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3 **AMENDMENT NO. 8 OF**
4 **NAPA COUNTY FLOOD CONTROL AND WATER**
5 **CONSERVATION DISTRICT AGREEMENT NO. 1926**

6 **(WATER SUPPLY CONTRACT WITH THE CITY OF CALISTOGA)**
7

8 **THIS AMENDMENT NO. 8 OF NAPA COUNTY FLOOD CONTROL AND**
9 **WATER CONSERVATION DISTRICT AGREEMENT NO. 1926**, hereinafter
10 referred to as “Agreement”, is made as of this _____ day of _____, 2009, by
11 and between the NAPA COUNTY FLOOD CONTROL AND WATER
12 CONSERVATION DISTRICT, hereinafter referred to as “Agency”, and the CITY OF
13 CALISTOGA, hereinafter referred to as “City”;
14

15 **RECITALS**
16

17 **WHEREAS**, Agency is party to a water supply agreement (“State Water Supply
18 Agreement”) with the State of California that specifies the amount of water available to
19 Agency for disbursement to its Member Units (defined by Agreement No. 1926,
20 Paragraph 1(f)) in any given year and a number of component charges for water allocated
21 and delivered through the North Bay Aqueduct; and
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23 **WHEREAS**, City and Agency entered into Agreement No. 1926 as of June 15,
24 1982, subsequently modified by Amendment No. 1 as of December 21, 1982, and by
25 Amendment No. 2 as of December 15, 1998, and by Amendment No. 3 as of September
26 19, 2000, and by Amendment No. 4 as of December 7, 2004, and by Amendment No. 5
27 as of December 7, 2004, by Amendment No. 6 as of November 7, 2006, and by Amendment
28 No. 7 as of April 15, 2008, under which Agency disburses to City as a member unit, a
29 portion of the water allocated to Agency under the State Water Supply Agreement; and
30

31 **WHEREAS**, the California Department of Water Resources (DWR), in
32 cooperation with other state and federal agencies, has been directed by the Governor to
33 initiate the public environmental review process necessary for the Bay Delta Conservation
34 Plan (BDCP), which is a collaborative effort between public water agencies,
35 environmental organizations and state and federal agencies to map out a comprehensive,
36 long-term conservation plan for the deteriorating Sacramento-San Joaquin River Delta
37 (Delta); and
38

39 **WHEREAS**, DWR is beginning the environmental analysis and preliminary
40 engineering studies for the BDCP, including conveyance alternatives, as directed by the
41 Governor under the Delta Habitat Conservation and Conveyance Program (DHCCP); and
42

43 **WHEREAS**, Agency and City receive benefits from the North Bay Aqueduct
44 (NBA) facilities of the State Water Project (SWP), the NBA is located in the defined
45 boundary of the Delta, and the Delta may be changed in ways that impact the NBA as part

46 of the Bay Delta Conservation Plan and Delta Habitat Conservation and Conveyance Plan
47 action items, and

48
49 **WHEREAS**, Agency is a member of the State Water Project Contractors
50 Authority (SWPCA); a joint powers authority (JPA), created in 2003, and comprised of
51 24 public water agencies that receive water from the SWP; and

52
53 **WHEREAS**, the SWPCA will coordinate the activities of its members to support
54 the DHCCP and ensure that the DHCCP's costs and management are responsive to the
55 needs of the SWPCA members and ultimately to California's water rate payers, including
56 the Agency's Member Units and their constituents; and

57
58 **WHEREAS**, the SWPCA has formed a Delta Specific Project Committee
59 (DSPC) for the purpose of making recommendations related to the management of the
60 DHCCP to the SWPCA Board; and

61
62 **WHEREAS**, participating in the DSPC and the DHCCP is voluntary, and has
63 significant cost components, but would allow District participation in the decision-
64 making process for items that may affect the Agency and City; and

65
66 **WHEREAS**, the parties believe that it is in the best interest of Agency and City to
67 amend the Agreement No. 1926 to authorize Agency to become a member of the
68 SWPCA's Delta Specific Project Committee and to sign a Funding Agreement with
69 DWR for the costs of environmental analysis, planning and design for the Delta Habitat
70 Conservation and Conveyance Plan (hereinafter referred to as "Funding Agreement"),
71 attached hereto as Exhibit A, and

72
73 **WHEREAS**, pursuant to Agreement No. 1926, Agency requires City to reimburse
74 Agency not only for City's proportionate share of the charges to Agency under the State
75 Water Supply Agreement but also for Agency's expenses incurred in the administration
76 and management of the State Water Supply Agreement and Agreement No. 1926,
77 including participation in this DSPC and this DHCCP funding agreement with DWR.

78
79 **TERMS**

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

83
84 1. Paragraph 20 is added to the Agreement No. 1926 for Water Supply from North Bay
85 Aqueduct between Agency and City as part of Amendment No. 8, as follows:

86
87 "20. Agreement for Funding Between the Department of Water Resources
88 and Napa County Flood Control and Water Conservation District
89 (Agency) For the Costs of Environmental Analysis, Planning and Design
90 of Delta Conservation Measures, Including Delta Conveyance and

91 Participation in the State Water Project Contractors Authority Delta
92 Specific Project Committee

93
94 (a) Agency shall sign the “Agreement for Funding Between the
95 Department of Water Resources and Napa County Flood Control and
96 Water Conservation District For the Costs of Environmental Analysis,
97 Planning and Design of the Delta Conservation Measures, Including Delta
98 Conveyance Options” (hereinafter “Funding Agreement”). A copy of this
99 Funding Agreement is attached hereto as Exhibit A.

100
101 (b) In addition to the funding set forth in subsection (a) above,
102 Agency shall also sign a Specific Project Agreement for participation in
103 the State Water Project Contractors Authority Delta Specific Project
104 Committee, and shall share costs of participation as described in the
105 SWPCA DSPC Specific Project Agreement. A copy of this Specific
106 Project Agreement is attached hereto as Exhibit B.

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

115
116 (ii) City shall pay its share of the costs described in
117 subsection (c) (i) not later than fifteen (15) days after receipt of Agency’s
118 invoices. Agency’s invoices shall be in amounts sufficient to allow
119 Agency to pay City’s proportionate share of Agency’s current obligations
120 of the Funding Agreement no sooner than thirty (30) days prior to the date
121 the same become due.

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123 (d) Agency shall keep City informed of the status of Delta Habitat
124 Conservation and Conveyance Plan work and shall confer with City in all
125 related decision-making.

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128 2. Regarding Paragraph 1 above, Agency and City acknowledge that it is the intent
129 of the parties that the other Member Units (defined by Agreement No. 1926, Paragraph
130 1(f)) within the service area of Agency under the State Water Supply Agreement will also
131 be amending their respective Agreements with Agency in substantially the same manner
132 as set forth above.

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134 3. Except as provided in (1) and (2) above, all of the terms and provisions of the
135 Agreement shall remain, after the effective date set forth above, in full force and effect as
136 previously approved and last amended.
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IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. 8 of Napa County Flood Control and Water Conservation District Agreement No. 1926 (FC) as of the date first above written.

CITY OF CALISTOGA

NAPA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

By _____
JACK GINGLES
Mayor

By _____
DEL BRITTON
Chair of the Board

ATTEST:

ATTEST:

By _____
City Clerk

By _____
GLADYS I. COIL
District Secretary

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By _____
City Attorney

By _____
ROBERT WESTMEYER
District Legal Counsel

COUNTERSIGNED:

By _____
Finance Director