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**AMENDMENT NO. 9 OF  
NAPA COUNTY FLOOD CONTROL AND WATER  
CONSERVATION DISTRICT AGREEMENT NO. 1926**

**(WATER SUPPLY CONTRACT WITH THE CITY OF CALISTOGA)**

**THIS AMENDMENT NO. 9 OF NAPA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT AGREEMENT NO. 1926**, hereinafter referred to as “Agreement”, is made as of this \_\_\_\_\_ day of \_\_\_\_\_, 2009, by and between the NAPA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, hereinafter referred to as “Agency”, and the CITY OF CALISTOGA, hereinafter referred to as “City”;

**RECITALS**

**WHEREAS**, Agency is party to a water supply agreement (“State Water Supply Agreement”) with the State of California that specifies the amount of water available to Agency for disbursement to its Member Units (defined by Agreement No. 1926, Paragraph 1(f)) in any given year and a number of component charges for water allocated and delivered through the North Bay Aqueduct; and

**WHEREAS**, City and Agency entered into Agreement No. 1926 as of June 15, 1982, subsequently modified by Amendment No. 1 as of December 21, 1982, and by Amendment No. 2 as of December 15, 1998, and by Amendment No. 3 as of September 19, 2000, and by Amendment No. 4 as of December 7, 2004, and by Amendment No. 5 as of December 7, 2004, by Amendment No. 6 as of November 7, 2006, by Amendment No. 7 as of April 15, 2008, and by Amendment No. 8 as of the same date as this Amendment under which Agency disburses to City as a member unit, a portion of the water allocated to Agency under the State Water Supply Agreement; and

**WHEREAS**, State Water Project (SWP) water is diverted into the North Bay Aqueduct from the Sacramento-San Joaquin Delta at the authorized point of diversion pursuant to water rights for the SWP, including, but not limited to, Permit 016483 (A01754A); and

**WHEREAS**, diminished water quality, maintenance problems and other issues at the current authorized point of diversion have prompted Agency and Solano County Water Agency (SCWA), which shares portions of the North Bay Aqueduct facilities, to request DWR to initiate a program for development of an alternate point of diversion for the North Bay Aqueduct; and

**WHEREAS**, the Agency and SCWA desire that DWR be the lead agency of a proposed project under the California Environmental Quality Act (CEQA) for development of an alternate intake at the North Bay Aqueduct and that DWR hire an

46 environmental consultant to do the environmental work and prepare the documentation  
47 necessary under CEQA; and

48  
49 **WHEREAS**, the Agency and SCWA, following completion of the environmental  
50 review process, will decide whether to execute amendments to the two agencies' long-  
51 term water supply contracts with DWR to enable DWR to proceed with final design and  
52 construction, and a Petition for change in Point of Diversion from the State Water  
53 Resources Control Board, and

54  
55 **WHEREAS**, City desires that Agency participate in the North Bay Aqueduct  
56 Alternate Intake Project studies for purposes of improved water quality and water supply  
57 reliability; and

58  
59 **WHEREAS**, the parties believe that it is in the best interest of Agency and City to  
60 amend the Agreement No. 1926 to authorize Agency to sign a Funding Agreement with  
61 SCWA and DWR for the costs of environmental analysis, planning and design of the  
62 North Bay Aqueduct Alternate Intake Project, attached hereto as Exhibit A, and to  
63 authorize the Agency to participate in updating a related feasibility study prepared by  
64 SCWA in 2003, the scope of work for which is attached hereto as Exhibit B, and

65  
66 **WHEREAS**, pursuant to Agreement No. 1926, Agency requires City to reimburse  
67 Agency not only for City's proportionate share of the charges to Agency under the State  
68 Water Supply Agreement but also for Agency's expenses incurred in the administration  
69 and management of the State Water Supply Agreement and Agreement No. 1926,  
70 including this North Bay Aqueduct alternate intake project funding agreement with  
71 SCWA and DWR, and related studies.

72  
73 **TERMS**

74  
75 **NOW, THEREFORE, IT IS MUTUALLY AGREED** by Agency and City that  
76 the Agreement No. 1926 shall be amended as follows:

77  
78 1. Paragraph 21 is added to the Agreement No. 1926 for Water Supply from North Bay  
79 Aqueduct between Agency and City as part of Amendment No. 9, as follows:

80  
81 "21. Agreement for Funding Among the Department of Water Resources,  
82 Solano County Water Agency and Napa County Flood Control and Water  
83 Conservation District (Agency) for the Costs of Environmental Analysis,  
84 Planning and Design of the North Bay Aqueduct Alternate Intake Project

85  
86 (a) Agency shall sign the "Agreement for Funding Among the  
87 Department of Water Resources, Solano County Water Agency and Napa  
88 County Flood Control and Water Conservation District For the Costs of  
89 Environmental Analysis, Planning and Design of the North Bay Aqueduct

90 Alternate Intake Project” (hereinafter “Funding Agreement”). A copy of  
91 this Funding Agreement is attached hereto as Exhibit A.  
92

93 (b) In addition to the funding set forth in subsection (a) above,  
94 Agency shall also share costs of a North Bay Aqueduct Alternate Intake  
95 feasibility study update with Solano County Water Agency. A copy of the  
96 work scope and budget for this work is attached hereto as Exhibit B.  
97

98 (c) (i) City shall reimburse Agency for its proportionate share  
99 of costs incurred under the provisions of subsections (a) and (b) above,  
100 including but not limited to, Agency administrative costs. These costs  
101 shall be apportioned among all “Member Units” (defined by Agreement  
102 No. 1926, paragraph 1(f)) directly proportional to their ultimate Table A  
103 amount annual entitlements, including water purchased from Kern County  
104 Water Agency in 2000 (29,025 AF total for Napa County).  
105

106 (ii) City shall pay its share of the costs described in  
107 subsection (c) (i) not later than fifteen (15) days after receipt of Agency’s  
108 invoices. Agency’s invoices shall be in amounts sufficient to allow  
109 Agency to pay City’s proportionate share of Agency’s current obligations  
110 of the Funding Agreement no sooner than thirty (30) days prior to the date  
111 the same become due.  
112

113 (d) Agency shall keep City informed of the status of North Bay  
114 Aqueduct Alternate Intake Project work and shall confer with City in all  
115 related decision-making.  
116  
117

118 2. Regarding Paragraph 1 above, Agency and City acknowledge that it is the intent  
119 of the parties that the other Member Units (defined by Agreement No. 1926, Paragraph  
120 1(f)) within the service area of Agency under the State Water Supply Agreement will also  
121 be amending their respective Agreements with Agency in substantially the same manner  
122 as set forth above.  
123

124 3. Except as provided in (1) and (2) above, all of the terms and provisions of the  
125 Agreement shall remain, after the effective date set forth above, in full force and effect as  
126 previously approved and last amended.  
127  
128

129           **IN WITNESS WHEREOF**, the parties hereto have executed this Amendment  
130 No. 9 of Napa County Flood Control and Water Conservation District Agreement No.  
131 1926 (FC) as of the date first above written.  
132

133

134 **CITY OF CALISTOGA**

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139 By \_\_\_\_\_  
140 JACK GINGLES  
141 Mayor  
142

143  
144  
145

146 **ATTEST:**

147  
148

149 By \_\_\_\_\_  
150  
151 City Clerk  
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156 **APPROVED AS TO FORM:**

157  
158

159 By \_\_\_\_\_  
160  
161 City Attorney  
162

163  
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166 **COUNTERSIGNED:**

167  
168

169 By \_\_\_\_\_  
170  
171 Finance Director

**NAPA COUNTY FLOOD CONTROL  
AND WATER CONSERVATION  
DISTRICT**

By \_\_\_\_\_  
DEL BRITTON  
Chair of the Board

**ATTEST:**

By \_\_\_\_\_  
GLADYS I. COIL  
District Secretary

**APPROVED AS TO FORM:**

By \_\_\_\_\_  
ROBERT WESTMEYER  
District Legal Counsel