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NOTICE OF SPECIAL MEETING THURSDAY, DECEMBER 6, 2018

IMPERIAL IRRIGATION DISTRICT

William R. Condit Auditorium
1285 Broadway
El Centro, CA 92243

Kevin E. Kelley, *General Manager*
Frank A. Oswald, *General Counsel*

BOARD OF DIRECTORS

Division 1—Juanita Salas
Division 2—Bruce Kuhn
Division 3—James C. Hanks, *President*
Division 4—Erik J. Ortega, *Vice President*
Division 5—Norma Sierra Galindo

Gloria A. Rivera, *Secretary*

MEETING CALLED TO ORDER—4 p.m.

PLEDGE OF ALLEGIANCE

DROUGHT CONTINGENCY PLAN WORKSHOP

ADJOURNMENT



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December 6, 2018

BOARD AGENDA MEMORANDUM

Workshop

SUBJECT Drought Contingency Plan Workshop
DEPARTMENT Executive
PRESENTER Kevin Kelley, general manager
Chuck DuMars, outside counsel
Joanna Smith Hoff, deputy general counsel
Tina Shields, water manager

Background

Since August, IID has held three public workshops on the Drought Contingency Plan that has been proposed for both the Upper and Lower basins of the Colorado River watershed. Today's workshop will be the fourth installment and will follow the same general outline as the first three; that is, staff will make a short presentation based on public comments received from the last DCP workshop and the district's outside counsel, Chuck DuMars, will address the board and public on legal aspects of the agreements.

The board will also discuss three IID/Metropolitan Water District draft documents that would, if approved, become part of a California suite of agreements to be incorporated into a Lower Basin DCP. These draft intra-California agreements are attached to this board memorandum and are a product of direct talks between the district and MWD held during last week's Association of California Water Agencies conference in San Diego.

AMENDMENT NO. 2 TO THE
CALIFORNIA AGREEMENT FOR THE CREATION AND DELIVERY OF
EXTRAORDINARY CONSERVATION INTENTIONALLY CREATED SURPLUS

This AMENDMENT TO THE CALIFORNIA AGREEMENT FOR THE CREATION AND DELIVERY OF EXTRAORDINARY CONSERVATION INTENTIONALLY CREATED SURPLUS (Amendment) is entered into as of this ____ day of December, 2018 by and among the PALO VERDE IRRIGATION DISTRICT (PVID), the IMPERIAL IRRIGATION DISTRICT (IID), THE COACHELLA VALLEY WATER DISTRICT (CVWD), THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA (MWD), and the CITY OF NEEDLES (NEEDLES), (collectively, the Parties).

RECITALS

A. On December 13, 2007, the Parties entered into the CALIFORNIA AGREEMENT FOR THE CREATION AND DELIVERY OF EXTRAORDINARY CONSERVATION INTENTIONALLY CREATED SURPLUS (Agreement). The Agreement established the terms and conditions for the creation, accumulation, and delivery of Extraordinary Conservation Intentionally Created Surplus (EC ICS) by California contractors pursuant to the 2007 Interim Guidelines for Lower Basin Shortages and Coordinated Operations of Lake Powell and Lake Mead.

B. On October 20, 2015, the Parties entered into Amendment No. 1 to the Agreement, which established the terms and conditions for IID's creation, accumulation and delivery of Additional Excess EC ICS in MWD's system during 2015, 2016, and 2017. This Amendment will extend those terms and conditions for IID's creation, accumulation and delivery of Additional Excess EC ICS in MWD's system during 2018. This Amendment provides for the storage of water and does not provide for the transfer of water or water rights. Nor does it create a new project for the utilization of water for a purpose beyond those included within the Agreement. Nor does it provide for any use or consumption of water outside the amounts of ordinary annual fluctuation in IID's water use already authorized by existing law.

NOW, THEREFORE, the Parties hereby agree as follows:

AMENDMENT

1. During the year 2018 in which IID reaches the yearly or cumulative maximum storage amounts under Sections 1, 2, and 3 of the Agreement, IID may create and deliver up to an additional 100,000 acre-feet of Excess EC ICS (Additional Excess EC ICS) to MWD's system in accordance with Section 2 of the Agreement. The limit on the amount of Excess EC ICS that IID may accumulate in MWD's system in Section 3 of the Agreement is raised to 275,000 acre-feet.

2. The Parties agree that all other terms and conditions of Amendment No. 1 to the Agreement shall apply under this Amendment No. 2.

3. PVID, CVWD, and Needles hereby agree not to divert any Additional Excess EC ICS that is to be delivered to or created by MWD or IID in accordance with this Amendment.

4. By written agreement, the Parties may extend the years in which this Amendment applies.

5. All provisions of the Agreement not modified by this Amendment remain in effect.

IN WITNESS WHEREOF, the Parties have executed this Amendment as of the day and year first written above.

Attest:

PALO VERDE IRRIGATION DISTRICT

By: _____
General Manager

By: _____
President

Approved as to form:

IMPERIAL IRRIGATION DISTRICT

By: _____
General Counsel

By: _____
President

Approved as to form:

CITY OF NEEDLES

By: _____
City Attorney

By: _____
Mayor

Approved as to form:

COACHELLA VALLEY WATER DISTRICT

By: _____
Legal Counsel

By: _____
General Manager

Approved as to form:

THE METROPOLITAN WATER DISTRICT OF
SOUTHER CALIFORNIA

By: _____
General Counsel

By: _____
General Manager

AGREEMENT BETWEEN THE METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA AND IMPERIAL IRRIGATION DISTRICT
APPORTIONING CONTRIBUTIONS TO LAKE MEAD FOR
DROUGHT CONTINGENCY PLAN IMPLEMENTATION

This AGREEMENT between The Metropolitan Water District of Southern California (MWD) and Imperial Irrigation District, a California irrigation district (IID), (individually, Party and collectively, Parties) is entered into as of this [REDACTED] day of [REDACTED], 2018 (Date).

RECITALS

A. On [REDACTED], 201[REDACTED], the Parties, along with [certain entities in Arizona], [certain entities in California], the Colorado River Commission of Nevada, an agency of the State of Nevada (CRCN), and the Southern Nevada Water Authority, a political subdivision of the State of Nevada (SNWA), entered into the “Lower Basin Drought Contingency Plan Agreement” (LB DCP Agreement), which, to help Lake Mead avoid reaching critically low elevations, incentivizes the creation and storage in Lake Mead of Intentionally Created Surplus (ICS) and provides for Drought Contingency Plan (DCP) Contributions to be made if Lake Mead reaches certain critical elevations.

B. The LB DCP Agreement includes an Exhibit 1, the Lower Basin Drought Contingency Operations (LB Ops), which is an operational document that will guide operation of Lake Mead through the Interim Period along with the Record of Decision for the “Colorado River Interim Guidelines for Lower Basin Shortages and the Coordinated Operations for Lake Powell and Lake Mead,” dated December 13, 2007 (2007 Interim Guidelines). For purposes of this Agreement, the LB DCP Agreement and the LB Ops are collectively referred to as the “LB DCP.” The LB DCP also provides that the projection of Lake Mead’s January 1 elevation according to the August 24-month study conducted by the United States Bureau of Reclamation (Reclamation) will determine the amount of DCP Contributions for each of the Lower Basin States in the subsequent year, if any.

C. On December 13, 2007, the Parties, along with other California contractors, entered into the “California Agreement for the Creation and Delivery of Extraordinary Conservation Intentionally Created Surplus,” as amended (California ICS Agreement), which established the terms and conditions for the creation, accumulation and delivery of Extraordinary Conservation Intentionally Created Surplus (EC ICS) by California contractors pursuant to the 2007 Interim Guidelines.

D. The 1931 California Seven-Party Agreement (Seven-Party Agreement) provides that Palo Verde Irrigation District (PVID), the Yuma Project, IID, and Coachella Valley Water District (CVWD) hold California’s first three priorities to Colorado River water and are collectively entitled to the beneficial consumptive use as reasonably required of not to exceed 3,850,000 acre-feet per year. The fourth and fifth priorities totaling 1,212,000 acre feet per year are held by MWD. The sixth priority of 300,000 acre-feet per year is held by IID, CVWD, and PVID. The seventh priority of all remaining water available for use within California is reserved for agricultural use in the Colorado River Basin within California, which includes the lands within IID, CVWD and PVID. MWD and CVWD also have surplus water delivery contracts with the

Secretary of the Interior, entitled “Contract for Delivery of Surplus Flows From the Colorado River,” dated on or about September 9, 1987 and March 8, 1987, respectively.

E. Based on the net consumptive use volumes available to IID, MWD, PVID, and CVWD taking into account conserved water transfers authorized in the 2003 Colorado River Water Delivery Agreement, California’s 4.4 million acre-foot apportionment is consumptively used by IID, MWD, PVID, and CVWD in the following approximate proportions: 60% by IID, 25% by MWD, 8% by PVID and 7% by CVWD. The apportionment of California’s DCP Contributions by the Parties are set out in the body of this Agreement below.

F. California’s DCP Contributions will be met by IID, MWD, PVID, and CVWD as follows. Based on the Seven-Party Agreement and the percentage of projected use of Colorado River water under the Colorado River Water Delivery Agreement, PVID is responsible for 8% of California’s DCP Contributions and CVWD is responsible for 7% of California’s DCP Contributions as provided in separate agreements among MWD, PVID, and CVWD. IID and MWD are entering into this Agreement to set forth the responsibilities for the remaining portion of California’s DCP Contributions.

G. The Parties desire to apportion California’s DCP Contributions and establish the terms and conditions for implementation of the LB DCP between IID and MWD through this Agreement and through a concurrently-executed Amendment No. 3 to the California ICS Agreement.

H. IID is responsible for implementing the nation’s largest agricultural water conservation and transfer program that provides approximately 500,000 acre-feet per year of conserved water to urban California water agencies, conserving in excess of 5 million acre-feet of water since the inception of the water conservation and transfer program, ensuring that California lives within its 4.4 million acre-foot annual normal apportionment to Colorado River water.

I. IID is reliant on the Colorado River as its sole water supply to serve its residents, industries and agricultural water users that feed the nation and ensure a safe and reliable domestic food supply year-round. IID recognizes the vital importance of sound water management policies and operational coordination to ensure a sustainable long-term Colorado River water supply for the basin and its water users. Despite its senior priority agricultural water right, IID agrees to assume responsibility for up to 250,000 acre-feet of California’s DCP Contributions under the LB DCP to support the Colorado River through the duration of the 2007 Interim Guidelines.

J. MWD is responsible for providing a reliable water supply to its service area of approximately 19 million residents. To accomplish this, MWD has made over a billion dollars of investments in conservation and recycling programs that have saved over 5 million acre-feet of water. Since 2015, MWD has implemented the largest turf removal program in the country, investing \$450 million in this type of conservation alone.

K. MWD recognizes that the historic 19-year drought in the Colorado River basin has resulted in declining Lake Mead reservoir elevations. MWD also recognizes MWD and IID’s essential responsibility for remaining within California’s 4.4 million acre-foot Colorado River

normal apportionment through funding and implementation of existing long-term conservation and transfer programs. As such, MWD agrees to assume a responsibility of ensuring that California's DCP Contributions will be fulfilled under the LB DCP that is greater than the proportion of MWD's right to use Colorado River Water in the Seven-Party Agreement.

NOW, THEREFORE, the Parties hereby agree as follows:

AGREEMENT

1. Definitions

- A. All capitalized terms not defined herein shall have the meaning set forth in the 2007 Interim Guidelines, the LB DCP and the California ICS Agreement.

2. Apportionment of IID's and MWD's California DCP Contributions

- A. In the first year when a California DCP Contribution is required, IID will contribute 125,000 acre-feet of California's total DCP Contribution. In the second year when a California DCP Contribution is required, IID will contribute 125,000 acre-feet of California's total DCP Contribution. These two contributions shall constitute IID's total DCP Contributions for the duration of the LB DCP for a maximum cumulative limit of 250,000 acre-feet (DCP Contribution Limit). In the event that IID has reached its DCP Contribution Limit, IID will have fully satisfied its portion of California's DCP Contributions and will have no further portion or obligation for California's DCP Contributions under the LB DCP. Subject to IID's DCP Contribution Limit and PVID's 8% and CVWD's 7% portions of the California DCP Contributions, MWD will be responsible for the remaining portion of California's DCP Contributions.
- B. In years when a California DCP Contribution is required and IID has not reached its DCP Contribution Limit, IID will have the choice to use any of the methods for contributions allowed under the definition of "DCP Contribution(s)," except for the "Creation of Non-ICS Water."
- C. MWD is not responsible for making IID's portion of any California DCP Contributions that may be required due to IID's borrowing of DCP ICS and IID is not responsible for making MWD's portion of any California DCP Contributions that may be required due to MWD's borrowing of DCP ICS, unless the Parties otherwise mutually agree in writing.
- D. Each Party shall have access to its own DCP ICS in a future year pursuant to the LB DCP.

3. IID's ICS Stored in MWD's System

- A. Within one year of the Effective Date of the LB DCP, but upon the earliest date possible, IID's ICS stored in MWD's system, which is "Excess EC ICS" and "Additional Excess EC ICS" under the California ICS Agreement, as of the Date

of this Agreement will be exchanged with an equal amount of MWD's ICS stored in Lake Mead and will then be moved from MWD's ICS account in Lake Mead into IID's ICS account in Lake Mead. The Parties agree that losses will be trued up to the maximum extent possible within California.

4. Binational ICS under Minute No. 323

A. Notwithstanding the "2017 Agreement between the Metropolitan Water District of Southern California and Imperial Irrigation District Regarding the Opportunity to Participate Equally in Binational Intentionally Created Surplus" dated September 21, 2017, to the extent water in addition to the first 109,100 acre-feet of Binational ICS under Minute No. 323 becomes available, MWD will have the first right to provide funding for and receive such additional water. If MWD declines to fund and receive such additional water, IID may do so.

5. Amendment No. 3 to the California ICS Agreement

A. The Amendment No. 3 to the California ICS Agreement will establish terms and conditions, not otherwise provided herein, for implementation of the LB DCP among the California parties. This Agreement shall not become effective unless and until the Amendment No. 3 to the California ICS Agreement becomes effective. This Agreement shall remain in effect only for the term the Amendment No. 3 to the California ICS Agreement is in effect.

6. Responsibility for Liability and Litigation Costs

A. Each Party shall be severally but not jointly responsible for any liabilities, including impacts relating to the California Environmental Quality Act, California Endangered Species Act, National Environmental Policy Act, and federal Endangered Species Act, regarding each Party's own ICS creation and storage and each Party's responsibility for its portion of the California DCP Contributions as set forth in this Agreement and each Party shall bear its own litigation costs related to this Agreement.

7. Reservation of Rights

A. Notwithstanding the terms of this Agreement, the Parties reserve, and shall not be deemed to have waived, any and all rights, including any claims or defenses, they may have as of the date hereof or as may accrue after the term hereof, under any existing federal or state law, or any administrative rule, regulation or guideline, or any agreement.

[Signatures are on the following page.]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Date written above.

Approved as to form:

IMPERIAL IRRIGATION DISTRICT

By: _____
Frank A. Oswalt, III
General Counsel

By: _____, Division _
President

Approved as to form:

THE METROPOLITAN WATER DISTRICT OF
SOUTHER CALIFORNIA

By: _____
General Counsel

By: _____
General Manager

DRAFT

AMENDMENT NO. 3 TO THE
CALIFORNIA AGREEMENT FOR THE CREATION AND DELIVERY OF
EXTRAORDINARY CONSERVATION INTENTIONALLY CREATED SURPLUS

This AMENDMENT TO THE CALIFORNIA AGREEMENT FOR THE CREATION AND DELIVERY OF EXTRAORDINARY CONSERVATION INTENTIONALLY CREATED SURPLUS (Amendment) is entered into as of this ____ day of _____, 2018 by and among the PALO VERDE IRRIGATION DISTRICT (PVID), the IMPERIAL IRRIGATION DISTRICT (IID), THE COACHELLA VALLEY WATER DISTRICT (CVWD), THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA (MWD), and the CITY OF NEEDLES (NEEDLES), (collectively, the Parties).

RECITALS

A. On December 13, 2007, the Parties entered into the CALIFORNIA AGREEMENT FOR THE CREATION AND DELIVERY OF EXTRAORDINARY CONSERVATION INTENTIONALLY CREATED SURPLUS (Agreement). The Agreement established the terms and conditions for the creation, accumulation, and delivery of Extraordinary Conservation Intentionally Created Surplus (EC ICS) by California contractors pursuant to the 2007 Interim Guidelines for Lower Basin Shortages and Coordinated Operations of Lake Powell and Lake Mead. The Agreement also provided the terms and conditions for IID's creation, accumulation, and delivery of Excess EC ICS in MWD's system.

B. On October 20, 2015, the Parties entered into Amendment No. 1 to the Agreement, which established the terms and conditions for IID's creation, accumulation and delivery of Additional Excess EC ICS in MWD's system during 2015, 2016, and 2017. On _____, 2018, the Parties entered into Amendment No. 2 to the Agreement, which extended the terms of Amendment No. 1 to include 2018.

C. On _____, 201____ [certain entities in Arizona], [certain entities in California], the Colorado River Commission of Nevada, an agency of the State of Nevada (CRCN), and the Southern Nevada Water Authority, a political subdivision of the State of Nevada (SNWA), entered into the "Lower Basin Drought Contingency Plan Agreement" (LB DCP Agreement), which, to help Lake Mead avoid reaching critically low elevations, incentivizes the creation and storage in Lake Mead of Intentionally Created Surplus (ICS) and provides for Drought Contingency Plan (DCP) Contributions to be made by each Lower Division State if Lake Mead reaches certain critical elevations.

D. The LB DCP Agreement includes an Exhibit 1, the Lower Basin Drought Contingency Operations (LBOs), which is an operational document that will guide operation of Lake Mead through the Interim Period along with the Record of Decision for the "Colorado River Interim Guidelines for Lower Basin Shortages and the Coordinated Operations for Lake Powell and Lake Mead," dated December 13, 2007 (2007 Interim Guidelines). For purposes of this Amendment, the LB DCP Agreement and the LBOs are collectively referred to as the "LB DCP."

E. Under this Amendment the Parties desire to encourage conservation for purposes of supporting Lake Mead elevation and flexibility in meeting water supply needs and achieving California's DCP Contributions under the LB DCP.

F. This Amendment, together with the Drought Contingency Plan Implementation Agreement Between MWD and CVWD, the Drought Contingency Plan Implementation Agreement Between MWD and PVID, and the Agreement Between MWD and IID Apportioning Contributions to Lake Mead for Drought Contingency Plan Implementation (MWD-IID Agreement) shall constitute the California Intra-State DCP Agreements under the LB DCP.

NOW, THEREFORE, the Parties hereby agree as follows:

AMENDMENT

1. This Amendment shall remain in effect through the term of the Agreement, except that if the LB DCP terminates prior to the termination of the Agreement or becomes ineffective for any reason, then this Amendment shall terminate and the Agreement shall continue in full force and effect without being amended as set forth herein, unless the Parties agree otherwise; except that the Parties agree that the deletion of the 12,000 acre-feet annual limit on IID for the creation of EC ICS by seepage recovery projects in Section 1 of the Agreement shall survive early termination of this Amendment.

2. Definitions. All capitalized terms not defined herein shall have the meaning set forth in the 2007 Interim Guidelines, the LB DCP, the Agreement and the Amendment No. 1 to the Agreement.

3. Allocation of California's Annual Extraordinary Conservation ICS Creation Limit. Section 1 of the Agreement is amended to the following extent:

A. CVWD may create up to the amount of EC ICS in Lake Mead in any year necessary to meet its 7% portion of California's DCP Contribution for that year.

B. IID may create up to 50,000 acre-feet of EC ICS in Lake Mead in any year, except that in any year that a California DCP Contribution is required and IID is required to make a contribution subject to its 250,000 acre-feet DCP Contribution Limit as set forth in the MWD-IID Agreement, IID may, if it lacks sufficient EC ICS to make its DCP Contribution, create up to the incremental amount of EC ICS in Lake Mead necessary to meet its portion of California's DCP Contribution. Additionally, IID may create any amount of ICS necessary to make a repayment of borrowed DCP ICS pursuant to the LB DCP. The 12,000 acre-feet annual limit on IID for the creation of EC ICS by seepage recovery projects shall be deleted.

C. MWD may create up to 400,000 acre-feet of EC ICS in Lake Mead less any amount of EC ICS created by CVWD and IID in that year; provided that IID may create any EC ICS in Lake Mead for which there is remaining California ICS capacity not used by MWD or CVWD pursuant to written consent by MWD that

IID has created conserved water qualifying for the unused California ICS capacity.

4. Allocation of California's Total Extraordinary Conservation ICS Accumulation Limit.
Section 3 of the Agreement is amended to the following extent:

- A. The following provisions apply to both EC and DCP ICS as applicable as stated below.
- B. CVWD may not accumulate EC ICS, as any EC ICS CVWD creates must be converted to DCP ICS in the same year. CVWD's DCP ICS capacity is equal to CVWD's portion of the total California DCP Contributions through 2026 that CVWD creates under section 1(A) of the DCP Implementation Agreement between CVWD and MWD.
- C. IID may accumulate up to 350,000 acre-feet of EC and DCP ICS in Lake Mead; provided that IID may accumulate more than 350,000 acre-feet of EC and DCP ICS in Lake Mead pursuant to written consent by MWD.
- D. MWD may accumulate ICS in Lake Mead up to 1.7 million acre-feet, as provided for in the LB DCP, less any amount of ICS accumulated by CVWD and IID.

5. Allocation of California's Annual Extraordinary Conservation ICS Delivery Limit.
Section 4 of the Agreement is deleted in its entirety and replaced with the following:

- A. The delivery of EC and DCP ICS shall be in accordance with the LB DCP, unless otherwise set forth below.
- B. CVWD may call for the delivery of up to 10,000 acre-feet of DCP ICS.
- C. Subject to the following paragraphs (i) and (ii), IID shall have priority to call for the delivery of up to 25% of California's EC and DCP ICS delivery capacity and may increase the call for the delivery by using any capacity MWD does not call for delivery.
 - i. In the event that IID takes delivery of any of the first 250,000 acre-feet of ICS accumulated in IID's ICS or DCP ICS Accounts, IID must return an equal amount to its ICS Account in the year following such delivery;
 - ii. For any ICS that IID accumulates in Lake Mead above a cumulative amount of 250,000 acre-feet, IID's ICS delivery is limited to years in which California is not required to make a DCP Contribution.
- D. MWD may call for the delivery of the remaining California EC and DCP ICS delivery capacity.

6. Temporary Use of IID Accumulated Extraordinary Conservation ICS by MWD. Section 5 of the Agreement is deleted in its entirety and replaced with the following:
 - A. MWD may temporarily use ICS created and accumulated in Lake Mead by IID up to the cumulative amount of 250,000 acre-feet subject to return pursuant to Section 7.
 - B. If MWD has taken delivery of all of its EC ICS credits, MWD may temporarily use ICS created and accumulated in Lake Mead by IID above the cumulative amount of 250,000 acre-feet subject to return pursuant to Section 7.
7. Return of Extraordinary Conservation ICS Created and Accumulated by IID in Lake Mead and Temporarily Used by MWD. Section 7 of the Agreement is deleted in its entirety and replaced with the following:
 - A. If, pursuant to Section 5 of the Agreement, MWD temporarily uses ICS created and accumulated in Lake Mead by IID up to the cumulative amount of 250,000 acre-feet, then MWD shall return that volume of ICS up to 250,000 acre-feet to IID in the year following such temporary use.
 - B. If, pursuant to Section 5 of the Agreement, MWD temporarily uses ICS created and accumulated in Lake Mead by IID above the cumulative amount of 250,000 acre-feet, then MWD shall return that volume of ICS to IID within two years following such temporary use; provided that MWD may extend the two-year return requirement pursuant to written consent by IID.
8. If the Secretary adjusts any scheduled deliveries to California Contractors pursuant to section III.D.2. of the LBOPs, the Contractor or Contractors that are responsible for the shortfall will take an adjustment to its deliveries in proportion to that Contractor's shortfall of the total California shortfall. Under no circumstances shall CVWD be required to make any portion of the California DCP Contribution in excess of what CVWD has agreed to make under the Drought Contingency Plan Implementation Agreement Between MWD and CVWD. Under no circumstances shall IID be required to make any portion of any California DCP Contribution in excess of IID's DCP Contribution Limit as set forth in the MWD-IID Agreement. The Parties agree that, provided IID has met its obligations for IID's DCP Contribution Limit as set forth in the MWD-IID Agreement, an adjustment of IID's deliveries would not be in accordance with the California Intra-State DCP Agreements or the LB DCP.
9. Responsibility for Impacts and Litigation Costs
 - A. Except as provided in subsection B of this section, each Party shall be severally but not jointly responsible for any liabilities, including impacts relating to the California Environmental Quality Act, California Endangered Species Act, National Environmental Policy Act, and federal Endangered Species Act,

regarding each Party's own ICS creation and storage and each Party's responsibility for its portion of the California DCP Contributions as set forth in this Amendment and each Party shall bear its own litigation costs related to this Amendment.

B. Nothing in this section is intended to rescind, repeal, amend or modify any existing agreements, permits or authorizations to which CVWD, IID, MWD, Needles or PVID may be a party that define their respective responsibilities for performing and/or funding environmental mitigation or species conservation measures relating to the delivery or use of Colorado River water pursuant to contracts under the Boulder Canyon Project Act, or related contracts for the creation, delivery or use of conserved water, or to deprive any of them of any benefits, immunities, rights of indemnity or rights of contribution under such contracts, permits or authorizations.

10. Each Party hereby agrees not to divert any ICS that is to be delivered to or created by any other Party in accordance with this Amendment.

11. Notwithstanding Section 20 of the Agreement, MWD may allocate its own rights under this Amendment to create, accumulate, and take delivery of EC ICS, to entities in Arizona and Nevada only to the extent provided in the LB DCP without approval of any other Party to this Amendment.

12. All provisions of the Agreement not modified by this Amendment remain in effect.

IN WITNESS WHEREOF, the Parties have executed this Amendment as of the day and year first written above.

Attest:

PALO VERDE IRRIGATION DISTRICT

By: _____
General Manager

By: _____
President

Approved as to form:

IMPERIAL IRRIGATION DISTRICT

By: _____
General Counsel

By: _____
President

Approved as to form:

CITY OF NEEDLES

By: _____
City Attorney

By: _____
Mayor

Approved as to form:

COACHELLA VALLEY WATER DISTRICT

By: _____
Legal Counsel

By: _____
General Manager

Approved as to form:

THE METROPOLITAN WATER DISTRICT OF
SOUTHERN CALIFORNIA

By: _____
General Counsel

By: _____
General Manager

DRAFT