

**JEPA Amendment No. 5**

**AMENDMENT NO. 5  
TO  
AMENDED AND RESTATED JOINT EXERCISE OF POWERS AGREEMENT  
BETWEEN THE  
DEPARTMENT OF WATER RESOURCES, STATE OF CALIFORNIA  
AND THE DELTA CONVEYANCE DESIGN AND CONSTRUCTION JOINT POWERS  
AUTHORITY**

This Amendment No. 5 to the October 26, 2018 Amended And Restated Joint Exercise of Powers Agreement Between the Department of Water Resources of the State of California (“DWR”), as previously amended, and the Delta Conveyance Design and Construction Joint Powers Authority (“Authority”) is entered into and effective as of the last date set forth on a signature page hereto.

**RECITALS**

WHEREAS, in May 2018 DWR and the Authority (collectively “the Parties”) entered into a Joint Exercise of Powers Agreement and in October 2018 into an Amended and Restated Joint Exercise of Powers Agreement, whereby the Authority has been retained by DWR to manage the design and construction of California WaterFix under DWR’s ultimate control and oversight;

WHEREAS, the State has set a new water policy for California and on May 2, 2019 DWR withdrew its approval of the California WaterFix project and announced it would embark on new planning and environmental documentation for Delta Conveyance;

WHEREAS, the parties entered into that Amendment No. 1 to the Amended and Restated Joint Exercise of Powers Agreement (“Amendment No. 1”) to outline the initial planning and engineering services that the Authority will provide to DWR during its consideration of a potential Delta Conveyance;

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WHEREAS, the parties entered into that Amendment No. 2 to the Amended and Restated Joint Exercise of Powers Agreement, as amended, to increase the Initial Contribution and make certain other changes;

WHEREAS, the parties entered into that Amendment No. 3 to the Amended and Restated Joint Exercise of Powers Agreement, as amended, to increase the Initial Contribution and make certain other changes;

WHEREAS, the parties entered into that Amendment No. 4 to the Amended and Restated Joint Exercise of Powers Agreement, as amended, (collectively, the “Agreement”) to increase the Initial Contribution;

WHEREAS, Government Code section 6504 permits parties to a joint exercise of powers agreement to contribute funds, personnel and services, subject to repayment as set forth in such agreement; and

WHEREAS, consistent with Section 6504 and applicable law, the parties desire to further amend the Agreement as set forth below.

NOW THEREFORE, in consideration of the mutual covenants contained in the Agreement and this Amendment No. 5, the parties hereby agree to amend the Agreement as follows.

AMENDMENT

- A. The reimbursement date for the Initial DWR Contribution set forth in paragraph E of Amendment No. 4 is hereby changed to January 10, 2023.
- B. The following is hereby added to the Agreement as section 26 thereof:  
  
26. Permits. The Parties acknowledge that the environmental review, planning, engineering and design of a Conveyance Project will require numerous third-party

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consents, permits, orders, and/or agreements or other regulatory authorizations (“Permits”) and compliance therewith. DWR hereby authorizes the Authority to act as DWR’s agent under those Permits DWR has already obtained or will obtain in support of environmental review, planning, engineering, and design and that are applicable to the Work, as defined in the Agreement, to the extent such authorization is not prohibited by the relevant Permits or applicable law and provided further that, if prior notice is specifically required, the Authority has first issued written notice to the issuer of the relevant Permit.

In carrying out its obligations under this Agreement and as DWR’s agent under this section of the Agreement, the Authority and its agents shall comply with all applicable conditions of all Permits. The Authority shall be solely liable for any and all penalties or other costs associated with any enforcement actions arising from violation or alleged violation of conditions or requirements of any Permits.

In carrying out its obligations under this Agreement, the Authority and its agents shall comply with all applicable federal, State, or local laws, existing during the term of this Agreement, including those pertaining to the use, storage, transportation and disposal of any hazardous substance as that term is defined in such applicable law. The Authority shall be liable for any and all penalties or other enforcement actions associated with violation of any such laws by the Authority or any of its officers, employees, contractors, or agents. The Authority shall defend, indemnify, and hold DWR harmless for the Authority’s actions and omissions under this Section pursuant to the terms and conditions of Section 12.

*(Remainder of page intentionally left blank)*


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Except as hereby amended, the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have hereunto affixed their names as of the day and year hereinafter written.

**STATE OF CALIFORNIA  
DEPARTMENT OF WATER  
RESOURCES**

**DESIGN AND CONSTRUCTION  
AUTHORITY**

By: 

DocuSigned by:  
By:   
026ZCDAE01D7427...

Title: Director

Title: President

Date: 3/2/2021

Date: 2/26/2021

**Approved as to legal form and consistency**

**Approved as to legal form and consistency**

By:   
Chief Counsel

DocuSigned by:  
By:   
5E92EC0E46A345B...  
General Counsel

**BOARD OF DIRECTORS OF THE DELTA CONVEYANCE  
DESIGN AND CONSTRUCTION AUTHORITY  
RESOLUTION NO. 21-02**

**Introduced by Director: Sarah Palmer  
Seconded by Director: Robert Cheng**

**AUTHORIZE THE PRESIDENT TO EXECUTE AN AMENDMENT TO THE JOINT EXERCISE OF  
POWERS AGREEMENT**

Whereas, DWR and the DCA previously entered into that certain Joint Exercise of Powers Agreement between the parties as amended by Amendments No. 1-4 (JEPA); and

Whereas, the parties wish to further amend the JEPA as set forth in the attached Amendment No. 5; and

Whereas, the proposed edits to the JEPA clarify that the DCA is authorized to act as DWR's agent under permits, agreements, and authorizations that DWR has already obtained or will obtain in connection with environmental review, geotechnical work, planning, engineering, and design of a potential future Delta Conveyance project; and

Whereas, the proposed edits to the JEPA further modify the repayment date of the DWR Initial Contribution as defined in the JEPA;

Now, therefore, be it resolved that the DCA Board hereby finds that approval of Amendment No. 5 is not a project subject to the California Environmental Quality Act (CEQA). Amendment No. 5 does not qualify as a "project" subject to CEQA because it has no potential to result in either a direct, or reasonably foreseeable indirect, physical change in the environment. (State CEQA Guidelines, §§ 15060, subd. (c)(3), 15378, subd. (a).) Amendment No. 5 does not authorize any activity that could potentially impact the environment; rather, Amendment No. 5 merely clarifies the scope of DCA's agency under the JEPA and make other administrative edits to the JEPA. The amendment is thus an organizational or administrative activity that is not subject to CEQA. (State CEQA Guidelines, § 15378, subd. (b)(4)-(5).)

Therefore, be it further resolved that the DCA Board hereby authorizes the President to execute Amendment No. 5 to the Joint Exercise of Powers Agreement, substantially in the form attached to this Resolution as Exhibit A and incorporated by this reference.

\* \* \* \* \*

This Resolution was passed and adopted this 18<sup>th</sup> day of February 2021, by the following vote:

Ayes: 7

Noes: 0

Absent: 0

Abstain: 0

DocuSigned by:  
*Richard Atwater* 2/24/2021  
0282CDAE01D7421...  
Richard Atwater, Board President

Attest:

DocuSigned by:  
*Martin Milobar* 2/24/2021  
CC3A6897DF1F4B7...  
Martin Milobar, Secretary

### Certificate Of Completion

Envelope Id: 24C0B6B0A87D4220A44083321EDF011A	Status: Completed
Subject: Please DocuSign: JEPA-5 for DCA Contract 46000012393 Amendment 6 Ready for DocuSign.pdf	
Source Envelope:	
Document Pages: 6	Signatures: 2
Certificate Pages: 5	Initials: 0
AutoNav: Enabled	Envelope Originator:
Envelopeld Stamping: Enabled	William Hanley
Time Zone: (UTC-08:00) Pacific Time (US & Canada)	1416 9th Street
	Sacramento, CA 95814
	William.Hanley@water.ca.gov
	IP Address: 136.200.53.21

### Record Tracking

Status: Original 3/2/2021 2:51:17 PM	Holder: William Hanley William.Hanley@water.ca.gov	Location: DocuSign
Security Appliance Status: Connected	Pool: StateLocal	
Storage Appliance Status: Connected	Pool: Department of Water Resources	Location: DocuSign

### Signer Events

Signer Events	Signature	Timestamp
Spencer Kenner Spencer.Kenner@water.ca.gov Chief Counsel Department of Water Resources Security Level: Email, Account Authentication (None)	 Signature Adoption: Pre-selected Style Using IP Address: 172.58.36.92 Signed using mobile	Sent: 3/2/2021 2:56:56 PM Viewed: 3/2/2021 3:22:53 PM Signed: 3/2/2021 3:23:39 PM

**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign

Karla Nemeth Karla.Nemeth@water.ca.gov Director Security Level: Email, Account Authentication (None)	 Signature Adoption: Drawn on Device Using IP Address: 174.222.8.121 Signed using mobile	Sent: 3/2/2021 3:23:41 PM Viewed: 3/2/2021 4:24:38 PM Signed: 3/2/2021 4:24:53 PM
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**Electronic Record and Signature Disclosure:**  
Accepted: 3/2/2021 4:24:38 PM  
ID: cf72e4f2-d1cd-48de-a889-33c287696f6d

### In Person Signer Events

Signature

Timestamp

### Editor Delivery Events

Status

Timestamp

### Agent Delivery Events

Status

Timestamp

### Intermediary Delivery Events

Status

Timestamp

### Certified Delivery Events

Status

Timestamp

### Carbon Copy Events

Status

Timestamp

Christopher Martin  
Christopher.Martin@water.ca.gov  
Department of Water Resources  
Security Level: Email, Account Authentication (None)

**COPIED**

Sent: 3/2/2021 2:56:56 PM

**Electronic Record and Signature Disclosure:**  
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Carbon Copy Events	Status	Timestamp
Tony Meyers Anthony.Meyers@water.ca.gov Executive Director - DCP Department of Water Resources Security Level: Email, Account Authentication (None)	<div style="border: 2px solid blue; padding: 5px; display: inline-block;"><b>COPIED</b></div>	Sent: 3/2/2021 3:23:41 PM
<b>Electronic Record and Signature Disclosure:</b> Not Offered via DocuSign		

Witness Events	Signature	Timestamp
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Notary Events	Signature	Timestamp
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Envelope Summary Events	Status	Timestamps
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Envelope Sent	Hashed/Encrypted	3/2/2021 2:56:56 PM
Certified Delivered	Security Checked	3/2/2021 4:24:38 PM
Signing Complete	Security Checked	3/2/2021 4:24:53 PM
Completed	Security Checked	3/2/2021 4:24:53 PM

Payment Events	Status	Timestamps
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Electronic Record and Signature Disclosure
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### **Withdrawing your consent**

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

### **Consequences of changing your mind**

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. To indicate to us that you are changing your mind, you must withdraw your consent using the DocuSign 'Withdraw Consent' form on the signing page of your DocuSign account. This will indicate to us that you have withdrawn your consent to receive required notices and disclosures electronically from us and you will no longer be able to use your DocuSign Express user account to receive required notices and consents electronically from us or to sign electronically documents from us.

### **All notices and disclosures will be sent to you electronically**

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through your DocuSign user account all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

### **How to contact Department of Water Resources:**

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by phone call: (916) 653-5791

To contact us by paper mail, please send correspondence to:

Department of Water Resources

P.O. Box 942836

Sacramento, CA 95236-0001

### **To advise Department of Water Resources of your new e-mail address**

To let us know of a change in your e-mail address where we should send notices and disclosures electronically to you, you must send an email message to us at [don.davis@water.ca.gov](mailto:don.davis@water.ca.gov) and in the body of such request you must state: your previous e-mail address, your new e-mail address. We do not require any other information from you to change your email address..

In addition, you must notify DocuSign, Inc to arrange for your new email address to be reflected in your DocuSign account by following the process for changing e-mail in DocuSign.

### **To request paper copies from Department of Water Resources**

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an e-mail to [don.davis@water.ca.gov](mailto:don.davis@water.ca.gov) and in the body of such request you must state your e-mail address, full name, US Postal address, and telephone number. We will bill you for any fees at that time, if any.

### **To withdraw your consent with Department of Water Resources**

To inform us that you no longer want to receive future notices and disclosures in electronic format you may:

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- ii. send us an e-mail to and in the body of such request you must state your e-mail, full name, IS Postal Address, telephone number, and account number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

### **Required hardware and software**

Operating Systems:	Windows2000? or WindowsXP?
Browsers (for SENDERS):	Internet Explorer 6.0? or above
Browsers (for SIGNERS):	Internet Explorer 6.0?, Mozilla FireFox 1.0, NetScape 7.2 (or above)
Email:	Access to a valid email account

Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	<ul style="list-style-type: none"> <li>• Allow per session cookies</li> <li>• Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection</li> </ul>

\*\* These minimum requirements are subject to change. If these requirements change, we will provide you with an email message at the email address we have on file for you at that time providing you with the revised hardware and software requirements, at which time you will have the right to withdraw your consent.

**Acknowledging your access and consent to receive materials electronically**

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please verify that you were able to read this electronic disclosure and that you also were able to print on paper or electronically save this page for your future reference and access or that you were able to e-mail this disclosure and consent to an address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format on the terms and conditions described above, please let us know by clicking the 'I agree' button below.

By checking the 'I Agree' box, I confirm that:

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- I can print on paper the disclosure or save or send the disclosure to a place where I can print it, for future reference and access; and
- Until or unless I notify Department of Water Resources as described above, I consent to receive from exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to me by Department of Water Resources during the course of my relationship with you.