and The City of Pismo Beach.

"Percentage Share" shall mean the Agency's aggregate attributed share, by percentage, of charges for Operation and Maintenance Costs and Capital Reserves for any

given Water Year for each respective Unit, as compared to all of the charges for Operation and Maintenance Costs and Capital Reserves attributable to each such Unit levied against the Agency and all Other Agencies, and as specified for the Agency below:

Unit A	6.69%
Unit B	6.69%
Unit C	0.00%
Unit D	100.00%
Unit E	0.00%
Unit F	0.00%
Unit G	0.00%
Unit H	0.00%
Unit I	0.00%
Unit J	0.00%

Commented [DH17]: Grammar edit

"Project" shall mean (A) the 1965 Zone 3 Project described in Resolution No. 377-65 and Ordinance No. 813 of the District, adopted August 17, 1965, consisting of the following works and improvements: (i) Lopez Dam and Reservoir; (ii) Lopez Dam-Arroyo Grande Conduit System; (iii) Arroyo Grande-Avila Conduit System; (iv) Arroyo Grande-Oceano Conduit System; (v) water treatment plant; (vi) terminal reservoir; (vii) all land, easements, rights-of-way, pumping plants, pipes, valves, fittings, machinery and other property necessary for any of the foregoing and any new construction, reconstruction or replacement of those works and improvements; and (B) the Seismic Remediation Improvements.

Commented [DH18]: Added to allow for inclusion of additional project improvements

"Proportionate Share" shall mean the percent of the total Entitlements available to the Agency, as compared to the aggregate of all Entitlements given to the Agency and all Other Agencies hereunder and under all Water Supply Contracts in any given Water Year, as set forth in Article 4(B) hereof.

"Rates and Charges" shall mean the rates and charges imposed and collected by the Agency for the provision of water services by its Water Enterprise, or, if the Agency shall instead have levied special taxes as described in Article 14(C)(b) below, such special taxes.

~~"Recreational Budget Transfers" shall mean the annual transfer ordered by action of the County Board from revenues earned from recreational uses of the Project, based on the percentage of recreational usage, initially established under the terms of County Board Resolution No. 2000-133, adopted on April 4, 2000.~~

Commented [DH19]: Removed, no longer applicable as the District no longer receives recreational revenues

"Safe Yield" shall mean the safe yield of the Project, calculated and established from time to time in accordance with the provisions of Article 4 hereof, being 8,730 acre-feet of water as of the date hereof.

"Scheduled Maintenance" shall mean the maintenance tasks for the Project which are required to be accomplished less frequently than annually, a portion of the cost of which is set aside in each annual budget of the District in anticipation of such requirement.

"Seismic Remediation Improvements" shall mean those certain improvement, more particularly described on Exhibit A hereto, to the 1965 Zone 3 Project required by State mandate, and necessary in order for the Project to continue to operate as a supplier of water to the District, the Agency and the Other Agencies.

"Surplus Water" shall mean the water available from the Project following distributions of water described in Article 4, paragraphs (A), (B) and (C) hereof.

"State Project Water" shall mean water made available to the Agency through separate contracts with the District for water from the California State Water Project.

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"Tax-Exempt Obligations" shall mean those certain obligations executed and delivered by or on behalf of the District, representing and evidencing interests of the owners thereof in certain installment payments to be made by the District for the acquisition of the Project, whose proceeds are to be used to finance or reimburse the costs of the Seismic Remediation improvements, in an aggregate principal amount of not to exceed the net amount, following the application of proceeds of sale of the General Obligation Bonds, required to complete the Seismic Remediation Improvements pursuant to State mandate and the District's competitive bid process for such Improvements.

"Total Contract Payments" shall mean all of the payments due from the Agency and the Other Agencies pursuant to Article 14 hereof and the same Article of the other Water Supply Contracts.

"Total Project Costs" shall mean, for any given Water Year, the aggregate amount necessary to provide for (i) Operation and Maintenance Costs; (ii) Debt Service; and (iii) Capital Reserves, as calculated by the District in accordance with Article 14 hereof and noticed to the Agency and the Other Agencies.

"Unit" shall mean those facilities which collectively make up the Project, delineated as follows:

(A) "Unit A" shall consist of the Lopez Dam and Reservoir, including access roads and outlet works, and all engineering and legal fees for the entire Project. ~~shall consist of the Lopez Dam and Reservoir, including access roads, fish trapping facilities and outlet works, all expenses of executing and delivering the Tax Exempt Obligations, all moneys necessary to fund interest with respect to the Tax Exempt Obligations prior to receipt of the first payments under this Contract and the other Water Supply Contracts, and all engineering and legal fees for the entire Project.~~

Commented [DH20]: Updated to provide a more accurate description of facilities associated with Unit A

(B) "Unit B" shall consist of the terminal reservoir, a pumping plant and bypass conduit, the water treatment plant and the Lopez Dam-Arroyo Grande Conduit System. The "Lopez Dam-Arroyo Grande Conduit System" shall be defined as that portion of the pipeline conduit and all appurtenances from the Lopez Dam outlet works to and including a bifurcation structure located at the intersection of the ~~Highway 101 south frontage road~~ El Camino Real and Brisco Road in Arroyo Grande.

Commented [DH21]: Updated to reflect current nomenclature

(C) "Unit C" shall consist of that portion of the Arroyo Grande-Avila Conduit System consisting of the pipeline conduit and all appurtenances from the bifurcation structure which is a part of Unit B to the intersection of the ~~Highway 101 south frontage road~~ El Camino Real and ~~Eighteenth Street~~ Oak Park Blvd. in Grover ~~City~~ Beach.

Commented [DH22]: Updated to reflect current nomenclature

(D) "Unit D" shall consist of the Arroyo Grande-Oceano Conduit System. The "Arroyo Grande-Oceano Conduit System" shall be defined as that portion of the pipeline conduit and all appurtenances from the south end of the Lopez Dam-Arroyo Grande Conduit System to a connection to the Oceano water system at the intersection of Lancaster Drive and South Elm Street in Arroyo Grande.

Commented [DH23]: Updated to reflect current nomenclature

(E) "Unit E" shall consist of that portion of the Arroyo Grande-Avila Conduit System consisting of the pipeline conduit and all appurtenances from the west end of Unit C to the intersection of the El Camino Real ~~Highway 101 south frontage road~~ with Vista del Mar in Shell Beach.

Commented [DH24]: Updated to reflect current nomenclature

(F) "Unit F" shall consist of that portion of the Arroyo Grande-Avila Conduit System consisting of the pipeline conduit and all appurtenances from the west end of Unit E to the intersection of the Shell Beach Road with El Portal Drive in Pismo Beach.

(G) "Unit G" shall consist of that portion of the Arroyo Grande-Avila Conduit System consisting of the pipeline conduit and all appurtenances from the west end of Unit F to the intersection of Avila ~~Beach Drive~~ Road (San Luis Obispo County Road No. ~~20703016~~) with Ontario Road (San Luis Obispo County Road No. ~~206633090~~).

(H) "Unit H" shall consist of that portion of the Arroyo Grande-Avila Conduit System consisting of the pipeline conduit and all appurtenances from the west end of Unit G to the intersection of First Street and San Juan Street in the community of Avila Beach.

(I) "Unit I" shall consist of that portion of the Arroyo Grande-Avila Conduit System consisting of the pipeline conduit and all appurtenances from the west end of Unit H to the Port San Luis Harbor District Tank site.

(J) "Unit J" shall consist of that portion of the Arroyo Grande-Avila Conduit System consisting of the pipeline conduit and all appurtenances from

the west end of Unit G to a storage ~~take~~ site at an approximate elevation of 260 feet above sea level located at a point approximately 1,300 feet westerly of the center line of Highway 101 and 1,500 feet southerly of [San Luis Bay Drive](#)~~Avila Drive~~ (San Luis Obispo County Road No. ~~206813015~~).

"Water Enterprise" shall mean the water system operated and to be operated by the Agency for sales of water to the general public within its jurisdiction.

"Water Supply Contracts" shall mean the water supply contracts respecting Project output, entered into by and between the District and the Other Agencies.

"Water Year" shall mean the twelve-month period from April 1 of a Calendar Year to March 31 of the immediately following Calendar Year, both dates inclusive.

"Zone 3" shall mean the area comprising Zone 3 of the District.

"Zone 3 Advisory Committee" shall mean that certain advisory committee comprised of representatives of the District, the Agency and each of the Other Agencies, appointed by the District, the Agency and the Other Agencies, from time to time and meeting at scheduled intervals to advise the District on matters relating to the Project, this Contract and the Water Supply Contracts.

Article 2 Term of Contract. This Contract shall become effective when the District has executed (a) this Contract with the Agency; and (b) Water Supply Contracts with Other Agencies; which, taken in the aggregate, establish Entitlements for at least 4,530 acre-feet of water from the Project, as set forth in Article 4(B) of this Contract and of such other Water Supply Contracts, and the District shall promptly advise the Agency in writing of the effective date hereof. This Contract shall remain in effect through ~~the later of (i) the date which is six (6) months following the repayment of the final Debt Service payments Certificate of Participation of any debt obligation outstanding; or (ii) the date which is thirty (30) years from the effective date hereof;~~ provided, however, that the term of this Contract

Commented [DH25]: Modifications made to provide flexibility to apply to other debt obligations

shall automatically be extended for additional periods of five (5) years from the scheduled expiration date hereof, so long as the Agency has not, by the date which is 180 days prior to the scheduled expiration date hereof, given written notice to the District to the effect that it wishes to terminate this Contract. The Agency understands and agrees that each of the Other Agencies has the right to terminate its Water Supply Contract on similar terms and that, if any Other Agency shall so elect to terminate its Water Supply Contract, the Entitlement and corresponding obligations of such Other Agency shall be apportioned among the Agency and the remaining Other Agencies, based upon a recalculation of Proportionate Share or Percentage Share, based, where appropriate, on their access to and use of Units, or as otherwise unanimously agreed by the Agency (unless the Agency shall have withdrawn), all remaining Other Agencies and the District.

~~The parties hereto understand and agree that the Project must be constructed in accordance with State mandate and that its costs are determined through a competitive bid process applicable to public works undertaken by the County and its agencies, now set for a date on or about September 14, 2000 (the "Project Bids"). Notwithstanding the foregoing paragraph, therefore, the Agency and Other Agencies (collectively, the "Participating Agencies") may rescind their approval of their respective Water Supply Contract and declare it cancelled and of no further force or effect, but only if, following the County's opening of the Project Bids, the lowest response bidder for the remaining work on the Project submits a Project Bid which, taken together with the other Project Costs, would result in a total Project Cost in excess of \$30,000,000 (Thirty Million Dollars). The District covenants and agrees to provide prompt notice, and in any event within 48 hours of its determination of the apparent winning Project Bid, to the Participating Agencies of the then-estimated total Project Costs.~~

~~The Participating Agencies shall have twenty (20) calendar days from the date of receipt of such notice to exercise their rights of termination and rescission hereunder; such exercise shall be evidenced by delivery of written notice of such participating Agency's election to the District and to each other Participating Agency. The District covenants and agrees not to award any construction contract based on the Project Bids until after the foregoing twenty-day period has elapsed.~~

Commented [DH26]: Deleted, no longer relevant

Article 3. Validation. Either the District, the Agency or any Other Agency may file and diligently prosecute to a final decree in a court of competent jurisdiction a proceeding in mandamus or other appropriate proceeding or action for the judicial examination, approval, and confirmation of ~~the any~~ proceedings had for the organization of the District and for the participation of the Agency in ~~the p~~Projects hereunder, or for the validation of ~~the Installment Purchase any Agreement agreement~~ which is the basis for ~~the Tax-Exempt Obligations, or any of them~~any debt obligation, or the proceedings of the governing body of the Agency leading up to and including the making of this Contract and the validity of the provisions thereof and hereof.

Commented [DH27]: Modifications made to provide flexibility to apply to other debt obligations

Article 4. Distribution and Sale of Project Water. The following provisions govern the distribution of water from the Project to the Agency, to the Other Agencies and for other purposes, in the priorities set forth below:

(A) Legally Required Water Releases. The parties hereto acknowledge and agree that Project water is subject to certain releases and minimum storage requirements imposed by law which are not affected by the terms hereof. '

(B) Entitlements. Subject to the foregoing, the District shall make available to the Agency in each Water Year; to the extent possible, 303 acre-feet of Project water. The

Commented [DH28]: Customize individual versions for each Zone 3 Agency

District will, in order to satisfy this entitlement and the entitlements of Other Agencies, set aside from the Safe Yield the total of 4,530 acre-feet of Project water which will be distributed to the Agency and the Other Agencies, as established under Article 4(B) hereof and of their respective Water Supply Contracts. The Agency's Entitlement comprises 6.69 percent of the aggregate Entitlements awarded under all the Water Supply Contracts, including this Contract. Such percentage comprises the ~~Agency's~~ Proportionate Share hereunder. Notwithstanding the foregoing, the aggregate Entitlements available under this Contract and under the Water Supply Contracts may be reduced, following written notice given to the Agency from the District, due to (1) permanent or long-term restrictions imposed upon the District caused by (i) extreme changes in long-term meteorological patterns that reduce the Safe Yield assumptions for the Project; or (ii) multi-year drought conditions; or (2) temporary or short-term limitations based upon (i) reduced ability of the Project either to treat or distribute water because *of force majeure*; (ii) drought conditions; or (iii) water quality standards which reduce the safe, treated output of the Project at the time.

Commented [DH29]: Customize individual versions for each Zone 3 Agency

(C) Surplus Water Rates. Project water remaining after the distribution of Project water in each Water Year, which includes Project water that the Agency and Other Agencies put into storage in Lopez Reservoir, as described in paragraphs (A) and (B) above shall comprise "Surplus Water" hereunder. Surplus Water shall be sold in accordance with the provisions of this paragraph.

Commented [DH30]: Added to describe that water put into storage qualifies as being distributed and is retained by the agency and does not become Surplus Water

(1) Surplus Water shall first be offered by the District to the Agency and the Other Agencies in accordance with their Proportionate Shares. The cost of Surplus Water will be based on the , ~~with a price for such Surplus Water to be established based on the Operation and Maintenance Cost~~ Variable Charges of

~~the District incurred in delivering treating the Surplus Water actually purchased by delivered to the Agency or the Other Agencies as described in Article 14 (D) below in any given Fiscal Year. If the Agency or any Other Agency shall commit in writing to purchase Surplus Water from the District under this subparagraph, it shall be obligated to pay for such Surplus Water, whether or not in fact ordered from the District or accepted by the Agency, so long as such Surplus Water was in fact available for the period in question.~~

Neither the Agency nor any Other Agency shall resell Surplus Water at any time to third parties, without the prior written consent of all Other Agencies.

(2) The District may offer to sell and deliver any Surplus Water not purchased by the Agency or the Other Agencies hereunder to any other prospective purchaser without right of renewal, in a manner and at prices which will return to the District the largest net revenue practicable, but in no event at prices less than those at which such Surplus Water is offered to the Agency, unless the Agency is first allowed another opportunity to purchase such Surplus Water at the lower price, and in each case, attempting to recapture the Operation and Maintenance Cost, the variable costs, if any, and Debt Service attributable to the volume of Surplus Water actually purchased by such third parties, at the highest price the market will then bear.

(3) All revenues derived by the District from the sale of Surplus Water ~~to the Agency, any Other Agency or~~ any third party hereunder shall be applied as a credit to the obligations of the Agency and the Other Agencies, based on the Percentage Shares of the Agency and each Other Agency.

Commented [DH31]: Modifications made to change how Surplus Water costs are determined. Intent: There is no upfront charge for Agencies accepting Surplus Water. Agencies are charged for the Variable Cost to treat the water when the water is delivered.

Commented [DH32]: Removed because there is no charge for Agencies to accept surplus water, so there is no revenue from Agency sales.

(D) Surplus Water. ~~Beginning with the 2000-01 Water Year,~~ Surplus Water shall be the portion of the Safe Yield for Project water remaining after distributions of water during the ~~said~~ previous Water Year, which includes Project water that the Agency and Other Agencies put into storage in Lopez Reservoir, as described below.

Commented [DH33]: Deleted, no longer relevant

Commented [DH34]: Grammar edit

Commented [DH35]: Added to describe that water put into storage qualifies as being distributed and is retained by the agency and does not become Surplus Water

Surplus Water shall be calculated for each Water Year by subtracting from the Safe Yield of the Project an amount equal to the sum of the quantity of water released downstream during the immediately prior Water Year, which shall not exceed 4,200 acre feet unless legally required by Article 4(A) hereof, and the quantity of Entitlement water delivered to the Agency and the Other Agencies during the immediately prior Water Year, which includes Project water that the Agency and Other Agencies put into storage in Lopez Reservoir, but excluding downstream releases and Entitlement deliveries that occurred during the period of time that the District determined that continuous spillway flow was occurring at Lopez Dam. As provided in Article 7(B) and 7(C), Project water that was put into storage in Lopez Reservoir prior to the District's determination that a continuous spillway flow was occurring at Lopez Dam may be subject to losses.

Commented [DH36]: Added to describe that water put into storage qualifies as being delivered and is retained by the agency and does not become Surplus Water

Commented [DH37]: Added to describe that Stored Water is subject to spill losses as defined in new Article 7 (B) Storage of Lopez Water and Article 7 (C) Storage of State Project Water

The District shall notify the Agency of the total amount of Surplus Water available for the current Water Year, and once so declared by the District, said amount shall not be changed by the District without first obtaining the consent of the Agency and all Other Agencies.

Surplus Water purchased by the Agency will be delivered to Agency in the manner provided for the delivery of its Entitlement and to the extent that all of said surplus water purchased by Agency is not so delivered by the end of the Water Year in question, or put into storage in Lopez Reservoir by the Agency and Other Agencies, then such undelivered amount shall revert to District and shall not thereafter be available to Agency.

Commented [DH38]: Added to describe that water put into storage qualifies as being delivered and is retained by the agency and does not revert to the District

Article 5. Water Shortages. From time to time during the term of this Contract, there may occur a shortage in the quantity of Project water available for delivery to the Agency by the District under this Contract, including, without limitation, for the reasons enumerated in Article 4(B). In such event, no liability shall accrue against the District or any of its officers, agents or employees for any damage, direct or indirect, arising from a shortage on account of any reason beyond the control of the District. In any Water Year during which such a shortage has caused a reduction as described in said Article 4(B), so that the total quantity of the Entitlements available for the District to distribute is less than the total established in said Article 4(B), following giving of notice by the District *as* provided in Article 4(B), the Proportionate Share of the Agency and each Other Agency under its Water Supply Contract shall be applied to such reduced amount in determining the volume of Project water to be delivered to the Agency and such Other Agencies in such Water Year.

~~Article 6. Completion of Seismic Remediation Improvements. The Agency understands and acknowledges that the District intends to commence and complete the Seismic Remediation Improvements with due diligence; in order to finance the construction of the Seismic Remediation Improvements, the Agency understands and agrees that the District will have to cause the execution and delivery of the Tax Exempt Obligations on terms and conditions favorable to the District, the Agency and the Other Agencies, to be established at the time of sale of the Tax Exempt Obligations. In particular, the Agency covenants and agrees that:~~

~~(A) The District shall contract for the public works comprising the Seismic Remediation Improvements on such terms as the District, in its sound business judgment, may deem in the best interests of the District, the Agency and the Other Agencies, but only following consideration by the Zone 3 Advisory Committee of any such contracts in excess~~

~~of the minimum standards for contracts of a similar type then mandated for formal approval by the County Board (the "County Standards"); provided, however, that no such consideration shall be required as a precondition to any such action in response to an emergency;~~

~~(B) The District may engage, but only (except in an emergency, in which case no such consideration shall be required as a precondition) following consideration by the Zone 3 Advisory Committee of any such contracts in excess of County Standards, contractors and consultants, including, without limitation, environmental specialists, engineers, financial consultants, underwriters, attorneys and accountants (collectively, the "Consultants"), as may be necessary in order to plan and construct the Seismic Remediation Improvements and to issue and sell the Tax-Exempt Obligations, on such terms and conditions as the District shall determine; provided, however, that the District and the Agency hereby covenant and agree that all such contracts already in place as of the effective date of this Contract shall be deemed noticed to and considered by the Zone 3 Advisory Committee; and provided further, that no such consideration shall be required as a precondition to any such action in response to an emergency;~~

~~(C) The District may authorize and sell at either public or private sale, or cause to be executed and delivered, the Tax-Exempt Obligations at any time following the effective date hereof, to provide for the financing or reimbursement to the District of the costs of the Seismic Remediation Improvements, to establish a reserve fund for the Tax-Exempt Obligations and to pay the costs of delivery thereof;~~

~~(D) The Agency Will execute and provide such instruments, certificates and agreements as may be necessary in order for the District to deliver the Tax-Exempt~~

Obligations, including, without limitation, information for inclusion in the disclosure document for the Tax Exempt Obligations and a continuing disclosure agreement to permit compliance with Rule 15c2-12 of the Securities and Exchange Commission, respecting the Agency's financial condition and operations; and

(E) The Agency will cooperate with the District and its Consultants in connection with the planning and construction of the Seismic Remediation Improvements and the authorization and delivery of the Tax Exempt Obligations.

The District covenants and agrees to use its best efforts to complete the Seismic Remediation Improvements by a date no later than June 30, 2002.

Commented [DH39]: Deleted, no longer relevant.

Article 7. Delivery of Water. All water to be furnished to the Agency pursuant to this Contract shall be delivered to the Agency at the intersection of Lancaster Drive and Elm in the City of Arroyo Grande furnished to the Agency as provided by Article 7(A) or put into storage at Lopez Reservoir as provided in Article 7(B).

Commented [DH40]: Modifications to describe that an Agency can take delivery of water or put it into storage.

Article 7(A). Water furnished to the Agency shall be delivered to the Agency at the intersection of Lancaster Drive and South Elm Street in the City of Arroyo Grande. If the Agency shall desire at

Commented [DH41]: Customize individual versions for each Zone 3 Agency

any time during the term of this Contract to change the address at which it receives water from the District hereunder, or to install additional points of delivery, it may do so if it furnishes all funds necessary to cover any District expenses involved, or if it undertakes the construction of the necessary conduits and appurtenances at its own expense; provided that the Agency shall not undertake any such construction until it has first obtained District approval of the plans and specifications for such work. Upon the receipt of a request for a change in or addition to the place of delivery of water thereunder, and the deposit of any required funds as set forth in this paragraph,

the District shall, if it has elected to perform its own construction of conduits and appurtenances, diligently proceed to construct the same.

Article 7(B). The Agency may choose to put any water into storage in Lopez Reservoir that the Agency otherwise has the right to be furnished pursuant to Article 7(A), including Entitlements as provided by Article 4(B) and Surplus Water as provided in Article 4(D). Water put into storage in Lopez Reservoir is subject to the following:

(A) The Agency must comply with the requirements of Article 9.

(B) Water put into storage in Lopez Reservoir by the Agency is subject to the following losses:

(1) Evaporation losses shall be calculated by the District and shall reduce the Agency's water in storage in Lopez Reservoir by calculating the amount of water lost from evaporation due to the additional lake surface area associated with the water in storage on a monthly basis. Evaporation losses are applied proportional to each Agency's amount of water in storage.

(2) Water in storage in Lopez Reservoir shall be lost in the event the District determines that continuous spillway flow occurs at Lopez Dam that equals or exceeds the combined amount of water in storage in Lopez Reservoir on behalf of the Agency and Other Agencies. If the District determines that the spillway flow was less than the combined storage, then the water in storage in Lopez Reservoir lost by the Agency and Other Agencies shall be proportioned based on their respective amounts in storage in Lopez Reservoir and calculated such that the total water lost by the Agency and Other Agencies equals the District's determination of spillway flow.

Commented [DH42]: Added to describe what type of water an Agency can put into storage

Commented [DH43]: Describes that putting water into storage must comply with Article 9. Time of Delivery of Project Water requirements

Commented [DH44]: Describes that water in storage is subject to Evaporation losses and that evaporation losses are proportional to the amount of water each agency has in storage

Commented [DH45]: Describes that water in storage is subject to Spill losses. Spill losses of a volume less than to total volume of water in storage we be proportioned amongst the agencies based on the amount of water they have in storage, not the Entitlement percentages.

(3) Water in storage in Lopez Reservoir may be lost pursuant to Article 4(A) except that no water shall be lost from storage in Lopez Reservoir until after Entitlements made available to the Agency and Other Agencies pursuant to Article 4(B) equals zero and Surplus Water available to the Agency and Other Agency pursuant to Article 4(D) equals zero. In such an event, the amount of water in storage in Lopez Reservoir that will be lost by the Agency and Other Agencies shall be proportioned based on Entitlements until each agency's water in storage in Lopez Reservoir is reduced to zero or the required release pursuant to Article 4(A) have been met, whichever occurs sooner.

Commented [DH46]: Describes that water in storage may be lost to meet Article 4(A) Legally Required Water Releases (Downstream Release) requirements, but only after Entitlements and Surplus Water is used first.

Commented [DH47]: Describes that water in storage lost for Downstream Release requirements shall be lost proportional to each Agencies' Lopez Entitlement. Intent: to incentivize agencies to store water.

(4) Water in storage in Lopez Reservoir may be lost because of force majeure.

Commented [DH48]: Force majeure clause addition

Article 7(C). Storage of State Project Water. The Agency and Other Agencies that have right to "wheel" State Project Water pursuant to Article 31 (State Project Subcontractors) shall have the right to increase the Project water that they put into storage in Lopez Reservoir. Project water put into storage in Lopez Reservoir shall be accomplished by way of exchanging the delivery of Project water that would otherwise be furnished by the District to Other Agencies pursuant to Articles 4(B) and 4(D) with State Project Water provided by the Agency. There are two types of exchanges – "District Initiated Exchanges" and "Agency Initiated Exchanges."

Commented [DH49]: Describes mechanisms for storage of State Project water. Stored State Project Water is achieved by delivery State Project Water to replace requested Lopez Water Deliveries by non-SWP Project Subcontractors. Intent: To provide flexibility for agencies in managing their water portfolios on a regional basis within Zone 3.

(A) District Initiated Exchanges - In consideration for the right to exchange Project water with State Project Water, the State Project Subcontractors hereby provide the District with the right to exchange their State Project Water with Project water and deliver such exchanged water to Other Agencies during the "Curtailment of Delivery of Project Water for Maintenance Purposes" as provided in Article 13. This provision shall only be construed as an Agency

Commented [DH50]: Describes ability for the District to provide State Project Water to the non-State Project Subcontractors during a Lopez WTP shutdown or other incident that prevents treatment and/or delivery of Project Water on a temporary or short-term basis.

exchange of State Project Water with Other Agencies and shall not be construed as a District sale or delivery of State Project Water to Other Agencies. As prerequisites for the District Initiated Exchanges of State Project Water with Project water during Article 13 curtailments, Other Agencies must first request the District to effectuate the exchange and must agree to pay the variable cost of delivering the State Project Water to the Lopez system. Such District Initiated Exchanges are limited to the availability of State Project Water from the State Project Subcontractors and shall be proportioned between the State Project Subcontractors based on their available State Project Allocations. The quantities of water exchanged shall increase Project water in storage for State Project Subcontractors and the District shall uniquely designate that water as "District Initiated Exchanged Water." Subsequent to the exchange, the District must reverse the exchange as soon as possible with deliveries requested by State Project Subcontractors for State Project Water and the District shall reimburse the Other Agencies for the variable costs previously paid. The District Initiated Exchanged Water is not subject to evaporation losses.

Commented [DH51]: Describes that District Initiated Exchanges water shall not be construed as a sale of State Project Water to allow all Zone 3 Agencies to take delivery of this water.

Commented [DH52]: Describes that Non-State Project Subcontractors must request District Initiated Exchanges

Commented [DH53]: Describes that District Initiated Exchanges are limited to the amount of available State Project Water the State Project Subcontractors have and that Stored Project Water is proportioned by State Project Allocations. This is intended to protect the District from having to use its Excess Allocation water to make State Project Water deliveries during Lopez Project shutdowns.

Commented [DH54]: Defines nomenclature for "District Initiated Exchange Water"

Commented [DH55]: Describes that District Initiated Exchanges are intended to be for a very limited duration and the variable costs for the delivery of the State Project water incurred by the Zone 3 Agencies requesting the exchange are reimbursed as soon as the District can provide the Stored Lopez Water to the State Project Subcontractors in exchange. This formalizes the existing practice for Lopez Project planned and unplanned shutdowns.

Commented [DH56]: Describes ability for State Project Subcontractors to provide State Project water to replace requested delivery of Lopez Water by another Zone 3 Agencies to generate Stored State Project Water in Lopez Reservoir.

Commented [DH57]: Defines nomenclature for "Agency Initiated Exchange Water"

(B) Agency Initiated Exchanges - Exchanges initiated by State Project Subcontractors shall be uniquely designated by the District as "Agency Initiated Exchanged Water" and subject to the following additional terms:

Commented [DH58]: Describes that State Project water in storage is subject to Evaporation losses and that evaporation losses are proportional to the amount of Stored State Project each agency has in storage

(1) Evaporation losses shall be calculated by the District and shall reduce the Exchanged water in storage in Lopez Reservoir by calculating the amount of water lost from evaporation due to the additional lake surface area associated with the water in storage on a monthly basis. Evaporation losses are applied proportional to each Agencies amount of water in storage.

(2) Agency Initiated Exchanged Water in storage in Lopez Reservoir shall be lost in the event that the District determines that continuous spillway flow occurs at

Lopez Dam prior to the loss of any Project water stored pursuant to Article 7(B).
 Water that has been put into storage in Lopez Reservoir by the District under their
 authority independent from the terms of this agreement shall be lost prior to losses of
 Agency Initiated Exchanged Water. In the event the District determines that the
 spillway flow reduces Agency Initiated Exchanged Water in storage in Lopez
 Reservoir, then the losses between State Project Subcontractors shall be proportioned
 based on their respective amounts of Agency Initiated Exchanged Water in storage in
 Lopez Reservoir.

~~(3)~~ Agency Initiated Exchanged Water in storage in Lopez Reservoir is not
 subject to losses pursuant to Article 4(A).

~~(4)~~(3)

(4) Agency Initiated Exchanged Water in storage may be lost because of
 force majeure.

Commented [DH59]: Describes that Stored State Project Water is lost before water stored pursuant to Article 7 (B) (Stored Lopez Water) in the event of a spill.

Commented [DH60]: Describes that District Stored State Project water is lost prior to Subcontractor Stored State Project in the event of a spill

Commented [DH61]: Describes how Stored State Project Water lost due to spills and how the loses are apportioned to the State Project Contractors

Commented [DH62]: Describes how Stored State Project water lost due to spill are proportioned between the State Project Subcontractors

Commented [DH63]: Describes that Stored State Project is not subject to losses for Article 4(A) Legally Required Water Releases (Downstream Releases). Intent is that Stored State Project water is water that was artificially made available in the Reservoir and should not be subject to downstream release requirements.

Commented [DH64]: Force majeure clause addition

Article 8. Measurement. All water furnished pursuant to this Contract shall be measured by the District at each point of delivery established pursuant to Article 7 hereof with equipment satisfactory to the District and the Agency. Said equipment shall be installed, operated and maintained by the District. All determinations relative to the measuring of Project water shall be made by the District and, upon request of the Agency, the accuracy of such measurement shall be investigated by the District and certified to the Agency in writing. Any error appearing in the course of such investigation and certification shall be cause for an adjustment by the District. The Agency may inspect any such measuring equipment for the purpose of determining the accuracy thereof, at its own expense at reasonable times upon reasonable notice. The District will install, or cause to be installed, backflow prevention

devices in connection with such measuring equipment to prevent Project water delivered to the Agency or to the Other Agencies from returning to the District's lines.

Article 9. Time for Delivery of Project Water. The amounts, times and rates of delivery of Project water to the Agency during any Water Year shall be in accordance with a water delivery schedule determined in the following manner:

(A) On or before October 1 of each Calendar Year, the Agency shall submit in writing to the District a preliminary water delivery schedule subject to the provisions of this Article and Article 4, indicating the amounts of water desired by the Agency during each month of the succeeding three (3) Water Years that is anticipated to be delivered to the address identified in Article 7 and that amount that is anticipated to be put into storage in Lopez Reservoir by the Agency.

Commented [DH65]: Added to describe that delivery schedule will differentiate between water that Agencies anticipate taking delivery of and water to be put into storage

(B) Upon receipt of a preliminary schedule the District shall review it and after consultation with the Agency shall make such modifications in it as are necessary to insure that the amounts, times and rates of delivery to the Agency will be consistent with the available supply of water from the Project, considering the current delivery schedules of all Other Agencies. On or before January 1 of each Calendar Year, the District shall determine and furnish to the Agency a water delivery schedule for the next succeeding Water Year, which shall show the amounts of water to be delivered to the Agency during each month of that Water Year and the amounts of water that have been put in storage in Lopez Reservoir for the Agency.

Commented [DH66]: Added to describe that delivery schedule will differentiate between water that Agencies anticipate taking delivery of and water to be put into storage

(C) A water delivery schedule may be amended by the District upon the Agency's written request, and subject to (1) the circumstances described in Article 4(B) hereof and (ii) the pre-existing requirements of the District under the water delivery schedules with the Other Agencies for the same period of time. Proposed amendments to such schedules shall be submitted by the Agency

within a reasonable time prior to the date the desired change is to become effective, and they shall be subject to review and modification by the District in the same manner as the preliminary water schedule described in paragraph (B) above.

(D) In no event shall the District be obligated to deliver Project water to the Agency at a combined instantaneous rate of flow exceeding .044 cubic feet per second.
However, if there is additional available capacity, the District shall make reasonable efforts to deliver the amount of water an Agency requests, taking into account Project capacity and other agency requests as well as all the Agencies' pro rata shares of Safe Yield.

Commented [DH67]: Customize individual versions for each Zone 3 Agency

Commented [DH68]: Add to provide additional clarity on ability for the District to increase deliveries above the combined instantaneous rate of flow described above.

Article 10. Responsibility for Delivery and Distribution of Water Beyond Delivery Points. After Project water has passed the delivery points established in accordance with Article 7 above, neither the District nor its officers, agents or employees shall be liable for the control, carriage, handling, use, disposal, distribution or changes occurring in the quality of such water supplied to the Agency or for claim of damages of any nature whatsoever, including but not limited to property damage, personal injury or death, arising out of or connected with the control, carriage, handling, use, disposal, distribution or changes occurring in the quality of such water beyond said delivery points, and the Agency shall defend, indemnify and hold harmless the District and its officers, agents and employees from and against any such damages or claims of damage.

Article 11. Operation and Maintenance of Project and Water Enterprise. The parties hereto acknowledge and agree that the primary goal of the District shall be to maximize deliveries of Project water consistent with multi-year water resource planning, subject to Safe Yield and cost considerations, as to which the District shall be expected to exercise sound business judgment.

Commented [DH69]: Added to describe intent of contract changes to encourage storage of water in the reservoir to improve water supply resiliency

(A) The District covenants and agrees that it will operate and maintain the Project, ~~as improved by the Seismic Remediation Improvements,~~ in accordance with all governmental laws, ordinances, approvals, rules, regulations and requirements, including, without limitation, such zoning, sanitary, pollution, environmental and safety ordinances and laws and such rules and regulations thereunder as may be binding upon the District. The District further covenants and agrees that it will maintain and operate the Project and all pumps, machinery, conduits, apparatus, fixtures, fittings and equipment of any kind in or that shall be placed in any building or structure or made a part of any conduit or easement now or hereafter at any time constituting part of the Project in good repair, working order and condition, and that it will from time to time inspect and test all Project facilities against then-current water supply industry standards, and to pursue or recommend all necessary and proper replacements, repairs, renewals and improvements thereto.

Commented [DH70]: Deleted, no longer relevant

(B) In order to satisfy its covenants set forth in this Article, the District shall determine, prior to each Water Year, the amount of Capital Reserves necessary for the Project for the upcoming Water Year, shall prepare its draft annual budget by no later than March 1 to reflect such Capital Reserves, shall provide copies of each such budget to the Zone 3 Advisory Committee, the Agency and the Other Agencies for review and comment, prior to its distribution to and consideration by the Board of Supervisors of the County, and shall, if deemed necessary or advisable, develop and promulgate to the Agency and the Other Agencies a multi-year improvement plan for the Project, reflecting the annual requirements for Capital Reserves.

(C) At any time, or from time to time, without the consent of the Agency or any Other Agency, the District shall be entitled to undertake the construction or equipping of any Additional Project or other improvements to or repairs of the Project not comprising a Type III

Additional Project, but only if (i) it shall determine that such Additional Project, improvements or repairs are necessary in order to keep the Project functioning at the levels and to maintain the water supply at the quality required hereunder and under the other Water Supply Contracts; or (ii) competent Governmental Authority shall direct such Additional Projects, improvements or repairs; provided that, before an Additional Project other than a Type III Additional Project, improvements or repairs may be ordered pursuant to direction of competent Governmental Authority, the District, the Agency and the Other Agencies shall be afforded notice thereof and the opportunity to oppose the imposition of such requirement before a court of competent jurisdiction; only if a final judgment is thereafter rendered, in favor of such Additional Project, improvements or repairs, or if no such opposition is filed, shall an Additional Project other than a Type III Additional Project, improvements or repairs be constructed or made pursuant to this clause (ii). Emergency repairs to the Project may, notwithstanding the above, be made by the District without the requirement of notice and opportunity to oppose described herein. It is the intention of the parties hereto that the District shall, as and when necessary, be deemed to assign its rights to pursue opposition to the creation of any obligations hereunder by a Governmental Authority to the Agency and/or the Other Agencies, as their interests may appear, in recognition of the status of the Agency and the Other Agencies as third party beneficiaries hereof and real parties in interest. No preexisting right of the Agency or the Other Agencies to pursue actions administratively, by law or in equity associated with the construction, maintenance and operation of the Project shall be abrogated by the Agency or such Other Agencies by its or their execution of this Contract or the other Water Supply Contracts.

(D) For its part, the Agency covenants and agrees:

(1) not to sell, lease or otherwise dispose of its Water Enterprise or any part thereof essential to the proper operation thereof or to the earning or collection of the

gross revenues of the Water Enterprise, nor to enter into any agreement or lease which would impair the operation of the Water Enterprise or any part thereof necessary in order to secure adequate revenues for the payment of amounts due under this Contract; provided, *however*, that any real or personal property which has become nonfunctional or obsolete or which is not needed for the efficient operation of the Water Enterprise may be sold or disposed of if such disposition will not have the effect of reducing revenues of the Water Enterprise below the levels required under this Contract;

(2) to maintain and preserve the Water Enterprise in good repair and working order at all times, operate the same in an efficient and economical manner and pay all operation and maintenance costs of the Water Enterprise as they become due;

(3) not later than the first day of each Fiscal Year, to adopt and make available to the District a budget approved by its governing board setting forth the amounts budgeted to be paid under this Contract;

(4) to comply with, keep, observe and perform all agreements, conditions, covenants and terms, express or implied, required to be performed by it contained in all contracts for the use of the Water Enterprise and all other contracts affecting or involving the Water Enterprise to the extent that the Agency is a party thereto;

(5) not to create or allow any lien on or payment from the revenues of the Water Enterprise or any part thereof prior to or superior to its obligation to pay amounts payable under this Contract;

(6) to procure and maintain such insurance relating to the Water Enterprise which it shall deem advisable or necessary to protect its interests, which insurance shall

afford protection in such amounts and against such risks as are usually covered in connection with similar water enterprises in the State of California; *provided*, that the Agency shall not be required to procure or maintain any such insurance unless such insurance is commercially available at reasonable cost; and *provided further*, that any such insurance may be maintained under a self-insurance program, so long as such self-insurance program is maintained in accordance with standards and in such amounts as are then usually maintained for similar water enterprises in the State of California;

(7) to pay and discharge all taxes, assessments and others governmental charges which may hereafter be lawfully imposed upon the Water Enterprise or any part thereof when the same shall become due; duly observe and conform with all valid regulations and requirements of any governmental authority relative to the operation of the Water Enterprise, that are not being contested in good faith; and

(8) if all or any material part of the Water Enterprise shall be taken by eminent domain proceedings, or if the Agency receives any insurance proceeds resulting from a casualty loss to any material portion of the Water Enterprise, the proceeds thereof shall be used to construct or install replacements for the condemned or destroyed components of the Water Enterprise or to prepay the Agency's share of Debt Service under this Contract.

Article 12. Water Quality. All water delivered to the Agency under this Contract shall meet all State of California and San Luis Obispo County minimum water quality standards for water for domestic use.

Article 13. Curtailment of Delivery of Project Water for Maintenance Purposes. The District may temporarily discontinue or reduce the amount of water to be furnished to the Agency for purposes of

maintaining, repairing, replacing and investigating or inspecting, any of the facilities necessary for the furnishing of Project water to the Agency hereunder. Insofar as it is feasible, the District will give the Agency advance notice of any such temporary discontinuance or reduction, except in the case of emergency, in which case no advance notice need be given. In the event of such discontinuance or reduction, the District will apply its best efforts to minimize the duration and severity of service interruption hereunder and shall, as nearly as possible, make available to the Agency Project water sufficient to make up for any shortfall in deliveries of water to the Agency during the period of curtailment.

Article 14. Rate and Method of Payment. Commencing with the first Water Year during which Project water is made available to the Agency hereunder, the Agency shall pay to the District in advance and on "a semiannual basis, its Contract Payments, calculated and paid in accordance with the further provisions of this Article, for the Project water made available under this Contract for such Water Year, ~~plus a variable charge, to be determined as set forth in paragraph (D) of this Article, to be calculated on a quarterly basis and paid in arrears.~~

Commented [DH71]: Modified to remove requirements for quarterly calculations. These are not being charges under the current budget and accounting system.

(A) *Allocation of Total Project Costs and Debt Service.* On or before April 1 of each Calendar Year, the District shall calculate, or cause to be calculated, Total Project Costs for the Fiscal Year commencing on the immediately following July 1. The District shall deduct from the calculated Total Project Costs for such Fiscal Year ~~(1)~~ the general *ad valorem* property taxes to be received by the District during the Fiscal Year in question; provided that *any ad valorem* taxes levied and paid to provide debt service on the District's General Obligation Bonds outstanding at any time shall be restricted to use for the payment of debt service on such General Obligation Bonds and shall not be included in the deducted amount represented by the foregoing clause; ~~and (2) a sum equal to Recreational Use Revenues received by the District during the Fiscal Year about to be concluded.~~

Commented [DH72]: Grammar edit

Commented [DH73]: Deleted, no longer relevant. District does not receive Recreation Use Revenues.

The result shall comprise the Total Contract Payments due, collectively, from the Agency hereunder and from the Other Agencies under their respective Water Supply Contracts.

In determining the Debt Service portion of Total Project Costs during any Fiscal Year to be supported by the Agency, the District shall make the following calculations:

- $[(G.O. Debt Service) + (Installment Debt Service) + (Other Debt Service)] - (District Revenues) = Allocable Debt Service ("ADS")$
- $[(Proportionate Share) \times ADS] = Annual Agency Obligations ("AAO")$
- $AAO - (G.O. Tax Collections) = Agency Debt Service$

Commented [DH74]: Added to allow for other types of debt that have been (e.g. Clean Water State Revolving Fund) or may be incurred

For purposes of the above calculations, the term "G.O. Debt Service" above refers to the debt service on the District's General Obligation Bonds; the term "Installment Debt Service" refers to the installment payments due with respect to the Tax-Exempt Obligations; the term "Other Debt Service" refers to the payments due with respect to the State Revolving Fund Loan or any other debt obligations; the term "Proportionate Share" refers to the Agency's Proportionate Share hereunder; the term "District Revenues" refers to the amounts available to the District under the second sentence of this paragraph (A) of Article 14; and the term "G.O. Tax Collections" refers to amounts collected to support the General Obligation Bonds within the boundaries of the Agency during the Fiscal Year in question, based upon then-current levies; *provided, however*, that in the case of County Service Area No. 12, such boundaries shall be deemed to include that area comprising Avila Beach Community Services District, as well as the area comprising such County Service Area No. 12. In no event shall Agency Debt Service, as calculated above, be a figure less than zero. The foregoing calculations shall be performed by the District each Fiscal Year and shall be made available to the Agency with respect to each Other Agency, as well.

Commented [DH75]: Added to allow for other types of debt that have been (e.g. Clean Water State Revolving Fund) or may be incurred

No more frequently than annually, the District shall retain a certified public accountant, or firm thereof, with the approval of the Zone 3 Advisory Board, which shall be responsible

for reviewing and confirming the Agency Debt Service figures resulting from the foregoing calculations, and reporting the same to the Agency, the District and each Other Agency.

(B) *Agency Contract Payments.* Unless the Agency shall, in accordance with paragraph (C) below, be entitled to an offsetting credit, the Agency shall be obligated to pay to the District:

(1) on or before July 1 and the immediately following January 1 of each Fiscal Year, a sum equal to one-half of its Percentage Share of charges for Operation and Maintenance and Capital Reserves for such Fiscal Year;

(2) on or before July 1 of each Fiscal Year, a sum equal to Agency Debt Service, as calculated under paragraph (A) above; and

(3) ~~on or before July 1 and the immediately following January 1 of each Fiscal Year on or before the fifteenth day following the end of each Calendar Quarter during a Fiscal Year,~~ the variable charge calculated in accordance with paragraph (D) below ~~for the Calendar Quarter ending on the last day of the Calendar Quarter most recently concluded.~~

Commented [DH76]: Modified to remove quarterly variable charge component of the contract. It is not currently used.

(C) *Agency Credits against Contract Payments.* The following shall constitute credits against the obligations of the Agency to pay Contract Payments to the District:

(1) ~~(a) — If, prior to the date upon which the District causes the Tax-Exempt Obligations to be sold, the Agency shall contribute, in cash, a sum as and for its Proportionate Share of the total amount of costs and expenses projected by the District as the basis for the Seismic Remediation Project, or any portion of its Proportionate Share, so that the aggregate principal component of the Tax-Exempt Obligations is reduced by such sum, the Agency's Proportionate Share of~~

~~Debt Service, and therefore, of Total Project Costs, shall be reduced accordingly;~~
~~and~~

Commented [DH77]: Deleted, no longer relevant. Referred to Tax Exempt Obligation for the Seismic Retrofit Project.

(b~~a~~) If the Agency shall, following the date of delivery of the Tax-Exempt Obligations, successfully implement a financing plan within its jurisdiction to fund all or a portion of Debt Service during the term of the Tax-Exempt Obligations through the levy of *ad valorem* property taxes, special assessments or special taxes, then the Agency shall be entitled to a credit from amounts paid under such levy as though such amounts were paid directly by the Agency hereunder, subject to the prior approval of each rating agency then rating the Tax-Exempt Obligations and any bond insurer then providing insurance therefor; provided, however, that the District shall be made a third-party beneficiary of any pledge of such alternate source of revenues, with the power to enforce collection thereof, in the event the Agency should fail to do so; and

(e~~b~~) The Agency shall be entitled to a credit equal to a Percentage Share of the net revenues the District shall have received from the sale of Surplus Water and from the delivery of any water wheeled for Wheeling Customers, as defined in and pursuant to the provisions of Article 31, during the Fiscal Year in question; in determining the amount of such wheeling credits against the obligations of the Agency hereunder, the District shall apportion its net revenues from the foregoing sources, taking into account the particular Unit or Units through which delivery of Surplus Water or wheeled water was made, and shall compare the Agency's Percentage Share for such Unit or Units with the aggregate Percentage Share for all Other Agencies and the Agency for such Unit or Units.

(2) On or before December 1 of each year, the District shall deliver to the Agency a statement as to the actual Operation and Maintenance Costs, Variable charges, and Capital Reserve charges incurred or imposed during the Fiscal Year most recently concluded, and shall set forth in such statement its determination as to whether the amounts theretofore paid by the Agency as its Percentage Share of estimated charges for Operation and Maintenance Costs, Variable charges, and for Capital Reserves were in excess of or less than its Percentage Share of such costs and charges for the Fiscal Year most recently concluded. If the Agency shall have paid less than its Percentage Share of actual Operation and Maintenance Costs, Variable charges, and charges for Capital Reserves for such Fiscal Year, the Agency shall remit the difference to the District within (180) days of the date upon which it receives such a statement; if the Agency shall have paid more than its Percentage Share of such costs and charges for such Fiscal Year, the District shall rebate the difference to the Agency promptly following its delivery of the closing statement, and, in any event, within thirty (30) days thereafter.

(D) ~~Quarterly~~-Variable Charges. The sum of ~~quarterly~~ variable charges to the Agency and the Other Agencies shall be an amount which is estimated to be sufficient to compensate the District for actual Project pumping energy and chemical charges incurred ~~during the respective Calendar Quarter~~. The variable charge shall be determined for each ~~Calendar Quarter~~ Fiscal Year during which Project water is made available to the Agency under this Contract by (1) dividing the District's actual cost of pumping energy and chemical charges during that ~~Calendar Quarter~~ Fiscal Year by the total acre-feet of Project water delivered by the District during such ~~Calendar Quarter~~ Fiscal Year to the Agency and all Other Agencies pursuant to this Contract and the other Water Supply Contracts, and (2) multiplying this acre-foot charge by the number of

Commented [DH78]: Variable charges added to account for that Zone 3 Agencies will now be charged variable charges (i.e. electrical and chemicals) for treatment of Entitlement and Stored Water.

acre-feet of Project water delivered by the District to the Agency during such ~~Calendar Quarter~~Fiscal Year. ~~The District shall notify the Agency in writing of such variable charge by a date no later than the fifteenth day following the end of each Calendar Quarter, for the variable charges attributable to the Calendar Quarter most recently concluded.~~

Commented [DH79]: Modified to describe that Zone 3 Agencies will now be charged variable charges (i.e. electrical and chemicals) for treatment of Entitlement and Stored Water and that this will be done on a Fiscal Year basis.

(E) *Use by District of Total Contract Payments.* During the term of this Contract and of the other Water Supply Contracts, the District shall proceed with due diligence to collect Total Contract Payments as and when due, and shall apply amounts collected in the following order of priority:

- (1) to the payment of Operation and Maintenance Costs;
- (2) to the payment of Debt Service with respect to the Tax-Exempt

Obligations; ~~and~~

~~(2)~~(3) to the payment of Debt Service with respect to Other Debt Service; and

Commented [DH80]: Added to outline to lending agencies that they are in line for repayment to provide assurances that they would get paid before replenishing or funding Capital Reserves

- ~~(3)~~(4) to the replenishment or funding of Capital Reserves for the Project,

in accordance with the provisions set forth in Article 10 hereof.

Article 15. Take-or-Pay Obligation of Agency. Commencing on the first date upon which Project water is provided under this Contract, the Agency shall pay all amounts due hereunder, including, without limitation, under Article 14 hereof, without reduction or offset of any kind, whether or not the Project or any part thereof is then operating or operable or its service is suspended, interfered with, reduced or curtailed or terminated in whole or in part, due to any of the reasons outlined in Articles 4(B), 5 and 13 or otherwise, and such Agency payments shall not be conditional upon the performance or nonperformance by any party for any cause whatsoever, including the Other Agencies; provided, however, that savings from nonoperation of the

Project shall be apportioned among the Agency and the Other Agencies in accordance with their Percentage Shares.

The Agency's failure or refusal to accept delivery of Project water ~~or to put water into storage,~~ to which it is entitled under this Contract shall in no way relieve the Agency of its obligation to make payments to the District as provided for herein.

Commented [DH81]: Added to describe that putting water in storage doesn't relieve an Agency of its payment obligation

Article 16. Pledge; Establishment and Collection of Rates and Charges. The Agency, ~~unless it shall have paid cash as its share of the Total Project Costs, as provided in Article 14(C)(1) hereof,~~ hereby pledges *gross* water sale revenues of its Water Enterprise to its obligations under this Contract, and covenants and agrees to establish, fix and collect Rates and Charges from the customers of its Water Enterprise at levels sufficient to produce revenues from the Water Enterprise at least equal to (A) the costs of operating and maintaining the Water Enterprise, plus (B) the Agency's Contract Payments, calculated in accordance with Article 14(B) hereof, including (C) the Agency's Proportionate Share of Debt Service, plus (D) the Coverage Factor for the Debt Service portion of the Agency's Contract Payments; provided, however, that the provisions of Article 21(C) hereof may impose upon the Agency a surcharge following the occurrence of any payment default by the Agency. The Agency acknowledges and agrees that its obligations hereunder shall comprise, for accounting purposes, an operation and maintenance expense of its Water Enterprise.

Commented [DH82]: Deleted, no longer relevant. Referred to Seismic Retrofit payments.

Article 17. Default.

- (A) The following shall constitute events of default hereunder:
- (1) The Agency shall fail to make timely payment in full of all amounts due from the Agency under the terms of this Contract; or
 - (2) The Agency shall fail to establish or collect, or cause to be collected, all fees, charges and other sums necessary to enable it to make the

payments required hereunder, as provided in Article 16 hereof, and, following thirty (30) days' written notice from the District to the Agency, shall fail to remedy such failure to the satisfaction of the District; or

(3) The Agency shall fail to perform any other obligation or covenant hereunder and shall fail to remedy such failure to the satisfaction of the District within thirty (30) days following the Agency's receipt of written notice from the District, or for such additional time as is reasonably required, in the sole discretion of the District, to correct the same; or .

(4) The Agency shall file any petition or institute any proceedings under any act or acts, State or federal, dealing with or relating to the subject of bankruptcy or insolvency or under any amendment to such act or acts, either as a bankrupt or as an insolvent or as a debtor or in any similar capacity, wherein or whereby the Agency seeks or prays to be adjudicated a bankrupt or is to be discharged from any or all of its debts or obligations, or offers a reorganization of its obligations for the benefit of creditors, or asks for similar relief.

(B) Upon the occurrence of an event of default hereunder, the District shall be entitled to proceed to protect and enforce the rights vested in the District by this Agreement by appropriate judicial proceedings as the District may deem most effective, either in equity or law. Without limiting the generality of the foregoing, the District shall be entitled to pursue any of the following remedies:

(1) The District may suspend the delivery of water hereunder during the period when the Agency is delinquent in its payment for or other obligations to the

District hereunder, but only following notice to the Agency and the imposition of such remedy following a formal hearing conducted by the County Board;

(2) The District may compel the Agency, or its governing board, by action or suit in equity to account to the District as the trustee of an express trust;

(3) The District may pursue by action or suit in equity to enjoin any acts or things which may be unlawful or in violation of the rights of the District hereunder; and

(4) The District may proceed in *mandamus* or other suit, action or proceeding at law or in equity to enforce its rights against the Agency (and its board, officers, agents and employees) and to compel the Agency to perform and carry out its duties and obligations under the law and its covenants and obligations as set forth herein.

The use by either party to this Contract of any remedy specified herein for the enforcement of this Contract is not exclusive and shall not deprive the party using such remedy of, or limit the application of, any other remedy provided hereunder or by law or equity.

(C) Upon each charge to be paid by the Agency to the District pursuant to this contract which remains unpaid after the same shall have become due and payable, interest shall accrue at an annual rate equal to that earned by the County Treasurer's investment fund as provided in Government Code Section 16480 *et seq.* calculated monthly on the amount of such delinquent payment from and after the due date when the same becomes due until paid, and the Agency hereby agrees to pay such interest; provided, that no interest shall be charged to or be paid by the Agency unless such delinquency continues for more than thirty (30) days. The Agency hereby

agrees to pay such interest to the District, whether or not the District shall pursue any of the remedies specified in this Article. In no event shall default interest be compounded.

Article 18. Failure to Levy, Set or Collect Taxes, Rates and Charges; Establishment of Coverage Account. If the Agency for any reason shall fail or refuse to establish or levy taxes or Rates and Charges sufficient to satisfy the requirements of Article 16 hereof, or if the Agency shall be precluded from establishing rates and charges at the levels required in said Article 16, then the Agency shall promptly notify the District of such fact, in writing, and shall establish either (a) with the District; or (b) with a Depository designated by the Agency to the District in writing; a Coverage Account, into which the Agency shall deposit, from the first lawfully available funds therefor, an amount equal to one year's Coverage Factor for the Debt Service portion of the Agency's Contract Payments hereunder. The Coverage Account shall be invested in accordance with applicable provisions of the Government Code, subject to any limitations established pursuant to Section 148 of the Internal Revenue Code of 1986, as amended, applicable to surplus moneys of the Agency and shall be and remain available to the Agency and to the District as a source of funds to remedy any shortfall in the payment of Agency Contract Payments hereunder. The Coverage Account shall be pledged to the District for the purposes described herein, and the Agency covenants and agrees to execute such instruments as may be necessary in order to effect a pledge of amounts on deposit in the Coverage Account, acknowledging and agreeing as well to follow the advice of special tax counsel to the District in connection with the pledge and investment of the Coverage Account, as may be necessary or advisable in order to maintain the tax status of the Tax-Exempt Obligations.

If at any time following the establishment of the Coverage Account hereunder, the Agency shall again be able to and shall collect rates and charges as required under Article 16 hereof, the

Coverage Account may be released to the credit and name of the Agency for any lawful purpose thereof, upon delivery to the District of evidence satisfactory to the District that (i) the Agency has successfully levied rates and charges for its Water Enterprise at the appropriate levels for at least one full Fiscal or Water Year since the Coverage Account was first created, and (ii) the Agency is then current on all payments due under this Contract; whereupon, the District shall either release the Coverage Account to the Agency or shall direct the Depository to do so, free from the lien described herein.

Article 19. Area Served by Agency. Water delivered to the Agency pursuant to this Contract shall not be sold or otherwise disposed of by the Agency for use outside the boundaries of Zone 3 as they may now or hereafter exist, without the prior written consent of the District.

Article 20. Changes in Organization of Agency. The Agency will furnish the District with maps showing the territorial limits of the Agency and the service area or areas of its water distribution system. Throughout the term of this Contract, the Agency will promptly notify the District of any changes, either by including or exclusion, in said territorial limits and service area or areas. The Agency shall take no action to exclude any lands from the Agency or its service area or areas without the prior written consent of the District.

Article 21. Agency's Obligations Several and Not Joint: Limited Step-up Provisions and Reimbursement.

(A) Except as provided in paragraph (B) of this Article, the Agency and the Other Agencies shall be solely responsible and liable for performance under this Contract or under the other Water Supply Contracts, as applicable. Their obligations to the District to make payments under this Contract and the other Water Supply Contracts are expressly recognized by the District as several, and not joint, and no default on the part of one of the Other Agencies shall, in and of itself,

create an event of default hereunder. The Coverage Account of the Agency, if any is established hereunder, shall not be available for any shortfall in payments under any of the other Water Supply Contracts, unless otherwise directed or approved in writing by the Agency.

(B) In the event that the Agency or any Other Agency (each, a "Delinquent Agency") shall fail to pay its Contract Payments hereunder or under the Other Agency's Water Supply Contract, as appropriate, for any reason, then the Contract Payments for each non-delinquent agency (each, a "Non-Delinquent Agency") then participating in the Project shall be increased for the particular Water Year by an amount equal to the sum of Contract Payments not paid in full by Delinquent Agencies (collectively, the "Shortfall"); *provided, however*, that Non-Delinquent Agencies shall contribute to the Shortfall in a proportion determined by dividing the Debt Service portion of the Contract Payments attributable to each particular Non-Defaulting Agency by the aggregate Debt Service portions of the Contract Payments attributable to all Non-Defaulting Agencies; *and provided further*, that the Agency in no event shall be required under this paragraph to contribute to the Shortfall by an amount in any Water Year exceeding the amount which is 20% of the portion of the Agency's Contract Payments representing Debt Service for that Water Year.

(C) If payments are made by Non-Delinquent Agencies under the foregoing paragraph (B) during any Water Year, the District shall, beginning on the first date upon which payments are due from a Delinquent Agency and not paid in accordance with its Water Supply Contract (each, a "Due Date"), declare a default as to such Delinquent Agency under its Water Supply Contract and shall be entitled to curtail all deliveries of Project water under such Water Supply Contract, including the curtailment of water that put into storage in Lopez Reservoir, to such Delinquent Agency; notwithstanding the foregoing, such Delinquent Agency shall nonetheless continue to be obligated under its Water Supply Contract for amounts paid on its behalf by the Non-

Commented [DH83]: Added to describe that a Delinquent Agency cannot put water into storage

Delinquent Agencies, until it has reimbursed each Non-Delinquent Agency in full. Amounts advanced by the Non-Delinquent Agencies hereunder are immediately due and payable by the responsible Delinquent Agency, and, if not so paid, and notwithstanding the provisions of Article 17(C), incur interest on the unpaid portion until paid in full at a rate per annum equal to the average rate for the County Treasury Pool, plus two percent (2.0%) per annum, for the month for which the County Treasury Pool rate was most recently calculated, based on a 360-day year of twelve 30-day months; provided, however, that payments to be made as reimbursements under this paragraph (C) are deemed and understood to be subordinate to the obligations of the Delinquent Agencies to pay their Proportionate Shares of Debt Service.

(D) Shortfalls in Total Contract Payments shall be remedied under this Article prior to the District's making any withdrawal from the debt service reserve fund established, or under the reserve surety bond posted, for the Tax-Exempt Obligations, if any, drawings on or under which shall be delayed until and unless insufficient moneys are available from Non-Defaulting Agencies hereunder.

(E) The District covenants and agrees to enforce the provisions of this Water Supply Contract with due diligence, including, without limitation, the provisions of this Section for the benefit of the owners, from time to time, of the Tax-Exempt Obligations.

Article 22. Contracts to Be Uniform. Water Supply Contracts executed by the District with the Other Agencies shall be substantially uniform with respect to basic terms and conditions, when compared with this Contract, but shall provide for different dates, quantities of water to be delivered, water delivery points, Proportionate Shares and Percentage Shares and payment amounts.

Article 23. Amendments. This Contract shall be subject to amendment at any time by mutual agreement of the parties hereto, except insofar as any proposed amendments are in any way

Commented [WC84]: Need to get rating agency and bond insurer written consent to amendments

contrary to applicable law or would have a material adverse effect upon the owners of any of the Tax-Exempt Obligations. As a condition to any amendment to this Contract or to the other Water Supply Contracts, the District shall first have received written confirmation from the rating agency or agencies then providing a rating for the Tax-Exempt Obligations, to the effect that the proposed amendments will not adversely affect the rating of the Tax-Exempt Obligations and, in the event that the Tax-Exempt Obligations, or any portion thereof, shall be covered by municipal bond insurance, the District shall have received prior written consent to such proposed amendments from the provider of such bond insurance. Amendments may be effected upon the following conditions:

(A) Amendments to this Contract or the other Water Supply Contracts which have the effect of replacing the Agency's or any Other Agency's Proportionate Share of Project water or Percentage Share of Total Contract Payments with water purchases by or revenues contributed from either (i) the Agency or some Other Agency or (ii) a new customer, shall be subject to the approval only of those entities whose Proportionate Shares or Percentage Shares will be affected, and the District.

(B) Upon the written request of the Agency or any Other Agency, the District may order the construction or equipping of any Type III Additional Project; provided, however, that the requesting Agency or Other Agency shall first demonstrate to the satisfaction of the District that either (i) the proposed Type III Additional Project will be economically feasible with the financial support of only the requesting Agency and/or Other Agencies who voluntarily participate (whose Percentage Shares will thereafter be appropriately adjusted); or (ii) the Agency and all of the Other Agencies will consent to the funding of the Type III Additional Project and will agree to increase Total Project Costs sufficiently to provide for the costs thereof. The financing of a Type III Additional Project may be accomplished through the levy of additional Capital Reserves, the

issuance of additional bonds or other evidences of indebtedness or otherwise. The undertaking of Type I or Type II Additional Projects shall not require the consent of the Agency or any Other Agency nor the amendment of this Contract.

(C) Amendments to this Contract and to the other Water Supply Contracts other than those specified above shall be approved only upon the prior written and unanimous consent of the District, the Agency and all Other Agencies.

Article 24. Opinions and Determinations; Good Faith; Information to Be Provided to Zone 3 Advisory Committee.

(A) Where the terms of this Contract provide for action to be based upon opinion, judgment, approval, review or determination of either party hereto, such terms are not intended to and shall never be construed to permit such opinion, judgment, approval, review of determination to be arbitrary, capricious or unreasonable. The District and the Agency shall each act in good faith in performing their respective obligations as set forth in this Contract.

(B) The Zone 3 Advisory Committee, created by appointment of designated representatives made by the Agency, each Other Agency and the District, is hereby continued for the purpose of advising the District regarding administrative and operational concerns affecting the Project. The District covenants and agrees to present to the Zone 3 Advisory Committee, at its regularly scheduled or specially called meetings, the following items for advice and comment, in each case, prior to final presentation of the same item to the Board of Supervisors of the County:

- i. the annual budgets for the District;
- ii. the approval of each non-emergency Capital Project which has not theretofore been included in an annual budget of the District; it being understood and

agreed that emergency repairs and improvements shall be exempt from any requirement for preview established hereby; and

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iii. the mid-year review of actual fiscal performance of the Project, provided for the then-current Fiscal Year, and in any event, prior to March 31 of each calendar year, which may, to the extent practicable, be combined with the review of the District's annual budget for the next Fiscal Year; and

~~iv. amendments to the methodology or formula established in County Board Resolution No. 2000-133, adopted April 4, 2000, with respect to the making of Recreational Budget Transfers;~~

Commented [DH86]: Deleted, no longer relevant. Related to Recreation Funding.

Article 25. Waiver of Rights. Any waiver at any time by either party hereto of its rights with respect to a breach or default, or any other matter arising in connection with this Contract, shall not be deemed to be a waiver with respect to any other breach, default or matter hereunder, nor as to a breach or default occurring or having occurred under any other Water Supply Contract.

Article 26. Notices. All notices that are required either expressly or by implication to be given by either party to the other under this Contract shall, if given in writing, be executed on behalf of the District or for the Agency by such authorized officers as they may each, from time to time, authorize in writing for such purposes. All notices shall be deemed to have been given and delivered if delivered personally or if deposited, postage prepaid, with the United States Postal Service for delivery. Unless and until formally notified otherwise, all notices shall be addressed to the parties at their addresses shown on the signature page of this Contract; provided, however, that either party may give written notice to the other of a change in such notice address.

Article 27. Assignment; Pledge. The provisions of this Contract shall apply to and bind the successors and assigns of the respective parties, including any assignee hereof designated in

connection with the execution and delivery of the Tax-Exempt Obligations, but no assignment or transfer of this Contract by the Agency, or any part hereof or interest herein, shall be valid until and unless approved by the District; *provided, however*, that no further assignment by the District shall be valid until and unless approved by the Agency and all of the Other Agencies; and *provided further*, that, so long as any Tax-Exempt Obligations are outstanding, no such assignment shall be effective until such time as the District has received assurances from each rating agency then rating the Tax-Exempt Obligations, to the effect that such transfer shall not adversely affect the rating on the Tax-Exempt Obligations, and, so long as any Tax-Exempt Obligations are then being insured by a municipal bond insurance company, until such time as the District has received the written consent from such bond insurer as to such assignment. The Agency understands and acknowledges that the District intends to pledge amounts received and to be received hereunder and under the other Water Supply Contracts to a financial institution and/or nonprofit corporation as further support for its obligations under the Tax-Exempt Obligations.

Article 28. Inspection of Books and Records. The authorized officers of the Agency shall have full and free access at all reasonable times to the account books and official records of the District insofar as the same pertain to the matters and services provided for in this Contract, with the right at any time during regular office hours of the District to make copies thereof at the Agency's expense, and the authorized officers of the District shall have similar rights in respect to the account books and records of the Agency for its Water Enterprise.

Article 29. Severability. Any provision of this Contract that is prohibited, unenforceable or not authorized in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition, unenforceability or non-authorization without invalidating the remaining provisions hereof of affecting the validity, enforceability of legality of such provision in any other jurisdiction.

Article 30. Water Rights. No provision of this Contract shall be considered to be in derogation of any existing waiver of right(s) or claim(s) to Water Right(s) by or any agreements concerning Water Rights of either party hereof, including but not limited to overlying, prescriptive, appropriative, riparian, or pueblo rights, nor shall it be construed to result in any relinquishment or adjustment of any such Water Rights or claims thereof; and, in particular, no provision of this Contract shall be considered to diminish, reduce or affect, in any way, either party's rights pursuant to California Water Code Section 1005.1 and/or Section 1005.2

Article 31. Wheeling of Water. As used in this Article, the term "Existing Contractor" shall refer to this Agency and any Other Agencies presently having a contract with the District for the delivery of Project water; any person other than an Existing Contractor which shall arrange for the delivery of water other than Project water from the District under the terms hereof shall be described as a "Wheeling Customer." The Agency, *as* an Existing Contractor, shall be entitled to have additional water wheeled to it by the District through the various Units of the Project, at the actual cost of such wheeling, determined in accordance with the terms and conditions of the existing contracts by and between the District and the Agency or Other Agencies for the delivery of State Project Water to the Agency or Other Agencies through the Project.

If at any time during the term of this Contract, the District delivers water, other than Project water, through any Unit of the Project to any Wheeling Customer, said Wheeling Customer shall be required to pay for such delivery service in a manner and at prices which will return to the District the largest net revenue practicable, but in no event shall such deliveries be effected at charges less than those applicable to the delivery of Project water to the Agency through the same Unit or Units.

In determining the appropriate charges for water delivered to a Wheeling Customer hereunder, the District shall take into account the particular Unit or Units through which delivery of

such water is made, shall compare the Operation and Maintenance Costs and Debt Service costs apportionable to such Unit or Units with Total Project Costs, and shall further compare the amount of water delivered to Wheeling Customers through such Unit or Units with the amount of Project water delivered to Existing Contractors through such Unit or Units for the same period of time.

In calculating credits to the Existing Contractors from the delivery of water to Wheeling Customers under this Contract and the other Water Supply Contracts, the District ~~shall~~ shall apportion such credits according to the Unit or Units through which such water was in fact delivered, as described in the preceding paragraph.

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The provisions of this Article shall be subject to any contracts which the District may execute with the United States of America for any grants from the Department of Housing and Urban Development.

Article 32. Execution in Counterparts. This Contract may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same document.

Article 33. Governing Law. This Contract shall be interpreted, governed and enforced in accordance with the laws of the State of California applicable to contracts made and performed in such State.

IN WITNESS WHEREOF, the parties hereto have executed this Contract on the date first above written.

**SAN LUIS OBISPO COUNTY
FLOOD CONTROL AND WATER
CONSERVATION DISTRICT**

BY: _____

Chair, Board of Supervisors
Address for Notices:
Engineering Department
County Government Center
San Luis Obispo, California 93408
Attn: County Engineer

APPROVED AS TO FORM:
County Counsel

BY: _____
Senior Deputy County Counsel

ATTEST:
County Clerk

BY: _____
Deputy

**OCEANO COMMUNITY
SERVICES DISTRICT**

BY: _____
President

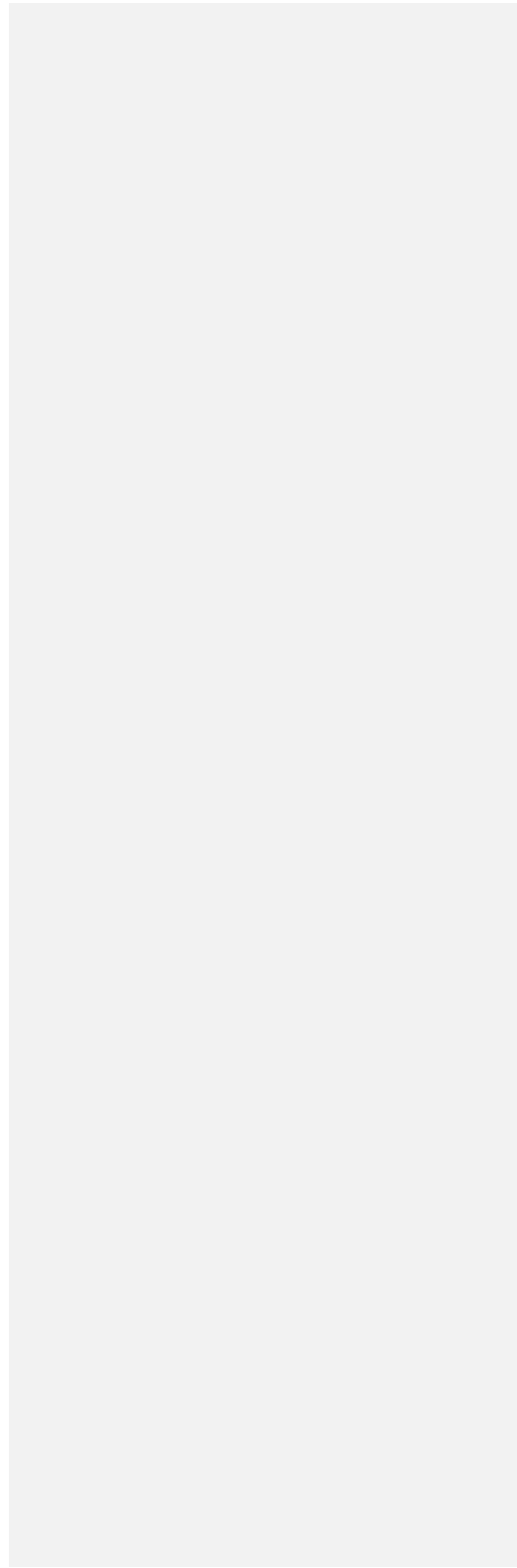
Address for Notices:
P.O. Box 599
Oceano, CA 93445
Attn: District Manager

ATTEST:
Clerk of the Board

BY: _____
Paavo Ogren

APPROVED AS TO FORM:
District Counsel

BY: _____
Jeffrey A. Minnery



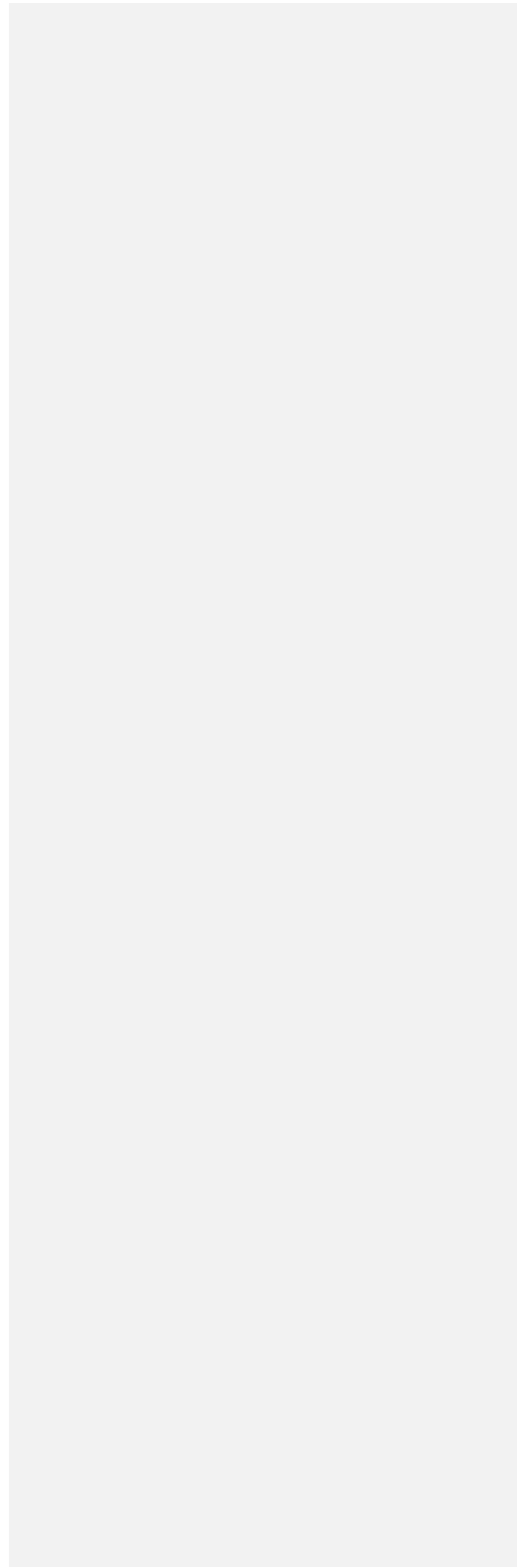


EXHIBIT A

THE PROJECT

Alluvium Strengthening

A portion of the downstream shell of Lopez Dam will be removed temporarily to allow access for strengthening of the foundation with stone columns.' The area of alluvium to be excavated would extend about 150 feet downstream from the existing toe of the dam, and the excavation would be to approximately elevation 340 feet in the center and to 370 feet on the sides. The total volume of excavated materials to be temporarily stored is estimated to be 400,000 to 500,000 cubic yards (cy). This includes the topsoil, which will be salvaged and stored separately. During excavation of the alluvium and installation of the stone columns, groundwater will need to be lowered as much as 30 feet in the excavation area. In addition, the outlet control building, portions of the associated piping, and the outflow channels connecting to Arroyo Grande Creek will need to be relocated downstream prior to the excavation, or a temporary bypass will need to be constructed, so that the outlet works can remain operational during the work. The bypass flows could enter the creek either through an existing pipe that discharges at the County property line (about 1,000 feet downstream) or at a location developed by the construction contractor near the western edge of the abandoned trout farm ponds. The outlet control building will be moved approximately 300 feet west along the access road while the channels will be moved into either one or two new channels 50 to 200 feet downstream from the existing discharge location.

Stone columns will be installed using a crane-operated vibrating probe. The vibration acts to densify and strengthen the ground, and the stone columns provide additional strength. Approximately 2000 columns, approximately 3 to 4 feet in diameter, will be installed in a triangular' pattern with the columns spaced at approximately 7 to 9 feet on centers. The area of installation will extend from abutment to abutment (approximately 570 feet) and be about 200 feet in width (upstream/downstream distance) under the existing berm of the downstream shell. Gravel material for the stone columns (65,000 to 75,000 cy) will be imported by truck throughout the process.

The downstream berm, including the filter/drain material, will be replaced after the columns are installed using the material removed and stored as well as additional filter/drain material imported from a commercial source. Additional buttress material will be placed over the downstream shell after the stone columns are installed and the alluvium and shell materials that were removed are replaced. As a result, the Dam crest would be widened by approximately 130 feet. The buttress may be extended if testing during stone column installation indicates that strengthening of the alluvium is less than predicted. This additional buttress would require 200,000 to 400,000 cy of material.

Water level in the reservoir will need to be maintained at or below the currently mandated level of 510 feet, possibly down to elevation 480 feet. Construction is estimated to take approximately 18 months.

Dewatering will be necessary during excavation of the alluvium to elevation 340 feet, installation of the central stone columns, and replacement of the alluvium to maintain the ground water level approximately 10 feet below the excavated ground surface. Dewatering may also be

required during excavation ground surface. Dewatering may also be required during excavation of the borrow material for the buttress if groundwater is encountered.

Borrow areas for material needed in strengthening the dam can come from the Arroyo Grande Creek floodplain downstream of the dam that was excavated during the original construction of the dam. Approximately 25,000 to 35,000 cy of commercially obtained materials are expected to be required for "filter and drain" zones of the Dam. The materials will be needed at the beginning of backfill after the stone columns are completed.

Appurtenant Facility Improvements

The left abutment has been suspected of having seepage, and the spillway structure (on the right abutment) requires repairs to areas of the concrete floor and walls. Construction activities will occur at the spillway and at the left abutment to correct these problems.

Seepage in the left abutment may have carried some abutment materials out through the drains in the dam, resulting in voids. Grouting will be used to reduce this seepage by filling any such voids. This work is independent of the remediation activities and could be performed in parallel with them.

CEQA PROJECT DESCRIPTION

Project Purpose

The San Luis Obispo County Flood Control and Water Conservation District (District) established Zone 3 (Zone 3) on July 26, 1965 for the purpose of financing, construction and maintenance of the Lopez Dam and facilities (Lopez Project) to provide potable water to the area within the Zone 3 boundary, see Attachment 1. The District entered into water supply contracts with the Zone 3 Contractors (Contractors), which include Cities of Arroyo Grande, Grover Beach and Pismo Beach, the Oceano Community Services District and the County Service Area 12 (Avila Beach) to fund a portion of the Lopez Project and to establish entitlements for Lopez Water.

The District's current water supply contracts with the Contractors provide an annual entitlement of water from the reservoir (entitlement) and the option to purchase surplus water, which consists of unused annual entitlements and unreleased downstream releases from the previous water year. Contractors have one year to use the surplus water, any unused surplus water then reverts back to being water available to the District for annual entitlements and downstream releases in the subsequent year. This contractual structure creates a "use it or lose it" scenario and does not provide any incentive for the Contractors to limit their use of Lopez Water and preserve local water supplies.

The District, on behalf of the Contractors, is proposing to restate and amend its existing water supply contracts to allow the Contractors to store their unused annual water entitlement in Lopez Reservoir for future use. The purpose of the proposed changes is to provide the District and the five Contractors greater flexibility to better manage their water supply portfolios, which in addition to Lopez reservoir water, may include groundwater or allocations from the State Water Project (SWP), and improve water supply resiliency for the region.

Background

Safe Yield

The safe yield of the reservoir is the maximum quantity of water that can be consistently extracted from the reservoir on an annual basis without the reservoir reaching minimum pool or other limiting constraint during the worst drought period on record. The safe yield identified in the existing Lopez Reservoir Water Supply Contracts is 8,730 acre feet per year (AFY). This safe yield has been reaffirmed in multiple reservoir operations studies in recent years, including the Lopez Spillway Raise Project (Stetson 2013) and the ECORP HCP Modeling Analysis.

The safe yield is divided between the municipal diversions and downstream releases, with 4,530 AFY designated for Contractor entitlements, and 4,200 AFY designated for release downstream.

Existing Contractor Entitlements

The District's water supply contracts identify each Contractor's entitlement to Lopez Project water and is summarized in Table 1, along with each Contractor's entitlement percentage.

Table 1. Lopez Reservoir Contractor Entitlements and Entitlement Percentages

Contractor	Entitlement (AFY)	Entitlement Percentage (Approximate)
CSA-12 (Avila Beach)	245	5%
City of Arroyo Grande	2290	51%
City of Grover Beach	800	18%
City of Pismo Beach	892	20%
Oceano Community Services District	303	7%
Total	4,530	100%

The water year for the Lopez Project begins on April 1 and ends on March 31 of every year. Shortly after the end of the water year the District notifies the Contractors of how much water entitlement and surplus water is available for each agency for the upcoming water year. The Contractors request a portion or all of their entitlement and surplus water and the water is diverted throughout the year from the reservoir to the Lopez terminal reservoir, where it is treated and transmitted via the Lopez Pipeline to the Contractors. Since 2007, entitlement deliveries to the Contractors have averaged approximately 4,480 AFY. The time period from 2007 to present was selected as the period of reference because it represents current operations under the 2007 Interim Downstream Release Schedule (IDRS), further described below, and is most representative of the current operating parameters for the reservoir.

Surplus Water

In addition to the entitlements, the Contractors have access to surplus water under the current contracts. Surplus Water is not excess water in Lopez. The amount of surplus water available to the Contractors is calculated at the end of the Lopez water year and includes unused entitlements and unreleased downstream releases and represents the unused safe yield for that year. Each Contractor's allocation of surplus water is proportional to each agencies' entitlement percentage. Surplus water must be taken in the subsequent water year but can only be taken after the Contractor takes delivery of all its entitlement water for that year. Any unused surplus water at the end of the water year becomes water available to the District for annual entitlements and downstream releases in the subsequent water year.

Downstream Releases

Downstream releases are also tracked on the Lopez water year and the parameters for managing downstream releases are included in IDRS (additional information provided below). Up to 4,200 AFY of the safe yield is designated for downstream release. Downstream releases are released from the reservoir at the outlet of the dam directly into Arroyo Grande Creek. The downstream releases are used to maintain habitat for environmental resources, provide water for downstream agricultural uses, and to recharge the groundwater basin. The downstream releases vary throughout the year depending on hydrologic conditions and downstream environmental and agricultural demands. On average, since 2007 downstream releases have averaged approximately 3,640 AFY.

Permits, Authorizations, Guiding Documents

The Lopez Dam received a permit to operate on May 31, 1961. The permit provides for appropriation of water from Arroyo Grande Creek and the diversion of 50,000 AFY from October 1 to July 1, for beneficial use. The District is in the process of obtaining a updated Water Rights Permit, which requires the completion of a Habitat Conservation Plan (HCP). See additional information below regarding the HCP.

Interim Downstream Release Schedule

The IDRS provides a plan for managing downstream releases from Lopez Dam until such time as the HCP can be completed and adopted. The goal of the IDRS is to allow the District to maintain a downstream release schedule that provides water for downstream environmental and agricultural uses, while maintaining contractual obligations for municipal diversions. The IDRS outlines a release method, schedule, and monitoring protocol. The Zone 3 Board of Supervisors adopted the IDRS in April 2007, and the District has been implementing it since that time. Under the IDRS, downstream releases range between 3 and 6 cubic feet per second, depending on hydrologic conditions and downstream demands. Downstream releases have averaged approximately 5 cubic feet per second since 2007.

Low Reservoir Response Plan

The IDRS includes a Low Reservoir Response Plan (LRRP). The LRRP describes a set of actions that the District would implement when the amount of water in storage within the Lopez Reservoir drops below 20,000 Acre-Feet (AF) and the District's Board of Supervisors has declared a water shortage emergency related to Zone 3. The purpose of the LRRP is to limit municipal and downstream releases from Lopez Reservoir during periods of low reservoir storage to preserve water within the reservoir, above the minimum pool level, for a minimum of 3 to 4 years under continuing drought conditions.

The primary actions resulting from implementation of the LRRP include:

- Reductions in entitlement water deliveries
- Reductions in downstream releases, and
- No new allocations of surplus water from unreleased downstream releases; and
- Extension of time that agencies can take delivery of unused Entitlement water; throughout the duration that the Drought Emergency is in effect, subject to evaporation losses

The LRRP was implemented from December 2014 through March 2018 in response to the drought. The proposed contract changes would not modify the LRRP.

Habitat Conservation Plan

The Habitat Conservation Plan (HCP) is being prepared to protect and enhance habitat conditions within Arroyo Grande Creek for south-central California coast steelhead (steelhead) and California red-legged frogs (CRLF) pursuant to the requirements of the Federal Endangered Species Act. The HCP will address the operation of Lopez Dam and habitat restoration activities downstream of the dam. It is expected that the HCP would be effective for approximately 20 years once approved by all parties. The HCP will comply with the Federal Endangered Species Act, provide incidental take authorization for steelhead and CRLF resulting from District operations and maintenance activities affecting Arroyo Grande Creek, and provide enhanced habitat conditions and protection for both species.

It is anticipated that the HCP will be implemented via an adaptive management strategy that establishes downstream release patterns that would allow the District to provide the Zone 3 Contractor

entitlements, water for downstream agricultural uses and maximize beneficial effects to steelhead and CRLF – including improved attraction and passage flows for steelhead, for example. Surveys of the creek habitat suitability under different downstream release scenarios are scheduled for the winter of 20/21. This survey effort will subsequently support recommendations in the HCP.

Proposed Contract Changes

The proposed restating and amending of the contract would modify the current contracts between the District and Contractors such that the Contractor's would be allowed to "store" any portion of their annual entitlement or requested surplus water in the reservoir until such time as it was delivered for use. For example, a Contractor that only needed 20% of their annual entitlement in Year 1, would request delivery of that amount, but could also choose to store the other 80% of their entitlement and any surplus water and retain it in the reservoir for future use. This stored water or entitled water held by any Contractor would be subject to loss if the reservoir filled and spilled. Stored Water would also be subject to evaporation losses as well.

It is also proposed to allow storage of "other water" such as water from the State Water Project (SWP). This would only be available to those Contractors who have a contract for SWP Water as well as Lopez Project Water, but would not include storing actual water from the SWP Water in Lopez Reservoir. Stored SWP Water would be achieved through in-lieu exchange of SWP water and requested deliveries of Lopez Water by other Contractors. Stored SWP Water would be subject to evaporation and spill losses.

The contract changes also include language that clearly indicates that existing annual entitlements and downstream releases are subject to change in the future due to state or federal mandates that may result from the HCP and operating permit renewal.

Anticipated Outcomes

The Contractor's generally have multiple sources of water (water portfolio), including the Lopez Project, groundwater, and State Water Project (SWP). The cost and availability of these sources varies from year to year. Allowing Contractors to store their Lopez and State Water supplies for future use provides them with additional flexibility to manage their water portfolio as efficiently as possible. More specific anticipated outcomes are described below.

To determine how the proposed contract changes would potentially impact the operations of the reservoir, the District evaluated multiple reservoir operations scenarios, with and without the proposed contract changes, using the existing OASIS Reservoir Operations Model. The Baseline scenario simulates the operation of the reservoir under current operating parameters (i.e. IDRS, no storage provisions) over the entire hydrologic period that the reservoir has been in operation. This was done because operational parameters prior to adoption of the IDRS in 2007 were much different than current and anticipated future operations. The Individual Agency Storage scenario simulates the operation of the reservoir under the proposed contract changes. The assumptions for each of the modeling scenarios are outlined in the Table 2 below.

Table 2. Zone 3 Contract Change Modeling Scenarios

Scenario	Scenario Parameters					
	Hydrology	Downstream Releases	Municipal Demands	Supply Priority ¹	Storage Rights	Low Reservoir Response Plan
Baseline	1969 - 2018	IDRS Release Schedule	2018, 2035 Demands	No Storage (Lopez, SWP, Groundwater)	No	Not Included
Individual Agency Storage	1969 - 2018	IDRS Release Schedule	2018, 2035 Demands	With Storage (SWP, Lopez, Groundwater)	Unreleased Downstream Releases and Unused Entitlements	Not Included

¹No Storage – Based on a tiered priority strategy intended to optimize use of NCMA Agencies’ water supply portfolios.

1. Priority 1 – Lopez Water.
2. Priority 2 – State Water. SWP Water based on available SWP supply and delivery capacity. Available supply calculated using subcontractor Table A Allocation and Drought Buffer and estimated Annual Table Allocation from Calsim 3 Table A Allocation Estimates. Available Capacity accounts for SWP and Lopez pipeline capacity limitations.
3. Priority 3 – Groundwater. Natural Yield groundwater supplies (i.e. 25% of NCMA Allocations).

With Individual Agency Storage – Based on a tiered priority strategy intended to optimize use of NCMA Agencies’ water supply portfolios.

1. Priority 1 – State Water. SWP Water based on available SWP supply and delivery capacity. Available supply calculated using subcontractor Table A Allocation and Drought Buffer and estimated Annual Table Allocation from Calsim 3 Table A Allocation Estimates. Available Capacity accounts for SWP and Lopez pipeline capacity limitations. Priority 1 switches to Lopez Water once 3 years of Lopez Water is available in storage for an individual agency.
2. Priority 2 – Lopez Water.
3. Priority 3 – Groundwater. Natural Yield groundwater supplies (i.e. 25% of NCMA Allocations).

The modelling scenario results indicate that the proposed contract amendments would generally result in the following:

- More water would be stored in Lopez Reservoir due to the incentives provided by the proposed contract changes to reduce use of Lopez Water, see Figure 1 for comparison of water storage under current contracts (Baseline 2018) and proposed contract changes (Individual Agency Storage). As shown in the figure, the amount of water in Lopez is higher with Individual Agency Storage than under the Baseline scenario.
- Downstream releases would not be impacted as modeling indicates that there would be sufficient unentitled water in the reservoir to meet IDRS downstream release requirements and operated within the safe yield of the reservoir. Additionally, if there was not sufficient unentitled water available for downstream releases the proposed contract provisions allow for water to be taken from Contractors’ storage to meet IDRS downstream release requirements.

- Volume of water lost to spills would increase slightly (approximately 21,000 AF over a 50-year period) due to the additional water in storage.

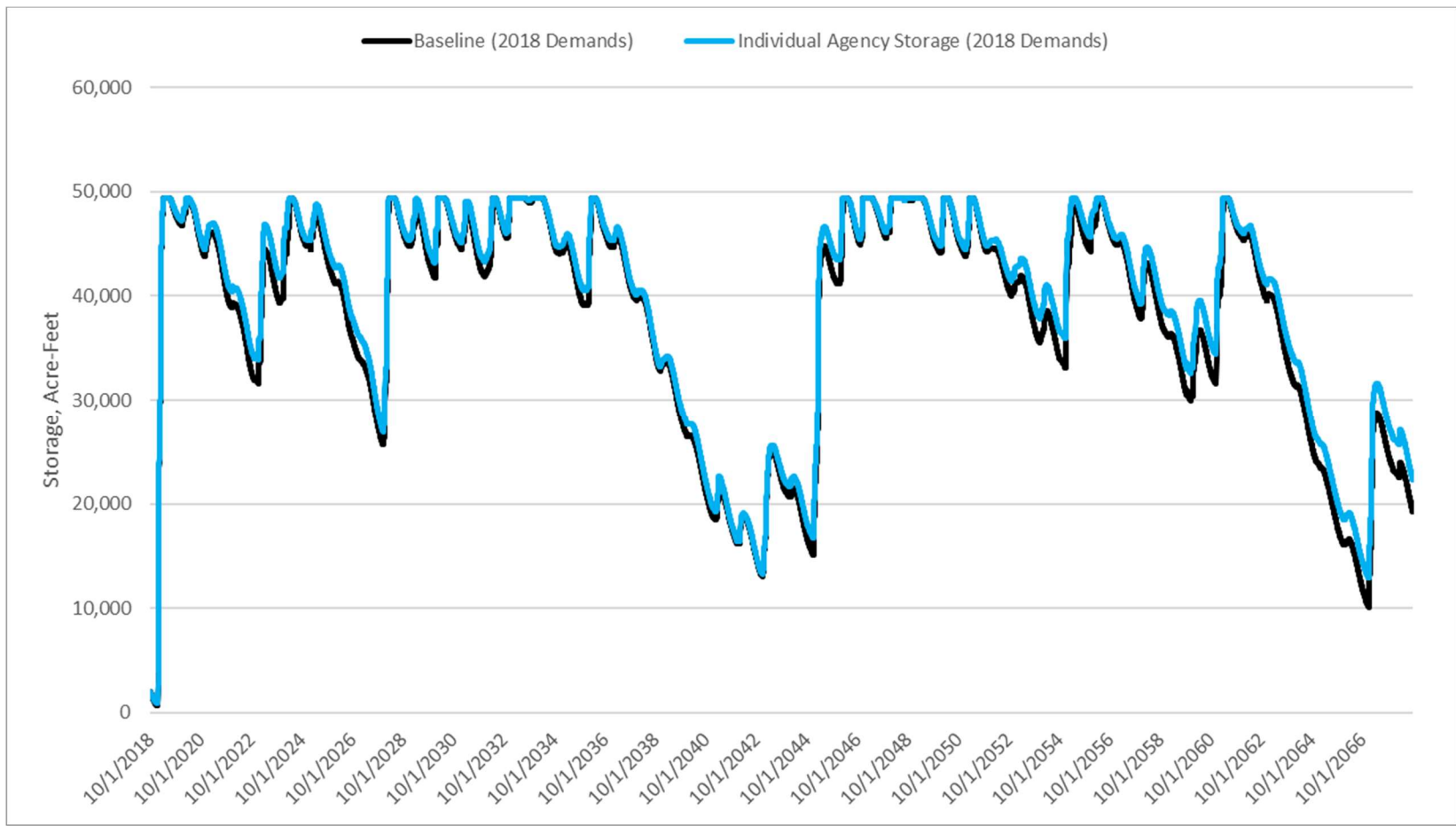
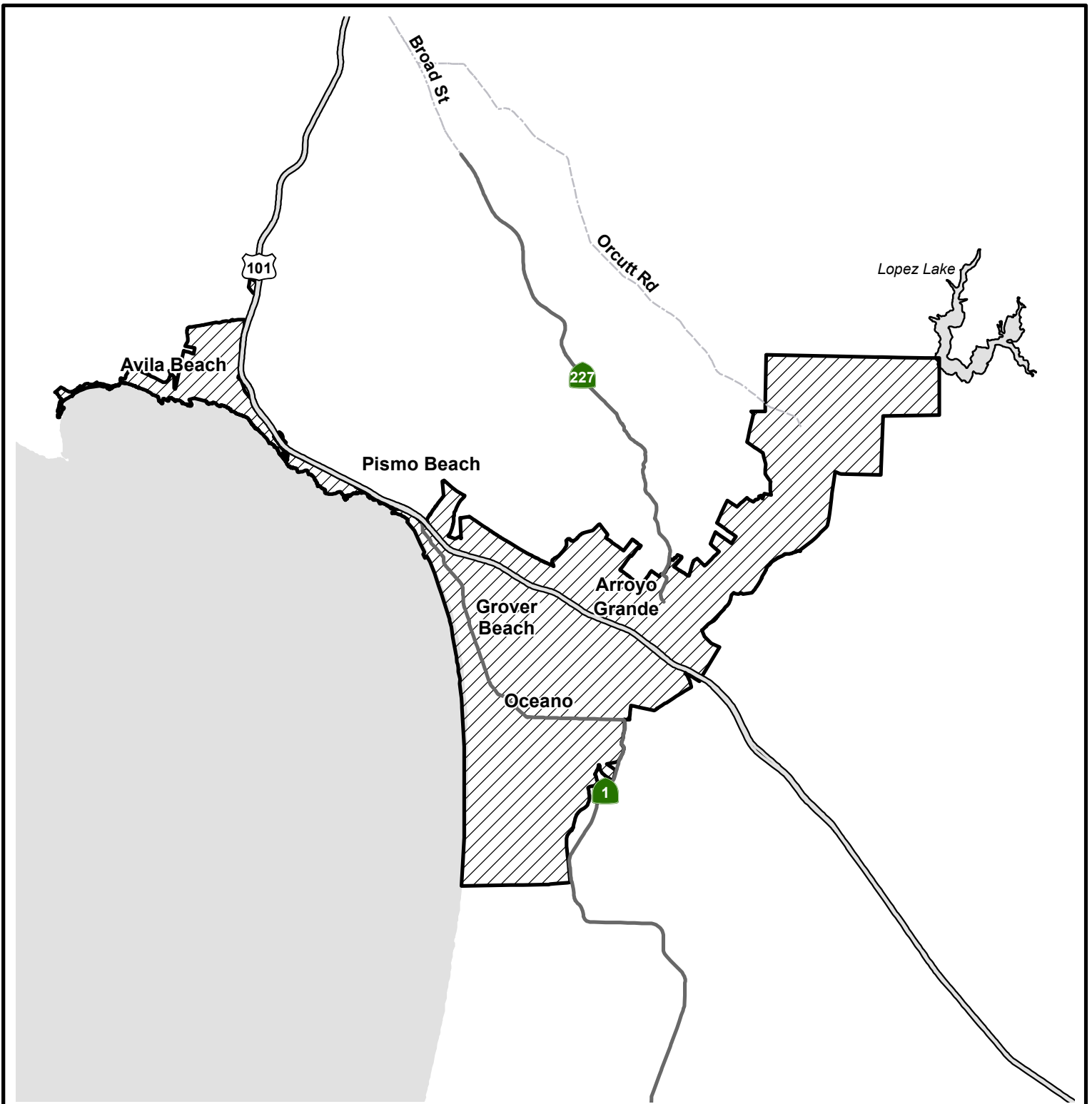


Figure 1. Zone 3 Contract Change Modeling Scenarios Results



VICINITY MAP
**FLOOD CONTROL AND WATER
CONSERVATION DISTRICT ZONE 3**
South County, CA
COUNTY OF SAN LUIS OBISPO
DEPARTMENT OF PUBLIC WORKS

1:150,000
0 1 2
Miles

Map by: BJclose
Date: 8/16/2018

