

COUNTY OF BUTTE

R 4 1 2 6 4

CONTRACT NO.

**WATER SUPPLY AGREEMENT
BETWEEN
COUNTY OF BUTTE AND
CALIFORNIA WATER SERVICE COMPANY**

This Agreement made and entered into as of January 1, 2011, by and between the **COUNTY OF BUTTE**, a political subdivision of the State of California ("County"), and the **CALIFORNIA WATER SERVICE COMPANY**, a California corporation regulated by the California Public Utilities Commission ("Company"), with reference to the following:

RECITALS

A. County executed a State Water Contract with the State of California, Department of Water Resources ("State"), whereby County, during a period commencing January 1, 1979 and terminating not earlier than December 31, 2038, will be entitled to receive State Water Project water from State's Oroville Dam complex or from such other delivery points as the State may approve.

B. The County and Company entered into a water supply contract dated May 11, 1965, providing for the sale of State Water Project water from the County to Company ("Contract").

C. This Agreement was amended on June 17, 1980 to reduce the scheduled deliveries.

D. This Agreement supersedes and replaces both the original 1965 contract between the County and Company and the June 17, 1980 Amendment as discussed in Recitals B and C.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants herein contained, the parties hereto agree as follows:

ARTICLE 1. INTRODUCTORY PROVISIONS

1.1. Definitions -- When used in this agreement, the following terms shall have the

meanings hereinafter set forth:

- (a) "Contract Water" shall mean, subject to terms and conditions of this Agreement, the amounts of water set forth in Exhibit "A".
- (b) "Each Contractor" or "Other Contractor" shall mean any public or private entity contracting with County for a supply of State Contract water.
- (c) "State Contract" shall mean the contract dated December 26, 1963, between State and County as amended from time to time.
- (d) "Water Service Areas" shall mean the geographic areas of Butte County for which Company has legal authority from the California Public Utilities Commission and has the operating facilities to service water to specific service areas within the county.
- (e) "Year" means the 12-month period from January 1 through December 31, both dates inclusive.

1.2. Term of Agreement -- This agreement shall become effective on the date first above written and shall remain in effect throughout the existing term of the State Contract as it may be extended, renewed or continued.

1.3. Successors and Assigns -- This agreement and all the terms, covenants, agreements and conditions herein contained shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto. In the event Company, with the prior authorization of the Public Utilities Commission of the State of California, shall sell, transfer or convey all or substantially all of Company's water system to any person or entity, public or private, Company shall have the right to assign to the purchaser thereof all of Company's rights, privileges and obligations hereunder, whereupon all further rights, privileges and obligations of Company hereunder shall forthwith cease and terminate.

ARTICLE 2. WATER SERVICE PROVISIONS

2.1. Water Deliveries -- Subject to Section 2.4 of this Agreement, commencing on the first day of January, 2011, and continuing throughout the term of this Agreement, County agrees to make available to Company for use within Company's Water Service Areas during each year of this agreement the amount of raw, untreated water set forth in Exhibit "A," which is attached hereto and incorporated herein by reference.

2.2. Establishment of Exhibit "A" Amounts in Five-Year Increments -

(a) To assist in the management of State Contract water by County, Company shall determine adjustments to Exhibit "A" in five-year increments commencing with the periods from 2011 to 2015 and continuing through the end of the term of this agreement, as may be extended, renewed or continued pursuant to paragraph 1.2. Company shall notify County of projected increases in water demands establishing the five-year water order not later than September 20 of the final year of the five-year incremental period. The County shall supply Company with the projected increase provided that the County has ample Table A water available.

(b) Company shall be required to purchase the same amount of water every year for years 2011 through 2015 and during each subsequent incremental period.

(c) Any requested increases by Company to Exhibit "A" within each five-year increment shall be subject to the availability of Table A water under the State Contract. County's State Contract water contracted with Other Contractors will not be available for any increases to Exhibit "A" within each five-year increment in accordance with 2.2 (a).

2.3. Annual Delivery Schedules -- On or before September 20 of each year during the term of this Agreement, commencing with September 20, 2011, Company shall submit in writing

to County a preliminary water delivery schedule indicating the aggregate amounts of water desired by Company during each month of the succeeding five calendar years. Following receipt of such preliminary schedule, County shall submit to State a master preliminary water delivery schedule which shall combine such schedule of Company with the preliminary water delivery schedule of County, if any, for the same period and such preliminary water delivery schedules for said period as have been submitted to County by Other Contractors. The master water delivery schedule, determined in accordance with this Section 2.3, shall be transmitted to Company prior to December 15 of the year in which the preliminary water delivery schedule is submitted. The final water delivery schedule shall be transmitted to Company after the State has made its final State Water Project Table A allocation for the calendar year.

2.4. Water Shortages.

(a) County shall make available for delivery to Company each Year that percentage of that Year's amount shown for the Year in Exhibit "A" that is equal to the percentage of the County's State Contract water that is allocated to County by State. County shall give Company written notice as far in advance as possible of any reduction in deliveries of water which may be necessary because of cutbacks in Table A water supply as determined by State.

(b) If State shall make any reduction in the amount of water to be delivered during any succeeding year from the amount shown on such master preliminary schedule such reduction shall be shared pro rata by Each Contractor including County, if applicable. Such reduction shall be applied first on a pro rata basis against each increment of increase, if any, over Each Contractor's current approved water delivery schedule before any reduction is made in the preliminary schedule of Each Contractor below its approved water delivery schedule. County agrees to notify Company in writing promptly in the event of any such reduction in deliveries to

Company and concurrently of the amount of such reduction and of any change in Company's approved delivery schedule.

(c) By no later than January 15th in any year that the Table A water allocation declared by State is less than 60%, Company may request County to make available or acquire water in an amount greater than the applicable amount specified in Exhibit "A". County shall not be obligated to make available any such additional water, but the County shall use best efforts to secure such additional water to the extent the water is actually available from the State. Company agrees to pay County for all costs incurred by County to secure the additional water, including the Section 3.1 price if applicable.

2.5. Transfers of Sales of Contract Water

(a) Company shall have the right to transfer or sell any water purchased from the County pursuant to this Agreement to other water users within the County of Butte, provided such transfer or sale is not inconsistent with this Agreement or the State Contract.

(b) Company shall not have the right to transfer any water under this Agreement for use outside of the County without the prior written approval of the County and, if necessary, of the State.

2.6 Delivery Structure

(a) Water delivered to Company pursuant to this Agreement shall be made through delivery structures designed, constructed, and operated pursuant to that certain agreement among State, County and Company entitled Agreement Between the County of Butte, California Water Service Company and the State of California, Department of Water Resources for Access to and Encroachments of the Thermalito Power Canal Right-of-Way for the California Water Service

Company Turnout dated October 25, 1969 and as amended by Amendment No. 1, executed on January 20, 2009, which agreement is incorporated herein by reference.

(b) Additions, alterations, and replacements of the existing intake and delivery structure shall be upon terms and conditions specified by the State and agreed to by Company and County.

(c) Subject to such prior approval, if any, as may be required by State or County, Company shall have the right to install, operate, maintain, relocate or replace on property of County or State a pump or pumps and such facilities as may be deemed reasonably necessary by Company to effect proper delivery of water into Company's system from the location and through the delivery structure to be agreed upon in the future between the parties hereto and upon approval of State. Unless otherwise agreed by Company, County agrees that no person other than Company shall receive water service from said delivery structure during the term of this Agreement.

2.7 Measurement of Water Delivered -- Company agrees that all water delivered to Company may be measured by State, provided that accurate and complete records of such measurements are open for inspection by Company during regular business hours.

2.8 Contested Bills -- In the event of any disagreement between Company and County as to the amount of any bill rendered to Company by County, water service shall not be discontinued if the disputed amount thereof is placed on deposit with County. Such deposit shall not preclude review and adjustment of any water bill as set forth in Article 3 hereof.

ARTICLE 3. PAYMENT PROVISIONS

3.1 Contract Water. For each year under this Contract, County shall charge for the total amount of Contract Water set forth in Exhibit "A" calculated at the rate per acre foot,

including any State Water System Revenue Bond Surcharges, as County shall then currently be obligated to pay the State under the State Contract without regard to any credits the County may be entitled to under the State Contract, plus an Additional Charge of Sixteen Dollars (\$16.00) per acre foot for the Contract Water specified in Exhibit "A" (collectively "County's Charges"). Company understands and agrees that the State charges the County for the amount of the Contract Water reserved by the County whether or not the total amount of that water is actually available to County for delivery to Company because of operational or hydrological conditions affecting State Water Project water deliveries. Company shall be obligated to pay County's Charges whether or not Company actually takes delivery of any Contract Water. If State shall notify County of any change in the price of water under the State Contract, County shall promptly provide written notice thereof to Company.

3.1. Periodic Adjustment to the Additional Charge – Unless otherwise agreed to by the parties, the amount of the Additional Charge provided for in this section shall be subject to adjustment for water years beginning January 1, 2016, and as of January 1 of each five-year increment thereafter (the "Adjustment Date") as follows: The base for computing the adjustment is the Consumer Price Index (All Urban Consumers) for the State of California, published by the U.S. Department of Labor, Bureau of Labor Statistics ("Index"), which is published for October 2010 ("Beginning Index"). The Index published for the October most immediately preceding the Adjustment Date in question ("Extension Index") is to be used in determining the amount of the adjustment. If the Extension Index has increased over the Beginning Index, the Additional Charge for the following calendar year commencing on January 1 shall be set by multiplying the Additional Charge by a fraction, the numerator of which is the Extension Index and the denominator of which is the Beginning Index. In no

case shall the new Additional Charge be less than the Additional Charge in effect immediately prior to the Adjustment Date then occurring. As soon as the new adjusted Additional Charge is set, County shall notify Company in writing. If the Index is changed so that the base year differs from that use for October 2010, the Index shall be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics. If the Index is discontinued or revised during the term of this Agreement, such other government index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the Index had not been discontinued or revised.

3.2. Billings -- Billings shall be made by County after receipt by County of each bill from State under the State Contract. Each such bill from County shall specify the quantities of water billable to Company during the period not covered by preceding bills. The parties recognize that the State routinely makes adjustments to prior years' State Water Project charges. The parties agree that all such billing adjustments, both credits and debits, shall be incorporated in the then current annual bill rendered to Company.

3.4. Time and Method of Payment -- Invoices by County shall be submitted to Company in April of each year. Payments shall be made by Company to County within twenty (20) days after billing by County. In the event that Company in good faith contests the accuracy of any statement submitted to it pursuant to this Agreement, it shall give County notice thereof at least five (5) days prior to the day upon which payment of the stated amount is due. To the extent that County finds Company's contentions regarding the statement to be correct, it shall revise the statement accordingly, and Company shall make payment of the revised amounts on or before the due date. To the extent that County does not find Company's contentions to be correct, or

where time is not available for a review of such contentions prior to the due date, Company shall make payment of the stated amount on or before the due date and may make the contested part of such payment under protest and seek to recover the amount thereof from County.

ARTICLE 4. GENERAL PROVISIONS

4.1. Amendments -- This agreement may be amended at any time by mutual agreement of the parties, except insofar as any proposed amendments are in any way contrary to applicable law.

4.2. Challenge of Laws -- Nothing herein contained shall be construed as stopping or otherwise preventing Company from contesting by litigation or other lawful means the validity, constitutionality, construction, or application of any law of this State or any ordinance, rule, regulation or practice of County.

4.3. Waiver of Rights -- None of the covenants, agreements or conditions herein contained can be waived except by the written consent of the waiving party.

4.4. Notices -- All notices or other writings in this contract provided to be given or made or sent, or which may be given or made or sent, by either party hereto to the other, shall be deemed to have been fully given or made or sent when made in writing and deposited in the United States mail, registered or certified, postage prepaid, and addressed as follows:

To County: Department of Water and Resource Conservation
County of Butte
308 Nelson Avenue
Oroville, CA 95965

To Company: California Water Service Company
1720 North 1st Street
San Jose, CA 95112

The address to which any notice or other writing may be given or made or sent to either party may be changed upon written notice given by such party as above provided.

4.5. Severability -- If any one or more of the covenants or agreements set forth in this contract on the part of County or Company, or either of them, to be performed should be contrary to any provision of law or contrary to the policy of law to such an extent as to be unenforceable in any court of competent jurisdiction, then such covenant or covenants, agreement or agreements, shall be null and void and shall be deemed separable from the remaining covenants and agreements and shall in nowise affect the validity of this contract.

4.6. Paragraph Headings -- Paragraph headings in this contract are for convenience only and are not to be construed as a part of this agreement or in any way limiting or amplifying the provisions hereof.

4.7. Changed Circumstances

(a) In the event of a material change in circumstances, County and Company shall negotiate in good faith reasonable adjustments to the amount of water specified in Exhibit "A", changes to charges pursuant to this Agreement, specifically charges as addressed in Section 3.1, of this Agreement and changes to any other provision of the Agreement that may be affected by the material change in circumstances. As used in this paragraph 4.7 (a), the term "material change in circumstances" shall mean:

(i) a substantial change in the reliability or availability of County's Table A water supply that is not caused by or the result of any action taken by County or the result of annual hydrologic variability, or

(ii) a substantial change in any costs incurred by the County under the State

Contract, that is not caused by or the result of any action taken by County or the result of annual hydrologic variability.

(b) County agrees to notify Company when negotiations begin for the extension of State Contract or of any Amendments thereto. County also agrees to keep Company informed of the status of such negotiations to the extent providing such information to Company is not prevented or prohibited by a confidentiality agreement pertaining to those negotiations agreed to by County.

4.8. Interpretation of Agreement -- The parties agree that the normal rule of construction to the effect that any ambiguity is to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.

IN WITNESS WHEREOF, the County of Butte has caused this Agreement to be executed by the Chair of the Board of Supervisors and caused its Official Seal to be hereunto affixed and Company has caused these presents to be executed as of the day and year first hereinabove set forth.

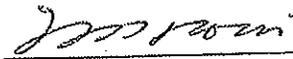
Approved for fiscal control, subject
to budget appropriation
Auditor's Office

By

CALIFORNIA WATER SERVICE

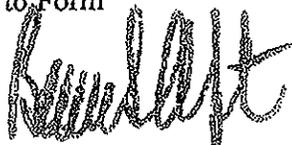
Approved as to form

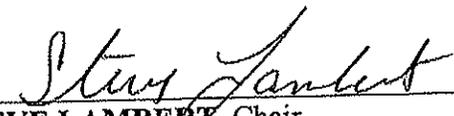
By 
JOHN TOOTLE, Corporate Counsel
California Water Service

By  5/27/11
MIKE ROSSI, VP Engineering & Water Quality
California Water Service

Approved as to Form

COUNTY OF BUTTE

By 
BRUCE ALPERT, County Counsel
Butte County Counsel

By 
STEVE LAMBERT, Chair
Butte County Board of Supervisors

ATTEST:

PAUL HAHN, Chief Administrative Officer
And Clerk of the Board

By _____

EXHIBIT "A"
CONTRACT WATER FOR DELIVERY TO
CALIFORNIA WATER SERVICE COMPANY
THROUGH THE THERMALITO POWER CANAL
CALIFORNIA WATER SERVICE TURNOUT

CALENDAR YEAR	ACRE FEET OF WATER TO BE RESERVED EACH YEAR FOR COMPANY
2011 through 2015	2,000 acre feet

The maximum acre feet of water to be reserved each calendar year for Exhibit "A" shall be determined in accordance with Section 2.2 of this Agreement and presented as amendments to this Agreement to the Board of Supervisors.

AMENDMENT ONE
WATER SUPPLY AGREEMENT
BETWEEN COUNTY OF BUTTE AND
CALIFORNIA WATER SERVICE COMPANY

The maximum acre feet of Table A water to be reserved each calendar year has been determined in accordance with Section 2.2 of Water Supply Agreement Between County of Butte and California Water Service Company entered into as of January 1, 2011. Exhibit A is amended as follows beginning January 1, 2015:

EXHIBIT "A"
CONTRACT WATER FOR DELIVERY OF
STATE WATER PROJECT
TABLE A WATER
TO CALIFORNIA WATER SERVICE COMPANY

CALENDAR YEAR	ACRE FEET OF WATER TO BE RESERVED EACH YEAR FOR CALIFORNIA WATER SERVICE
2015 through 2020	150 acre feet

IN WITNESS WHEREOF, the County of Butte has caused this Agreement to be executed by the Chair of the Board of Supervisors and caused its Official Seal to be hereunto affixed and California Water Service Company has caused these presents to be executed as of the day and year first hereinabove set forth.

Approved as to Form:

CALIFORNIA WATER SERVICE COMPANY

By 

LYNNE MCGHEE, Counsel

By 

FRANCIS FERRARO,
VP Corporate Development

Approved as to Form

COUNTY OF BUTTE

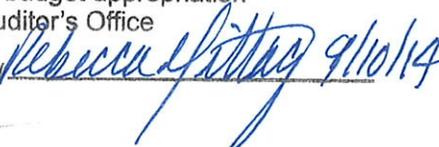
By 
BRUCE ALPERT, County Counsel
Butte County Counsel

By 
DOUG TEETER, Chair
Butte County Board of Supervisors

ATTEST:

PAUL HAHN, Chief Administrative Officer
And Clerk of the Board

Approved for fiscal control, subject
to budget appropriation
Auditor's Office

By  9/10/14

By 

COUNTY OF BUTTE

41264-A02

CONTRACT NO.

AMENDMENT TWO
WATER SUPPLY AGREEMENT
BETWEEN COUNTY OF BUTTE AND
CALIFORNIA WATER SERVICE COMPANY

This document amends the Water Supply Agreement Between County of Butte and California Water Service Company entered into as of January 1, 2011 as amended by Amendment One beginning January 1, 2015:

The following language is incorporated through this amendment:

ARTICLE 1. INTRODUCTORY PROVISIONS

1.1 Definitions –

Adding:

§ (f) “Trigger Date” shall mean October 15 of each 12-month period from January 1 through December 31

ARTICLE 2. WATER SERVICE PROVISIONS

2.2 Establishment of Exhibit “A” Amounts in Five-Year Increments –

§ (b) Strike the word “purchase” and replace with the word “order”

2.5 Transfer or Sales of Contract Water –

Adding:

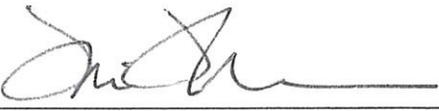
§ (c) Cal Water may turn-back a portion of the water ordered under §2.2 through notice to County by the Trigger Date (October 15) of each 12-month period January 1 through December 31. Once the notice is received by County, such turn-back action is deemed accepted and final and Cal Water is relieved of payment for this portion of the amount established under Exhibit A for that water year. All other payment provisions addressed in Article 3 remain the same and are not altered by this amendment.

IN WITNESS WHEREOF, the County of Butte has caused this Agreement to be executed by the Chair of the Board of Supervisors and caused its Official Seal to be hereunto affixed and California Water Service Company has caused these presents to be executed as of the day and year first hereinabove set forth.

Approved as to Form

CALIFORNIA WATER SERVICE COMPANY

By 
McGhee, Lynne VP, General Counsel

By 
Timothy Treloar, VP, Water Quality & Chief
Utility Operations Officer

Approved as to Form

COUNTY OF BUTTE

By 
BRUCE ALPERT, County Counsel
Butte County Counsel

By 
BILL CONNELLY, Chair
Butte County Board of Supervisors

ATTEST:

PAUL HAHN, Chief Administrative Officer
And Clerk of the Board

By 
Deputy

Approved for fiscal control, subject
to budget appropriation
Auditor's Office
By 