

SAN GORGONIO PASS WATER AGENCY
1210 Beaumont Avenue, Beaumont, CA
Board of Directors Meeting
Agenda
December 15, 2014 at 1:30 p.m.

1. Call to Order, Flag Salute and Roll Call

2. Adoption and Adjustment of Agenda

3. Public Comment

Members of the public may address the Board at this time concerning items relating to any matter within the Agency's jurisdiction. To comment on specific agenda items, please complete a speaker's request form and hand it to the board secretary.

4. Consent Calendar:

If any board member requests that an item be removed from the Consent Calendar, it will be removed so that it may be acted upon separately.

- A. Approval of the Minutes of the Regular Board Meeting, December 1, 2014* (Page 2)
- B. Approval of the Minutes of the Engineering Workshop, December 8, 2014* (Page 5)

5. Reports (Discussion and Possible Action)

- A. General Manager's Report
 - 1. Operations Report
 - 2. General Agency Updates

- B. Directors' Reports

6. New Business (Discussion and Possible Action)

- A. Presentation on New Groundwater Legislation (Paeter Garcia – BBK)
- B. Consideration of EBX Enhanced Operations and Maintenance Agreement* (Page 7)
- C. Consideration of Sponsorship of Inland Empire Solar Challenge* (Page 40)
- D. Update on Whitewater Flume

7. Topics for Future Agendas

8. Announcements

- A. Special Board Meeting, Friday - December 19, 2014 at 9:00 a.m.
- B. Finance and Budget Workshop, December 22, 2014 at 1:30 p.m.
- C. The office will be closed December 25th & 26th, in observance of the Christmas Holiday
- D. The office will be closed January 1st and 2nd, in observance of the New Year's Holiday
- E. Regular Board Meeting, January 5, 2015 at 1:30 p.m.

9. Adjournment

***Information included in Agenda Packet**

(1) Materials related to an item on this Agenda submitted to the Board of Directors after distribution of the agenda packet are available for public inspection in the Agency's office at 1210 Beaumont Avenue, Beaumont during normal business hours. (2) Pursuant to Government Code section 54957.5, non-exempt public records that relate to open session agenda items and are distributed to a majority of the Board less than seventy-two (72) hours prior to the meeting will be available for public inspection at the Agency's office, located at 1210 Beaumont Avenue, Beaumont, California 92223, during regular business hours. When practical, these public records will also be made available on the Agency's Internet Web site, accessible at: www.sgpwa.com (3) Any person with a disability who requires accommodation in order to participate in this meeting should telephone the Agency (951 845-2577) at least 48 hours prior to the meeting. 1 / 4 4

SAN GORGONIO PASS WATER AGENCY
1210 Beaumont Avenue, Beaumont, California 92223
Minutes of the
Board of Directors Meeting
December 1, 2014

Directors Present: Bill Dickson, Vice President
Ron Duncan, Director
Mary Ann Melleby, Director
Ray Morris, Director
Barbara Voigt, Director

Directors Absent: John Jeter, President

Staff Present: Jeff Davis, General Manager
Thomas Todd, Finance Manager
Jeff Ferré, Legal Counsel

Consultants: Erik Howard, Senior Project Manager - Atkins Global

1. **Call to Order, Flag Salute and Roll Call:** The meeting of the San Gorgonio Pass Water Agency Board of Directors was called to order by Board Vice President Bill Dickson at 1:30 p.m., December 1, 2014 in the Agency Boardroom at 1210 Beaumont Avenue, Beaumont, California. Director Duncan led the Pledge of Allegiance to the flag. A quorum was present.
2. **Adoption and Adjustment of the Agenda:** Director Duncan moved, seconded by Director Melleby, to approve the adoption and adjustment of the agenda as presented. Motion carried 5-0, with President Jeter absent.
3. **Public Comment:**
4. **Consent Calendar:**
 - A. Approval of the Minutes of the Regular Board Meeting, November 17, 2014
 - B. Approval of the Minutes of the Finance and Budget Workshop, November 24, 2014
 - C. Approval of the Finance and Budget Workshop Report, November 24, 2014

Director Morris moved, seconded by Director Voigt, to approve the consent calendar as presented. Motion carried 5-0, with President Jeter absent.

5. Reports:

A. General Manager's Report:

(1) Operations Report: General Manager Davis reported on the following: **(a) SWP Water Deliveries:** The Agency delivered a total of 362 acre-feet to Beaumont Cherry Valley Water District ponds for the month of November. **(b) SWP Status:** **i)** DWR has not yet released the Notice to State Water Contractors 2015 SWP Initial Allocation, which is due to today. **ii)** Oroville Reservoir is currently at 900,000 acre-feet (lowest in 38-years), which is 500,000 acre-feet less than last year at this time. The SWP share of the San Luis Reservoir is 240,000 acre-feet; leaving about one-million acre feet for the water year. **iii)** DWR has made a decision to reduce its deliveries to the Feather River service area. This action is directly related to the drought. **iv)** SWP water is being released from Oroville Reservoir to reduce salinity levels in the Delta. **v)** The precipitation that was received in Sacramento during the month of October 2014 was equal to that of the precipitation that was received

from October 2013 through January 2014. **vi)** DWR three month forecast shows an equal chance of it being a dry or wet period.

(2) General Agency Updates: **(a) BDCP:** General Manager Davis informed the Board that the BDCP Contract Negotiations meeting is being held on December 10th. A key Contractor objective is to streamline the bureaucracy that is associated with future water transfers and exchanges. **(b) SWP Delivery Capability Reliability Study:** The Delivery Capability Reliability Study provides a reliability percentage for SWC to use for their UWMP. DWR is looking at four scenarios which range from 43% to 58%. SWC wants to add a scenario that includes the BDCP, which could bring the reliability up to 73%. **(c) Division 5 Vacancy Update:** Staff has posted a Notice of Vacancy at three public places as required by the Registrar of Voters. A notice has been placed on the Agency website. Also, the local newspapers have been notified. Letters of interest must be received by the Agency by 5:00 p.m. on December 8th. **(d) DWR 2015 Statement of Charges Rebill:** The rebill was received in today's mail indicating a reduction of about 2 ½ percent, thereby resulting in a small reduction of the monthly DWR payments. **(e) Vehicle Maintenance/Repair:** General Manager Davis referenced the discussion that took place during the November 24th Finance and Budget Workshop. Clarification was given pertaining to the booking of the Agency's truck repair and reimbursement thereof. **(f) SGPWA Administration Office:** Over the Thanksgiving weekend the Agency's alarm system was activated twice. The police department and staff responded to both alarms that occurred on two separate days. It was determined that the building was secure and that there was no forced entry. **(g) ACWA Fall Conference:** ACWA's conference will take place in San Diego from December 2 through December 5.

B. Directors Report: No reports were given at this time.

6. New Business: (Discussion and Possible Action)

A. Consideration of Resolution No. 2014-10 Employer Paid Member Contribution for CalPERS: A staff report and a copy of copy of Resolution No. 2014-10 were included in the agenda packet. General Manager Davis stated that CalPERS requires a Resolution anytime there is a change to the employee-paid contributions to CalPers. In 2011, the Board voted to increase staff contributions to CalPers retirement from 0% to 3% over a three-year period. This is the last of three annual 1% increases. Resolution No. 2014-10 reflects the increase percentage from 2% to 3%. Director Voigt moved, seconded by Director Morris, to approve Resolution No. 2014-10. Motion passed 5-0, with President Jeter absent.

B. Consideration of Pro-Craft Change Order: A staff report and a copy of Contract Change Order No. 2 issued by Pro-Craft Construction Inc., were included in the agenda packet. General Manager Davis referred the Board to the staff report which provided a detailed explanation regarding Change Order No. 2 for Beaumont Avenue Recharge Facility Pipeline in the amount of \$110,111. General Manager Davis reviewed the justifications of the Change Order and why the Change Order is reasonable. He informed the Board that they are not obligated to approve the costs. General Counsel Jeff Ferré clarified with the Board that the proposed settlement has been signed by the contractor for final payment. In addition, BBK's Public Works Contract Department will put together documentation that states that the project is complete with final payment by the Agency. Lastly, the Change Order was valid in order to complete the pipeline project. Vice President Dickson requested comments from the Board and from the public. Blair Ball, a resident of Cherry Valley, opposed the Change Order request. Vice President Dickson stated that the biggest problem that the construction company endured was the inaccurate

information that was on record. Director Duncan asked Erik Howard (Atkins Global) if the estimated cost factored in unforeseen additional expenses, and if the figure was above and beyond the contracted amount. Mr. Howard responded, stating that the Engineer's Estimate accounted for additional expenses, however in his experience of twenty-four years this project has been one of the more frustrating and challenging exercises in the types of structures that were encountered. As the area developed over the years, the County of Riverside would bury structures and did not have the foresight to record what and where structures were located underground. After discussion Director Melleby moved, seconded by Director Duncan, to approve staff's recommendation approving Construction Change Order No. 2 to Pro-Craft, with the understanding that no additional payments will be made to the contractor on the project beyond those identified in the change order and the original bid, and that the language recommended by General Counsel be included in the change order. Motion passed 4-1, with Director Morris opposed, President Jeter absent.

C. Consideration of 2013 Water Conditions Report: A staff report and a copy of the 2013 Report on Water Conditions were included in the agenda packet. General Manager Davis stated that this is substantially the same report that was discussed at the November Engineering workshop with a few minor changes. He reviewed the changes with the Board. Legal Counsel Jeff Ferré recommended that the Board receive and file the report. Director Duncan made a motion, seconded by Director Voigt, to receive and file the 2013 Water Conditions Report, as presented. Motion passed 5-0, with President Jeter absent.

D. Consideration of Resolution No. 2014-08, Honoring Barbara Voigt: Vice President Dickson thanked Director Voigt for her twenty-five years of service. The Agency presented Director Voigt with a service award. Each Board member and General Manager Davis personally thanked Director Voigt.

7. Topics for Future Agendas: No topics were requested for future agendas.

8. Announcements:

- A. Engineering Workshop, December 8, 2014 at 1:30 p.m.
- B. Regular Board Meeting, December 15, 2014 at 1:30 p.m.
- C. Finance and Budget Workshop, December 22, 2014 at 1:30 p.m.

9. Adjournment: *Vice President Dickson adjourned the meeting at 2:17 p.m. in honor of Barbara Voigt and in memory of Ted Haring.*

DRAFT – SUBJECT TO BOARD APPROVAL

Jeffrey W. Davis, Secretary of the Board

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SAN GORGONIO PASS WATER AGENCY
1210 Beaumont Avenue, Beaumont, CA 92223
Minutes of the
Board of Directors Engineering Workshop
December 8, 2014

Directors Present: John Jeter, President
Blair Ball, Director
Bill Dickson, Vice President
Ron Duncan, Director
Mary Ann Melleby, Director

Directors Absent: Ray Morris, Director

Staff Present: Jeff Davis, General Manager
Russ Behrens, General Counsel

1. Call to Order, Flag Salute and Roll Call: The Engineering workshop of the San Gorgonio Pass Water Agency Board of Directors was called to order by President John Jeter at 1:30 p.m., December 8, 2014 in the Agency Board room at 1210 Beaumont Avenue, Beaumont, California. Director Dickson led the Pledge of Allegiance to the flag. A quorum was present. President Jeter welcomed the newest Board member, Blair Ball, to the Board.

2. Public Comment: No members of the public wished to address the Board.

3. Discussion of San Bernardino Valley Municipal Water District Conjunctive Use Project: Wen Huang from Valley District gave a Power Point presentation on the proposed program, which is in its conceptual stages. He noted that the District is seeking partners, and that the Agency may be a viable partner for the emergency supply or banking objectives. He indicated a timetable that shows construction in 2016, approximately when EBX 2 is scheduled to go online. General Manager Davis reported to the Board that he is monitoring this program closely and will likely make a recommendation to the Board in the future regarding participation.

4. Review and Discussion of Wheeling Concepts: General Counsel Russ Behrens reviewed the Wheeling Statue with the Board, noting that it is relatively complicated and that may be one reason why so few water agencies in California have wheeling policies and rates. General Manager Davis noted that he and General Counsel Behrens will continue to work on this issue and will present it to the Board in more detail at a future workshop.

5. Update on Whitewater Flume: General Manager Davis reviewed some of the recent developments with the Board, including a scheduled meeting tomorrow between Best Best & Krieger and Southern California Edison in Washington. At this meeting, Edison may offer to show support to the City of Banning in exchange for the Agency making some concessions regarding the California Environmental Quality Act (CEQA). He also summarized other processes that are ongoing, including the FERC dispute resolution process.

6. Announcements:

- A. Regular Board Meeting, December 15, 2014 at 1:30 p.m.
- B. Finance and Budget Workshop, December 22, 2014 at 1:30 p.m.
- C. The office will be closed December 25th and 26th, in observance of the Christmas Holiday.
- D. The office will be closed January 1st and 2nd, in observance of the New Year's Holiday.

7. Adjournment: President Jeter adjourned the meeting at 3:10 p.m.

DRAFT – SUBJECT TO BOARD APPROVAL

Jeffrey W. Davis, Secretary to the Board

MEMORANDUM

TO: Board of Directors

FROM: General Manager

RE: Updated and Revised EBX O&M Agreement

DATE: December 15, 2014

Summary:

The Agency, the San Bernardino Valley Municipal Water District (Valley District), and the Department of Water Resources (DWR) have a current Joint Exercise of Powers agreement to operate and maintain the East Branch Extension (EBX). That agreement expires on December 31. The purpose of this proposed Board action is to execute a new agreement that will provide additional benefits to the Agency and the Valley District.

Background:

The East Branch Extension is owned by DWR, maintained by DWR, and operated by the Valley District and the Agency. This is somewhat unusual, as DWR operates virtually all of the rest of the State Water Project. Operating the EBX locally is less expensive for the Agency and the Valley District, their ratepayers, and their taxpayers.

When this agreement was adopted in 2005, it was intended that it would apply for the short term; roughly until EBX 2 would come online. Hence its expiration date of December 31, 2014. It was always intended that a more comprehensive agreement would take its place. A draft of the proposed agreement was discussed at an Engineering workshop on September 8. No substantive changes have been made since that time, though a number of non-substantive revisions have been made.

Detailed Report:

The primary difference between the existing agreement and the proposed agreement is that, under the proposed agreement, Agency

staff, Valley District staff, and DWR staff will work more closely together, including management staff, to deal with issues as they come up. The proposed agreement calls for quarterly meetings of operational staff and twice-yearly meetings of management staff. The purpose of the quarterly meetings is to discuss ongoing operational and maintenance issues. The purpose of the twice-yearly meetings is to discuss higher-level issues and to prevent minor issues from becoming major issues. These management meetings may also be called at any time by any of the parties.

Under the proposed agreement, the Agency and the Valley District will continue to operate the EBX facilities, and will begin performing routine maintenance. DWR will continue to perform major maintenance.

The proposed agreement provides an opportunity for the Agency and the Valley District to meet, as needed, with DWR management to discuss issues related to operation or maintenance of the EBX facilities. Such meetings also may be called to discuss DWR's costs or the timing of maintenance activities. In the event that there is a dispute among the parties, the proposed agreement provides for a Management Meeting to try to resolve the issues or, beyond that, a meeting with the DWR Director. These provisions are not included in the current agreement.

The proposed agreement has also been simplified by removing some of the attachments and changing references to them in the agreement.

Fiscal Impact:

The proposed agreement, if approved by all three parties, should reduce Agency O&M costs over a long period of time, since some maintenance currently performed by DWR staff will in the future be performed by Agency or Valley District staff. It is impossible to estimate how much money would be saved, but over time it is expected to be significant.

Relationship to Strategic Plan:

There is no direct relationship between this proposed Board action and the Agency's strategic plan. However, the strategic plan does

call for the Agency to be more proactive in its relationships with other outside entities, and to the extent that this agreement does this with Valley District and DWR, it does indirectly relate to the strategic plan.

Recommendation:

Staff recommends that the Board approve the O&M Agreement with DWR and Valley District, including any minor revisions that may be made by the State Department of General Services, and authorize the General Manager or President to sign on behalf of the Agency. Counsel has reviewed the agreement and its comments have been incorporated to the extent possible.

SCOPE OF WORK

JOINT EXERCISE OF POWERS AGREEMENT AMONG
THE STATE OF CALIFORNIA, DEPARTMENT OF WATER RESOURCES,
THE SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT,
AND THE SAN GORGONIO PASS WATER AGENCY
RELATING TO THE OPERATION AND MAINTENANCE OF
THE EAST BRANCH EXTENSION

WHEREAS, the State of California, Department of Water Resources, hereinafter referred to as "State," is responsible for constructing, operating, and maintaining the State Water Project, hereinafter referred to as "SWP," which includes the East Branch Extension, of the California Aqueduct, hereinafter referred to as "EBX," and which is defined in Paragraph 1a of this Agreement; and

WHEREAS, the San Bernardino Valley Municipal Water District, hereinafter referred to as "SBVMWD", has entered into a long-term water supply contract with the State dated December 30, 1960 and subsequently amended, hereinafter referred to as "SBVMWD Water Supply Contract"; and

WHEREAS, the San Gorgonio Pass Water Agency, hereinafter referred to as "SGPWA", has entered into a long-term water supply contract with the State dated November 15, 1963 and subsequently amended, hereinafter referred to as "SGPWA Water Supply Contract" and collectively with the SBVMWD Water Supply Contract as "Water Supply Contracts"; and

WHEREAS, these Water Supply Contracts provide that the State will supply certain quantities of water to SBVMWD and SGPWA, and provide that SBVMWD and SGPWA shall make certain payments to the State, and set forth the terms and conditions of such supply and such payments; and

WHEREAS, SBVMWD at the time of execution of this Agreement has constructed, operated, and maintained transportation facilities within its service area without State participation. Those facilities include the Phase I and II Foothill Pipeline, Santa Ana River Crossing (SARC) Pipeline, Morton Canyon Connector Pipeline, Phase I, II and III Greenspot Pipeline, Yucaipa Pipeline, and Foothill Pump Station; and

WHEREAS, SGPWA and SBVMWD entered into an agreement called the "Joint Facilities Agreement" on July 16, 1970 (the "First Joint Facilities Agreement"), an agreement called the "Second Joint Facilities Agreement" on February 10, 1986 and an agreement called the "Third Joint Facilities Agreement" to be entered into in February 2015 under which SGPWA purchased certain capacity rights in SBVMWD's facilities; and

WHEREAS, both SGPWA and SBVMWD have assigned to the State their capacity rights and right of way in certain existing SBVMWD transportation facilities through the "Agreement to Assign Capacity Rights and Right of Way in Existing Facilities," dated July 14, 1998, which has been amended in a document referred to below; and

WHEREAS, EBX was designed and constructed in two phases, referred to as EBX Phase I and EBX Phase II.

WHEREAS, as part of the design and construction of the EBX Phase I project, the Parties entered into a final design and construction agreement, entitled "California Aqueduct East Branch Extension to San Geronio Pass Participation Agreement [Final Design and Construction]", dated August 20, 1996, which has been amended in a document referred to below; and

WHEREAS, the Parties amended the Final Design and Construction Agreement, referred to above, and the Agreement to Assign Capacity Rights and Right of Way in Existing Facilities, referred to above, in a single document entitled "Amendment 1 to California Aqueduct East Branch Extension to San Geronio Pass Participation Agreement [Final Design and Construction] and to California East Branch Extension to San Geronio Pass Agreement to Assign Capacity Rights and Right of Way in Existing Facilities," dated August 20, 1999; and

WHEREAS, the State has completed the design and construction of the EBX Phase I and subsequent improvements of transportation, pumping, turnout, and related facilities for the East Branch Extension and is designing and constructing the EBX Phase II transportation, pumping, turnout, reservoirs and related facilities for the East Branch Extension. EBX Phase II for the East Branch Extension is anticipated to be completed and operational in 2016; and

WHEREAS, SBVMWD has constructed and owns the Foothill Pump Station upstream of the Greenspot Pump Station on the Foothill Pipeline. SBVMWD shall continue to operate and maintain the Foothill Pump Station in coordination with the EBX to ensure adequate deliveries to the Greenspot Pump Station, but that such Foothill Pump Station operation and maintenance shall not be governed by this Agreement; and

WHEREAS, SBVMWD and SGPWA are contractually obligated to pay one hundred percent (100%) of all costs for the construction, operation, and maintenance of the EBX; and

WHEREAS, SBVMWD and SGPWA have a substantial financial interest in assuring that the EBX will be operated and maintained in a cost effective manner, inasmuch as SBVMWD, SGPWA, and their water customers will be paying one hundred percent (100%) of the costs of the EBX; and

WHEREAS, SBVMWD and SGPWA are qualified to provide assistance to the State in the operation and maintenance of the EBX, and will perform similar activities for any local extensions from the EBX; and

WHEREAS, consistent with the State's authority and responsibility to operate and maintain the SWP, including the EBX, the State has determined it is in the best interest of the State to enter into this Joint Powers Agreement ("Agreement") to obtain SBVMWD and SGPWA's assistance in the operation and maintenance of the EBX.

NOW, THEREFORE, the State, SBVMWD, and SGPWA agree as follows:

1. Definitions

For the purposes of this Agreement, the following definitions shall apply:

- a. "EBX" or "EBX System" shall be defined to mean all facilities, property, and right of way of Phase I, subsequent Phase I Improvements, and Phase II of the East Branch Extension of the California Aqueduct owned by the State, and the facilities and property in which capacity rights and right of way were assigned pursuant to the "Agreement to Assign Capacity Rights and Right of Way in Existing Facilities," dated July 14, 1998, as amended by Amendment 1, as amended by Amendment 2, between the Devil Canyon Powerplant First Afterbay turnout to the SBVMWD Foothill Pipeline at the pipeline isolation slidegate and the terminus in SGPWA's service area near South Noble Creek.
- b. "Commercial Operation Date I" for Phase I of the East Branch Extension was March 20, 2003, for Phase I Improvements. Thereafter, SBVMWD and SGPWA assumed certain responsibilities for operation and maintenance of the Phase I of the East Branch Extension system, as specified in this Agreement.
- c. "Commercial Operation Date II" for Phase II of the East Branch Extension shall mean the milestone date marking the completion of start-up and testing of the EBX System. Thereafter, SBVMWD and SGPWA shall assume certain responsibilities for operation and maintenance of the EBX System, as specified in this Agreement.
- d. "Emergency Maintenance" shall mean those maintenance activities, including repair, replacement, or reconstruction of existing facilities (but only to the extent such repair, replacement, or reconstruction is necessary to address the immediate emergency), carried out on the EBX in response to a sudden, unexpected occurrence, involving loss or damage or threat of loss or damage to the EBX, life, property, wildlife, or essential public services.

- e. "Operation and Maintenance Instructions" shall mean the instructions for the performance of Operation and Maintenance prepared pursuant to Paragraph 4.
- f. "Operation and Maintenance" shall mean "Ordinary Operation and Maintenance" and "Emergency Maintenance" as defined in this Paragraph.
- g. "Ordinary Operation and Maintenance" shall mean the necessary operation and maintenance activities performed on the EBX, which are routinely performed on pump stations and appurtenant structures, pipeline systems transporting water, reservoirs, control systems, communication systems, and on the right of way used of such facilities, including minor repair, replacement, or reconstruction of existing facilities.
- h. "Major Repair, Replacement or Reconstruction Work" shall mean an activity which has a commercial contract value of more than \$281,000.
- i. "FERC" shall mean the Federal Energy Regulatory Commission that regulates the movement of power such as natural gas and electricity. FERC sets reliability standards for the power grid to maintain a reliable Bulk Electric System (BES).
- j. "NERC" shall mean the North American Electric Reliability Corporation that ensures the reliability of the bulk power system in North America. NERC develops and enforces Reliability Standards; annually assesses seasonal and long-term reliability; monitors the bulk power system through system awareness; and educates, trains, and certifies industry personnel. NERC is the Electric Reliability Organization (ERO) for North America, subject to oversight by FERC and governmental authorities in Canada. NERC's jurisdiction includes users, owners, and operators of the bulk power system, which serves more than 334 million people.
- k. "WECC" shall mean the Western Electricity Coordinating Council, which is one of the 8 power regions in North America, and which regulates power in the region known as the Western Interconnection. The Western Interconnection includes two provinces of Canada, 14 Western states in the United States and the north part of Baja California, Mexico. WECC's main goal is to ensure that the Western Interconnection's electrical system is up to date and working for a reliable Bulk Electric System (BES).
- l. "CIP" shall mean Critical Infrastructure Protection. NERC Reliability Standards that are mandatory and address the security of cyber assets essential to the reliable operation of the electric grid. Subject to FERC oversight, NERC and its Regional Entity partner WECC enforce these standards.

- m. "O&P" shall mean Operation and Planning NERC Reliability Standards that are mandatory and address the power and transmission planning, and facility operation and maintenance of grid reliability, including but not limited to Emergency Preparedness, and Operations; Facilities, Design, Connections, and Maintenance; Protection and Control; Transmission Planning; and Voltage & Reactive Power. Facilities that are subject to O&P NERC Reliability Standards include pumping, power plants, and transmission lines.
- n. "SWP Annual Maintenance Schedule" shall mean the annual schedule of maintenance, expected outages, and other maintenance activities compiled by the State that affect the water through SWP facilities. The SWP Annual Maintenance Schedule compares the identified maintenance with operations forecasts at each SWP plant on a calendar year basis.

2. Authority to Perform Ordinary Operation and Maintenance

- a. Subject to the provisions of this Agreement, SBVMWD and SGPWA shall have the responsibility to perform the Ordinary Operation and Maintenance activities for the EBX within their respective service areas to ensure water delivery to SBVMWD and SGPWA consistent with the Water Supply Contracts. Such Operation and Maintenance shall be performed in a manner such that the EBX is kept in good condition and protected to ensure its long-term operation. SBVMWD and SGPWA shall have the responsibility to ensure operations and activities, including required records, are in compliance with applicable regulatory standards and State policies. SBVMWD, SGPWA and the State shall establish and agree to Emergency Maintenance and Ordinary Operation and Maintenance call-out procedures for resolution of issues impacting safety and system operations. The State will maintain an issues log and record when an issue is resolved. Ordinary Operation and Maintenance duties include those described in Exhibit A – Attachment 1.
- b. The State, SBVWD, and SGPWA shall regularly schedule Management Meetings to coordinate Operation and Maintenance as provided in Paragraph 13d. SBVMWD and SGPWA, may request in writing that a non-regularly scheduled Management Meeting be convened within 30 calendar days of such request. These urgent Management Meetings are intended to provide SBVMWD and SGPWA expeditious resolution to operations and maintenance items that are either 30 days past due previously agreed upon completion dates in the Coordination Meetings or the need for which has arisen unexpectedly.

- c. All of SBVMWD and SGPWA costs associated with Ordinary Operation and Maintenance and/or repair activities shall be charged as described in Paragraph 12. In performing Ordinary Operation and Maintenance and/or repair activities, each entity shall comply with Paragraph 13.
- d. The State shall have the responsibility to perform certain Ordinary Operation and Maintenance activities for the EBX described in Exhibit A – Attachment 1, and which are not the responsibility of SBVMWD and SGPWA.
- e. In the event of a dispute between the State, SBVMWD and SGPWA jointly or independently, as to which Party shall perform any work, or acts or omissions in the performance of such work, such a dispute shall be attempted to be resolved through the regularly scheduled Management Meetings or an urgent Management Meeting as defined in Paragraph 2b.
- f. In the case when the dispute cannot be resolved through a Management Meeting, SBVMWD and SGPWA may jointly or independently request to meet with the DWR Director for a definitive decision on the matter in question.

3. Emergency Maintenance

If a situation exists requiring Emergency Maintenance to the EBX, SBVMWD and SGPWA, as appropriate, shall promptly undertake action as required. SBVMWD and SGPWA, as appropriate, shall promptly notify the State's Southern Field Division Area Control Center of such action at the following telephone number (661) 944-8600. (The State may change this telephone number by providing written notice to SBVMWD and SGPWA). After consultation with SBVMWD and SGPWA, including a reasonable opportunity under the particular circumstances for SBVMWD and SGPWA to provide comments to the State, the State may modify or direct such actions. All costs associated with responding to an emergency shall be charged as described in Paragraph 12. In addition, SBVMWD and SGPWA, as appropriate, shall provide to the State, as soon as practicable, an estimate of the costs incurred or to be incurred in performing Emergency Maintenance. In performing Emergency Maintenance, if not exempt under their respective emergency ordinances or an emergency resolution, SBVMWD and SGPWA shall comply with Paragraph 13 to the extent practicable, taking into account the emergency situation.

4. Preparation of Operation and Maintenance Instructions and of Annual Maintenance Schedule

- a. The State, SBVMWD, and SGPWA shall cooperate to ensure that Operation and Maintenance of the EBX is carried out in a safe, reliable, and cost effective manner. During project start-up and testing for EBX I, SBVMWD and SGPWA worked cooperatively and shall continue to cooperate with the State to develop, document, and update the Operation and Maintenance Instructions for the EBX System. The Operation and Maintenance Instructions shall describe all the operation and maintenance activities for the EBX System. From time to time, the State may request or SBVMWD and SGPWA may propose that the Operation and Maintenance Instructions be revised to reflect system changes or incorporate new construction. If SBVMWD and/or SGPWA proposes revisions or new construction to the EBX System, SBVMWD and SGPWA shall prepare such proposed revisions and submit them to the State for review and approval. If possible, such requests should be initially presented to the State at Coordination Meetings or Management Meetings.
- b. By the end November of each year of this Agreement, SBVMWD and SGPWA shall also submit to the State for its review and approval an Annual Maintenance Schedule, including expected outages, and other maintenance activities that can affect the delivery of water through the facility for the following year. These will be incorporated in the State's SWP Annual Maintenance Schedule. The State shall complete its review and approval as soon as possible, but in no event later than 60 calendar days after it receives the schedule. Approval of any of these documents shall not subject the State to any liability, nor shall such action modify or qualify SBVMWD's and SGPWA's liability under Paragraph 15 of this Agreement. The Annual Maintenance Schedule may include references to the Instructions as appropriate.

5. State's Reservation of Rights

- a. The State reserves the right to participate in any Operation and Maintenance activities or any other activities carried out by SBVMWD and/or SGPWA under this Agreement upon prior written notification to them. Convening of a Management Meeting to discuss the State's need described in writing will be held within 30 calendar days of such written notice. Such participation may include performing maintenance activities with the State or other forces, drafting specifications, participating in contractor selection, evaluating work performance, administering contracts, and resolving contract claims. The written notification to SBVMWD and SGPWA shall, to the extent practicable, specify which activities the State intends to participate in, the reasons for the State's decision to participate, and the location and time period of such participation.
- b. The State may also require prior approval of any documents including, but not limited to, plans and specifications, solicitation documents, drawings, data,

addenda, change orders, and contracts by written notice to SBVMWD and SGPWA. Approval of any of these documents shall not subject State to any liability, nor shall such DWR document approval action modify or qualify SBVMWD's and SGPWA's liability under Paragraph 15 of this Agreement. In exercising its rights under this Paragraph, the State shall take all reasonable steps to minimize or avoid any delays to the Operation and Maintenance schedules.

- c. The State, at its option, after giving SBVMWD and SGPWA 60 calendar days written notice, may perform additional Operation and Maintenance activities of the EBX for a period of time (including Operation and Maintenance activities otherwise assigned to SBVMWD and SGPWA). Such notice shall specify the type of work and the period of time in which the State intends to perform Operation and Maintenance activities. In the event the State gives such notice, a Management Meeting will be convened to discuss the State's need within the 60-day period to ensure that Operation and Maintenance of the EBX are properly carried out.
- d. Any Party may submit a proposal to the other Parties to add, eliminate, or modify the Operation and Maintenance responsibilities of one or more Parties under this Agreement. The Parties shall consider and discuss the proposal as soon as reasonably practicable. If, and only if the Parties agree in writing, the Operation and Maintenance responsibilities shall be added, eliminated, or modified and such changes shall take effect as agreed to in writing by the Parties. This Paragraph 5d shall not limit the State's authority to exercise an option to perform Operation and Maintenance activities as provided in Paragraph 5c,
- e. Any change to the Operation and Maintenance responsibilities of the Parties made pursuant to Paragraphs 5c or 5d shall be reflected in a revised Attachment 1 to Exhibit A; provided, however, that the changes in Operation and Maintenance responsibilities that are made pursuant to Paragraph 5c and 5d shall take effect as agreed in writing by the Parties regardless of whether the corresponding revisions have yet been made to Attachment 1 of Exhibit A; and provided further that any such revisions to Attachment 1 to Exhibit A may be made and shall be effective without the need to formally amend this Agreement.
- f. Any dispute arising from Paragraph 5 between the Parties shall be resolved through Management Meetings and/or under the dispute resolution procedures set forth in Paragraph 2 of this Agreement. If a resolution is not agreed to by the Parties through this process, the Parties may seek any remedy available to them through the SWP water supply contracts with SBMVWD and SGPWA.

6. Inspections and Reports

- a. The State reserves the right of access at all times to the EBX for the purposes of observation and inspection, to respond to emergencies, or for other purposes deemed necessary by the State. In addition, joint inspections with representatives from specific areas of expertise shall take place biennially or upon some other mutually agreed upon interval, consistent with practices for other State Water Project facilities. The joint inspection interval and the availability and access of inspection records and reports for audit purposes may be specified in the Operations and Maintenance Instructions.
- b. For purposes of dam safety regulatory compliance, inspections of facilities under state or federal dam safety regulatory authority can occur with less than 24-hours' notice and may require SBVMWD and SGPWA provide for immediate review all records pertaining to operation and maintenance of reservoir valves, reservoir elevations, controlled and uncontrolled reservoir discharges, and daily visual inspections.
- c. SBVMWD and SGPWA shall keep Operation and Maintenance records on the EBX necessary to demonstrate that the facilities and right of way are being kept in good condition and are in compliance with mandated regulatory standards. SBVMWD and SGPWA shall provide the records for the State inspection at the request of the State. During regulatory audits and data requests, records and reports will be provided by SBVMWD and SGPWA for the specified dates and within the deadlines established by the regulatory entity. Such records shall include, but are not limited to, monthly turnout deliveries, water quality, cathodic protection, equipment outages, and control and communication system modifications including associated system documentation. Reporting processes, including the requisite format and/or forms, shall be specified in the Operation and Maintenance Instructions.
- d. By March 1 of each year of this Agreement, SBVMWD and SGPWA shall submit to the State written reports summarizing Operation and Maintenance activities performed during the previous year.
- e. SBVMWD and SGPWA shall keep records of all costs incurred under this Agreement. Such costs shall be maintained in sufficient detail to allow the State to allocate costs among the reaches and/or facilities designated by the State.

7. Licenses and Permits

- a. This Agreement shall not affect the State's ownership of and statutory responsibilities and powers relating to the EBX. After consultation with

SBVMWD and SGPWA, the State, at its option, may grant encroachment permits, licenses, easements, or other interests in real property owned by the State, or may convey any EBX real property owned by the State that the State deems surplus and not a critical or necessary component of State Water Resources Development System.

- b. SBVMWD and SGPWA shall forward all requests for encroachments on State right of way (other than requests addressed in Subparagraph c of this Paragraph 7), including SBVMWD's and SGPWA's recommended actions, to the State for processing at the address below. The State shall forward copies of encroachment requests made directly to the State to SBVMWD and SGPWA, and shall include SBVMWD and SGPWA in the review process. Except as otherwise provided in this Paragraph 7c, the State shall retain exclusive authority to grant or deny encroachment requests on State right of way.

Encroachment Permits
Division of Engineering
Department of Water Resources
Post Office Box 942836
1416 Ninth Street, Room 425
Sacramento, California 94236-0001
PHONE (toll free): (800) 600-4397
FAX: (916) 654-0738

- c. SBVMWD and SGPWA may grant temporary access (less than 90 days) to EBX right of way for surveys, studies and testing using the State's Temporary Entry Permit process. Temporary Entry Permits shall not be granted for construction or other similarly intrusive activities of any kind or nature. In proceeding with such action, SBVMWD and SGPWA shall hold the State harmless, and shall notify the State prior to granting temporary access by sending a copy of the signed permit to the address above. The State, SBVMWD, or SGPWA may revoke the Temporary Entry Permit as provided in the terms of the Permit.

8. Authority to Comply with Existing Permits

In exercising their obligations under this Agreement, the State, SBVMWD and SGPWA shall be responsible for complying with all applicable laws and regulations concerning Operation and Maintenance of the EBX, including all environmental and industrial safety laws and regulations, which the State, SBVMWD, or SGPWA may be obligated to satisfy. The State, SBVMWD and SGPWA also shall abide by conditions in consents, permits, orders, and agreements secured or entered into by the State applicable to the EBX, which the State is obligated to comply with as set forth in the Environmental

Impact Reports for the EBX I and EBX II projects, including conditions relating to environmental mitigation and monitoring during Operation and Maintenance. To the extent practicable, the State, SBVMWD and SGPWA, as applicable, shall contact the agencies responsible for issuing such consents, permits, orders and agreements, and shall cooperate with the agencies to have these authorizations modified so that the State, SBVMWD and SGPWA, as applicable, are directly responsible for complying with them instead of the other Parties, as applicable.

9. Control of Water Pollution

No material capable of water pollution shall be discarded on lands covered by this Agreement except as provided in the "Water Discharge and Spill Contingency Plan," which shall be included in the Operation and Maintenance Instructions described in Paragraph 4. Such material shall be stored in such a manner as to prevent its discharge.

10. Control and Responsibility for Hazardous substances

In carrying out their obligations under this Agreement, the State, SBVMWD, SGPWA, as applicable, and their agents shall comply with all applicable federal, State, or local laws existing during the term of this Agreement pertaining to the use, storage, transportation and disposal of any hazardous substance as that term is defined in such applicable law. In the event the State, SBVMWD, or SGPWA, as applicable, or any of its officers, employees, or agents should incur any liability, cost or expense, including attorneys' fees and costs, as a result of the State's, SBVMWD's or SGPWA's use, storage, transportation or disposal of any hazardous material relating to the State's, SBVMWD's or SGPWA's respective Operation and Maintenance under this Agreement, including any petroleum derivative in addition to any responsibility the State, SBVMWD and SGPWA have under this Paragraph or Paragraph 15 and notwithstanding Government Code Section 895.2, SBVMWD and SGPWA, as applicable, shall indemnify, defend, and hold harmless the State against such liability. Where either SBVMWD or SGPWA is found in breach of this provision due to the issuance of a government order directing it to cease and desist any illegal action in connection with a hazardous substance, or to remedy a contaminated condition caused by it or any person acting under its direction, control or authority, that agency shall be responsible for all costs and expenses of complying with such order, including any and all expenses imposed on or incurred by the State in connection with or response to such government order.