

EAST BAY DISCHARGERS AUTHORITY
LIVERMORE-AMADOR VALLEY WATER MANAGEMENT AGENCY

MASTER AGREEMENT

April 26, 2007

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EXHIBIT A

**MASTER AGREEMENT TO PROVIDE SEWER SYSTEM DISCHARGE SERVICES
BETWEEN EAST BAY DISCHARGERS AUTHORITY
AND LIVERMORE-AMADOR VALLEY WATER MANAGEMENT AGENCY**

This Agreement is made between East Bay Dischargers Authority (a Joint Powers Agency comprised of the Cities of Hayward and San Leandro, Oro Loma Sanitary District, Castro Valley Sanitary District, and Union Sanitary District), hereinafter referred to as “EBDA” and Livermore-Amador Valley Water Management Agency (a Joint Powers Agency comprised of the Cities of Livermore and Pleasanton and the Dublin San Ramon Services District (DSRSD)) hereinafter referred to as “LAVWMA” EBDA and LAVWMA are collectively referred to herein as the “Parties.” This agreement shall hereinafter be referred to as the “Master Agreement.”

Recitals

WHEREAS, EBDA owns, operates and maintains pump stations and a forcemain and outfall system (hereinafter referred to as the “EBDA system”) extending from central and southern Alameda County to a deepwater discharge into the San Francisco Bay which receives and discharges treated wastewater from EBDA member agencies in compliance with federal and state water quality requirements; and

WHEREAS, LAVWMA owns, operates and maintains facilities for the collection and treatment of wastewater (hereinafter referred to as the “LAVWMA facilities”) generated by LAVWMA member agencies which is exported to and through the EBDA system and discharged into the San Francisco Bay; and

WHEREAS, as between LAVWMA and EBDA, as joint powers authorities and not as between the individual agencies making up said joint powers authorities, the export of wastewater from LAVWMA to EBDA is currently governed by the following agreements:

- 1) East Bay Dischargers Authority - Livermore-Amador Valley Water Management Agency (February 1, 1978);
- 2) First Amendment To East Bay Dischargers Authority - Livermore-Amador Valley Water Management Agency Agreement (March 26, 1981);
- 3) Agreement To Provide Additional System Discharge Services Between East Bay Dischargers Authority And Livermore - Amador Valley Water Management Agency (June 20, 1985);
- 4) First Amendment To Agreement To Provide Additional System Discharge Services Between East Bay Dischargers Authority And Livermore - Amador Valley Water Management Agency (February 18, 1993);
- 5) Second Amendment To East Bay Dischargers Authority - Livermore-Amador Valley Water Management Agency Agreement (February 18, 1993);
- 6) 1998 Interim Agreement To Provide Additional System Discharge Service Between East Bay Dischargers Authority And Livermore- Amador Valley Water Management Agency (March 18, 1998).

The above agreements shall hereinafter be referred to collectively as the “Prior Agreements”;
and

WHEREAS, there are numerous separate agreements between member agencies of EBDA, and/or EBDA and/or member agencies of LAVWMA, and/or LAVWMA, which are not affected or modified by this Master Agreement (the “Individual Contracts”)

WHEREAS, LAVWMA exports its wastewater through its facilities constructed near or through the jurisdictions of certain EBDA member agencies, per terms of Individual Contracts, connecting to a point approximately one mile north of EBDA’s Oro Loma Pump Station for ultimate discharge into San Francisco Bay; and

WHEREAS, under the terms of the Prior Agreements, EBDA and LAVWMA, as joint powers authorities, have established certain standards as to the scope and conditions under which LAVWMA’s export of wastewater to and through the EBDA system has been accommodated, including, but not limited to allocation of capacity rights to LAVWMA and allocation of costs to

LAVWMA for the use of the EBDA system, at all times, however, subject to certain of the Individual Contracts; and

WHEREAS, the parties wish to execute a Master Agreement which will, in all respects, supersede the Prior Agreements, but in no way affect the Individual Contracts, for the purposes of consolidating all relevant provisions contained in the Prior Agreements into one document and for the purpose of eliminating redundant and obsolete provisions contained therein.

NOW THEREFORE, for and in consideration of the mutual covenants hereinafter set forth and other good, adequate, independent and sufficient consideration, receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. **Prior Agreements Superseded**

Upon execution of this Master Agreement by both parties, the Prior Agreements described in the above recitals, will be superseded and will have no further force or effect.

2. **Definitions**

For purposes of this Master Agreement, the following terms are defined as follows:

2.1 “EBDA’s Design Capacity” The agreed upon capacity of 189.1 million gallons per day of the EBDA System as it is currently designed to accept and discharge wastewater.

2.2 “EBDA’s Excess Capacity” Any actual capacity of the EBDA System, at any particular time, to accept and discharge wastewater in excess of EBDA’s Design Capacity.

2.3 “MGD” Million gallons per day.

2.4 “PWWF” (Peak Wet Weather Flow) The instantaneous rate of flow in MGD, made up of dry weather flow plus the infiltration and inflow flows typically found as a result of a precipitation event, as measured at LAVWMA’s monitoring station located approximately one mile north of EBDA’s Oro Loma Pump Station.

2.5 “Treated Wastewater” Wastewater which complies with all National Pollutant Discharge Elimination System (NPDES) permit requirements imposed upon EBDA as well as NPDES permit requirements imposed directly upon LAVWMA or its member agencies by any regulatory agency.

3. **Authorization to Connect to the EBDA System**

LAVWMA is authorized by EBDA to connect its wastewater line to EBDA’s System along EBDA’s forcemain north of the Oro Loma Pump Station and south of the Marina Outfall and to discharge its treated wastewater in and through the EBDA forcemain subject to the provisions, limitations and conditions of this Master Agreement.

4. **LAVWMA’s Right of Discharge**

4.1 General Right of Discharge. Subject to the provisions, limitations and conditions of this Master Agreement, LAVWMA shall have the right to discharge a total of 41.2 MGD PWWF into the EBDA system, which right consists of Firm Capacity of 19.72 MGD and 21.48 MGD of “Interruptible Capacity”.

4.2 Interruptible Capacity. LAVWMA’s “Interruptible Capacity” refers to that capacity which exceeds LAVWMA’s Firm Capacity of 19.72 MGD and which is restricted to the difference between EBDA’s Design Capacity of 189.1 MGD and the actual total combined instantaneous flow from all EBDA member agencies plus LAVWMA’s Firm Capacity of 19.72 MGD which occurs at any particular time.

LAVWMA’s Interruptible Capacity is thus variable and dynamic as the actual flow rate changes continuously throughout any given hour, day, and season. As an example, assuming an EBDA Design Capacity of 189.1 MGD, if the combined actual flow from all EBDA member agencies reaches 169.4 MGD, then the LAVWMA capacity to discharge treated wastewater into

the EBDA system beyond its Firm Capacity of 19.72 MGD would be zero and, hence, interrupted.

4.3 EBDA's Excess Capacity. In the event that the EBDA system produces an actual instantaneous capacity greater than its Design Capacity, EBDA may allow LAVWMA the right to use this "Excess Capacity" for short duration peak flows on an interruptible basis, but at all times subject to the paramount rights of EBDA and its member agencies to utilize all or any portion of such excess capacity for discharge of wet and dry weather flows.

4.4 LAVWMA's Alternate Temporary Disposal Options. LAVWMA shall provide disposal options for all interruptible flows in accordance with the measures and timetables described in LAVWMA's certified EIR for its Export Expansion Project and in compliance with current and future NPDES permits; provided, however, that such disposal options must be capable of allowing LAVWMA to immediately interrupt its flows above 19.72 MGD when requested by EBDA as herein provided and must be fully operational so as to coincide with increases in dry weather flows and PWWF of LAVWMA member agencies.

4.5 LAVWMA's Alternate Permanent Disposal Options. LAVWMA, and its member agencies, recognize that over time the likelihood of interruption by EBDA is expected to increase and will require future planning and additional facilities. In that event, it will be the responsibility of LAVWMA to provide alternate means of disposing of the interrupted flows of LAVWMA.

4.6 LAVWMA'S Release of all Claims as to Capacity. The parties, in entering this Master Agreement, have done so in order to formalize a granting of Interruptible Capacity in lieu of pursuing adversarial actions including but not limited to legislation, direct, or inverse condemnation. In addition, LAVWMA relinquishes all claims to any Excess Capacity and any

Interruptible Capacity in the EBDA system above the currently specified Interruptible Capacity of 21.48 MGD (which itself can be interrupted to the point of nonexistence at the direction of EBDA) unless this agreement is amended in writing by the parties.

4.7 EBDA's Temporary Use of LAVWMA's Capacity. EBDA shall not do anything within EBDA's control which would injure or prohibit LAVWMA from utilizing the Firm Capacity set forth herein. If EBDA wishes to utilize any portion of LAVWMA's Firm Capacity, which is not in actual use by LAVWMA or necessary for LAVWMA's anticipated needs, EBDA shall submit a written proposal to LAVWMA detailing the nature, duration and volume of the proposed usage. LAVWMA may give its written permission, subject to any conditions negotiated by the parties for usage of LAVWMA's Firm Capacity by EBDA. The parties agree and understand that if any unused LAVWMA Firm Capacity is available, this capacity may be used by EBDA for short duration peak flows provided such usage does not jeopardize the flows of LAVWMA's Firm Capacity in the EBDA System. LAVWMA retains complete ownership of the discharge rights for the amount of Firm Capacity set forth in this Master Agreement. LAVWMA may transfer or sell to EBDA or to any EBDA member agency any portion of its Firm Capacity rights described in this Master Agreement which LAVWMA determines is unnecessary for its future needs. LAVWMA may not transfer or sell to anyone any portion of its right to Interruptible Capacity, or of its right to Excess Capacity, without the prior written consent of EBDA and each EBDA member agency which consent can be denied in the sole discretion of EBDA or any EBDA member agency.

5. Operation of LAVWMA Facilities

5.1 Avoidance of Disruption to EBDA Facilities. Certain LAVWMA facilities for the transportation and discharge of wastewater into the EBDA system must necessarily traverse the

jurisdictions of some or all of EBDA's member agencies. LAVWMA agrees that the construction, operation and repair of these facilities will be performed in such a manner as to avoid or minimize disruption of the services provided by these member agencies and shall further be performed in a manner which will provide a minimum of inconvenience to the residents of these member agencies as well as to the general public and in a manner consistent with certain of the Individual Contracts.

5.2 Repairs or Replacement of EBDA Facilities Necessitated by LAVWMA Operations.

LAVWMA will promptly make any repairs or replacements to any EBDA member agency's facilities necessitated by LAVWMA's construction, operation or repair activities in conformance with the standards, procedures, and specifications of EBDA and its member agencies having jurisdiction, and certain of the Individual Contracts, and that neither EBDA nor its member agencies will incur any costs for relocation of their respective facilities or for any damages sustained by EBDA or its member agencies as a result of the construction, operation or repair of any LAVWMA facilities.

5.3 Ownership of Facilities. EBDA shall own the physical facilities known as the pump stations, forcemain, and outfall system and, in addition, shall own the connection link (consisting of a tee and valve) at LAVWMA's point of connection north of the Oro Loma Pump Station.

5.4 Operation Requirements. LAVWMA will design, operate and maintain its facilities at no cost to EBDA such that the maximum pressure on a closed valve at the point of connection to EBDA's System will not exceed an equivalent water surface elevation of 65 feet above mean sea level. EBDA's valve at the point of connection shall be operated only by EBDA only after providing oral or written notice to LAVWMA.

It is anticipated that either EBDA or LAVWMA may be required to discontinue service from time to time for inspection, maintenance and repair of each party's respective facilities, in which event each shall give the other adequate advance written notice for the other to make provisions for adequate disposal, to isolate the two systems, and to protect each system from damage. In the event that either party makes or causes any significant change in the operation of its facilities that would foreseeably affect the other, it shall advise the other either orally or in writing as soon as such change is known.

In the event of an emergency requiring an immediate shut-down or isolation of either EBDA's or LAVWMA's facilities, both parties shall coordinate their operations and jointly take the affected facility out of service to avoid or minimize damage to either party's facilities.

Each party shall operate and maintain its respective system so as not to damage the other party's system. Each party shall hold the other free and harmless from all liability or damage incurred by the other or by a third party as a direct and proximate result of any failure by such party to properly operate and maintain its system.

5.5 LAVWMA's Failure to Interrupt Flow - Indemnification and Remedies. If LAVWMA fails to interrupt flow immediately upon proper notification and request, LAVWMA shall indemnify EBDA and the EBDA member agencies from all direct or consequential damages as well as from any increased costs, including, but not limited to, increased operation and maintenance costs for EBDA or its member agencies, and from any regulatory actions or third party lawsuits and further provide legal defense for EBDA and its member agencies together with all related costs thereto. In addition, and notwithstanding the remedies provided elsewhere in this Master Agreement, either party may seek equitable relief against the other for violation of this Master Agreement. With respect to LAVWMA's responsibility to interrupt its

flow upon proper notification and request, it is difficult, if not impossible, to determine EBDA's or EBDA's member agencies direct or consequential damages due to any failure of LAVWMA to interrupt its flow. Therefore, the parties agree that a court of competent jurisdiction, in addition to granting any other legal or equitable relief, may issue specific orders directing LAVWMA or its member agencies to interrupt such flow in the event of any such failure. Notwithstanding any provision herein to the contrary, no provision of this Master Agreement shall be construed as consent on the part of EBDA or any EBDA member agency to LAVWMA's failure to interrupt flow.

5.6 Additional Insureds. At all times, LAVWMA shall name EBDA and its member agencies as additional insureds on its liability policies and, if unable to do so, shall procure new liability policies in the name of EBDA and its member agencies providing EBDA and its member agencies liability insurance similar to that maintained by LAVWMA for itself and its own member agencies.

5.7 Damage to or Destruction of EBDA System. Notwithstanding any provision of this Master Agreement to the contrary, in the event that the EBDA system is damaged or destroyed by causes beyond the control or responsibility of EBDA such that LAVWMA flows covered under this Master Agreement cannot be accommodated in the EBDA system, EBDA shall not be liable to LAVWMA or its member agencies for failure to provide the services described herein. EBDA will use its best efforts to repair its system and restore service within a reasonable time. During this period of time, LAVWMA flows that cannot be accommodated within the EBDA system shall be exempt from operation and maintenance cost as described in Paragraph 6.1 of this Master Agreement. In the event that EBDA cannot restore service within a reasonable time,

the parties will negotiate in good faith to amend the terms of this Master Agreement to reflect changed conditions.

5.8 Monitoring and Reporting. LAVWMA shall maintain a sampling and monitoring facility along its pipeline within one mile of the point of connection to the EBDA system. The facility shall contain an automatic proportional sampler to collect that information necessary to determine that the quality of LAVWMA's treated effluent meets all wastewater discharge requirements described in Paragraph 5.9 herein. LAVWMA shall arrange to have the samples collected, analyzed, and reported to EBDA within 10 days after the end of each calendar month and within ten days of a request from EBDA for sampling and testing to identify a wastewater discharge requirement violation in accordance with applicable and state-of-the-art laboratory procedures. In addition, LAVWMA will measure the instantaneous rate of flow, totalized flow, chlorine residual, and pressure in its pipeline and shall transmit that data to an EBDA operation center within five miles of the point of monitoring. Transmission of data to EBDA shall include equipment and transmission of signal, at LAVWMA's sole cost, to provide for a visual indicator, plus a printed record (chart or data logger) that is compatible with EBDA's Supervisory Control and Data Acquisition System (SCADA).

EBDA shall monitor the outfall effluent discharge and receiving waters in accordance with procedure and requirements of the appropriate regulatory agencies.

The parties shall have a mutual right of inspection and auditing of financial operation and maintenance records, monitoring and metering equipment and facilities for purposes, including but not limited to, calibrating the equipment, taking samples, and reviewing records; provided, however, that each party shall exercise this right through their respective managers and in otherwise reasonable manner.

Each party shall provide the other party with monthly reports on the quantity and quality of effluent which is discharged by each party and its member agencies into the EBDA System.

LAVWMA will report to EBDA as soon as possible, but within 24 hours, any violation of the wastewater requirement of Paragraph 5.9 of this Master Agreement. A written statement of the probable cause and the nature and time schedule for corrective action being taken or to be taken will be furnished to EBDA as soon as practicable.

5.9 Wastewater Discharge Requirements. Under the provisions of this Master Agreement, LAVWMA will discharge its wastewater into EBDA's facilities such that its treated wastewater complies with all NPDES permit requirements imposed upon EBDA as well as any NPDES permit requirements imposed directly upon LAVWMA or its member agencies by any regulatory agency. EBDA shall perform the dechlorination requirements imposed by both federal and state agencies. LAVWMA will reimburse EBDA for dechlorination costs as described in Exhibit "A" attached hereto.

5.10 Failure to Meet Discharge Requirements. LAVWMA shall hold EBDA harmless from all liability and damages incurred by EBDA as a direct and proximate result of any failure by LAVWMA to meet the discharge requirements specified in Paragraph 5.9, including but not limited to legal, engineering, administrative expenses, fines, and damages incurred by EBDA or its member agencies as a result of any order issued by any federal, state or regional agency or any order or injunction issued by any court of law. Upon notification of each violation, LAVWMA will take prompt, corrective actions as necessary to meet said discharge requirements.

In the event that LAVWMA is made responsible for any fines, sanctions, or damages imposed due to the failure of EBDA to meet discharge requirements described in Paragraph 5.9,

EBDA will hold LAVWMA and its member agencies free and harmless from liabilities and damages incurred by it, which liabilities and damages are the direct and proximate result of a violation by EBDA which liabilities and damages include, but are not limited to, legal, engineering, administrative expenses, fines and damages incurred by LAVWMA or its member agencies as a result of any order issued by any federal, state or regional agency or by any order or injunction issued by any court of law. Upon notification, EBDA shall take prompt and corrective action as may be necessary to meet said discharge requirements.

5.11 Ownership of Wastewater. LAVWMA will retain ownership of its wastewater until it is discharged into EBDA's forcemain system. Thereafter, EBDA owns said wastewater. LAVWMA maintains the right to market its wastewater for recycling purposes within EBDA's service area. LAVWMA's water recycling projects shall be limited to those that are in the corridor of its existing pipeline through EBDA's service area. Such projects are subject to technical and economic review and should be approved by the appropriate water-purveying agency. EBDA shall assist in developing markets and implementing projects. Reporting of LAVWMA flows, for the purpose of determining variable rate cost sharing of operation and maintenance expense, shall be in accordance with EBDA's Water Recycling Policy adopted February 21, 1991, as it currently exists or as it is subsequently amended. All flows diverted from the LAVWMA pipeline for recycling purposes within EBDA's contiguous service area shall not be deducted from the total reported flow exported from the LAVWMA service area. Recycled flows diverted within either service area shall not reduce or increase LAVWMA's capacity allocation in the EBDA System.

6. **LAVWMA'S Financial Participation in the EBDA System**

6.1 Operations and Maintenance. LAVWMA shall be responsible for its share of all costs of EBDA, except those costs specifically associated with the pump stations at Alvarado and Hayward and the forcemain from Alvarado to Oro Loma. The costs shall include: operations, maintenance, administration, studies, reports, and renewal and replacement of equipment including equipment covered by EBDA's Renewal and Replacement Program. Certain costs shall be allocated on a case-by-case basis subject to a separate agreement between the parties. LAVWMA's share of the costs are identified in Exhibit A, attached hereto and made a part hereof as though fully set forth herein.

6.2 Capital Project Costs. LAVWMA is responsible for its share of costs for any capital project that is intended to replace or repair any EBDA facility, except the Alvarado and Hayward Pump Stations and the forcemain from Alvarado to Oro Loma. Projects covered by this section do not include those projects covered under Section 6.1. Costs attributable to LAVWMA are exclusive of funds received from insurance or state or federal relief. LAVWMA's cost sharing allocation is identified in Exhibit A.

6.3 Capital Buy-in. LAVWMA has previously agreed and continues to agree in this Master Agreement to pay to EBDA the sum of \$10,000,000 to "buy in" to the EBDA System under the following terms and conditions:

- a) LAVWMA has paid an initial sum of \$3,000,000 plus accrued interest.
- b) LAVWMA agrees to continue to pay the remaining principal balance plus accrued interest which commenced under the Prior Agreements on July 1, 2000, and annually thereafter through and including July 1, 2030. In the event that EBDA is dissolved before July 1,

2030, payments shall be made to EBDA's successor as provided in EBDA's Joint Exercise of Powers Agreement.

c) The annual interest rate applied shall not be less than 3% per annum, nor more than 6% per annum. The annual interest rate during any fiscal year (July 1 - June 30) shall be defined as the percentage change in the Bureau of Labor Statistics Consumer Price Index-All Urban Consumers (CPI-U) for all items for San Francisco-Oakland-San Jose, California. For the base year 1982-84, the CPI-U = 100. Interest shall be rounded to the nearest 0.01%. The annual payment is calculated by using the mortgage payment method, using an adjustable interest rate.

The following formula is used to determine the annual payment:

$$\text{Payment} = \text{Principal} \times \frac{\text{Interest Rate}}{1 - 1 / (1 + \text{interest rate})^n}$$

Where n = term in years.

6.4 LAVWMA Failure to Comply with Financial Terms. Should LAVWMA fail to comply with the financial terms of this Master Agreement and not make payment within sixty (60) days after receiving written notice and demand for payment from EBDA, EBDA may commence action to specifically enforce the terms of this Master Agreement in accordance with Paragraph 5.5 of this Master Agreement

7. Mutual Indemnification

Each party shall operate and maintain its systems so as not to damage the other party's system. Each party shall hold the other free and harmless from all liability or damages incurred by the other as a direct and proximate result of any failure by such party to properly operate and maintain its system. LAVWMA further agrees to indemnify, defend and hold EBDA, its commissioners and officers, member agencies and their directors, council members and officers free from all claims, suits, damages, costs, losses and expenses that it may incur because of or

resulting from LAVWMA's Export Expansion Project, the design, construction, or operation thereof.

8. **Term of the Agreement**

The term of this Master Agreement shall extend until January 1, 2020, which coincides with the term of EBDA's Joint Exercise of Powers Agreement; provided, however, that provision for Capital Buy-in (Par. 6.3) and all indemnification provisions contained in this Master Agreement shall survive the expiration of this Master Agreement. In addition, LAVWMA shall continue to be responsible for its share of operations, maintenance, and other costs as described in Paragraphs 6.1 and 6.2 as long as LAVWMA continues to discharge through the EBDA System even after this Master Agreement expires.

9. **Amendment or Extension of Agreement**

This Master Agreement may be amended or extended at any time by the written agreement of the parties. Any such amendment or extension shall be effective upon the date of final execution thereof.

10. **Entire Agreement**

This Master Agreement constitutes the entire agreement of the parties and supersedes any and all agreements, undertakings, negotiations, or discussions, either oral or in writing, expressed or implied, regarding matters that are the subject of this Master Agreement. The parties acknowledge a) that no statements or promises, oral or otherwise, have been made that are not embodied in this Master Agreement; b) that they have not executed this Master Agreement in reliance on any such statement or promise; and c) that no statement or promise not contained in this Master Agreement including any purported supplements, modifications, waivers, or

terminations of the Master Agreement shall be valid or binding unless executed in writing by both parties. This Master Agreement in no way affects the Individual Contracts.

11. **No Material Change**

The parties acknowledge and agree that this Master Agreement is not intended to materially modify the general relationship of the parties as described in the Prior Agreements, and shall not be interpreted in a manner which would result in a material change in that general relationship.

12. **Severability**

Should any portion, term, condition or provision of this Master Agreement be decided by a court of competent jurisdiction to be void, unenforceable, or ineffective, the validity of the remaining portions, terms, conditions, or provisions will not be affected thereby; provided, however, that the intentions of the parties are not materially distorted by the failure of said position, term, condition, or provision of this Master Agreement.

13. **Costs / Attorneys Fees**

Should either party be required to commence litigation, the prevailing party shall be entitled to recover its costs including reasonable attorney's fees.

14. **Non-Assignment by LAVWMA**

Except as provided in Paragraph 4.7 of this Master Agreement, LAVWMA, and any successor agency of LAVWMA, is specifically prohibited from assigning or transferring, alienating, leasing, or contradicting away all, or any of its rights under this Master Agreement to any person or entity providing sewer services outside of LAVWMA's service area as it is currently described in its Amended Joint Powers Agreement dated September 10, 1997, or as it may hereafter be extended or modified as provided in Section 25210.30, et seq, of the California

Government Code without the written consent of EBDA. Any such attempted assignment, transfer, alienation, lease, or contracting away of such rights in violation of this paragraph is null, void, and of no effect.

15. **Mediation or Non-Binding Arbitration**

All claims and disputes relating to this Master Agreement shall be subject to, at the option of both parties, mediation or non-binding arbitration in accordance with the arbitration rules of the American Arbitration Association, except as modified herein. Either party may request mediation or non-binding arbitration by filing such request in writing with the other party. Should the other party fail to consent to mediation or non-binding arbitration within thirty (30) days of receipt of a request therefor, either party may proceed with litigation.

The arbitrator or arbitrators are authorized to award to the party whose contention is clearly upheld such sums, including reasonable attorneys fees, as they deem proper for the expenses incident to the arbitration. Otherwise, costs of arbitration shall be borne equally by the parties.

Use or operation of either party's facilities shall not be interrupted or delayed due to any mediation or arbitration proceedings, except by written agreement of both parties.

If legal action is initiated, either party shall have the right to introduce the record of any arbitration as evidence to the trial court. The trial shall be de novo with no limitation on the introduction of evidence not contained in the arbitration record. The decision of the arbitration panel shall be given no special weight or presumption.

16. **Dissolution or Modification of Either Party**

16.1 Dissolution or Modification of EBDA. In the event that EBDA is modified or terminated by virtue of actions taken pursuant to its Joint Powers Agreement, the right of

LAVWMA to use EBDA facilities shall continue and any assignee(s) or transferee(s) of ownership to EBDA facilities shall be subject to this Master Agreement.

16.2 Dissolution or Modification of LAVWMA. In the event that LAVWMA is modified or terminated by virtue of action taken pursuant to its Joint Powers Agreement, any assignee or transferee shall be entitled to assignment of all of LAVWMA's right, title, and interest to use said facilities as set forth in this Master Agreement on condition that said transferee or assignee assumes the terms thereof.

17. **Notices**

All notices provided to be given, or which may be given by either party to the other, shall be in writing sent by (a) United States Certified Mail, return receipt requested, in which case notice shall be deemed delivered three (3) business days after deposit, postage prepaid in the United States Mail, or (b) a nationally recognized overnight courier, in which case notice shall be deemed delivered one (1) business day after deposit with that courier, or (c) telecopy or similar means if a copy of the notice is also sent by United States Certified Mail, in which case notice shall be deemed delivered on transmittal by telecopier or other similar means, provided that the receiving party actually receives an accurate transmission of the notices, as follows:

EBDA: General Manager
 East Bay Dischargers Authority
 2651 Grant Avenue
 San Lorenzo, CA 94580-1841
 Fax: 510-278-5910
 E-mail: cweir@ebda.org

LAVWMA: General Manager
 Livermore-Amador Valley Water Management Agency
 7051 Dublin Boulevard
 Dublin, CA 94568
 Fax: 925-829-1180 (DSRSD)
 E-mail: cummings@lavwma.com

These addresses, fax numbers, and email addresses may be changed by written notice to the other parties, provided that no notice of a change of address shall be effective until actual receipt of that notice.

In Witness Whereof, the parties hereto consent to the above terms and conditions as of this _____ day of _____, 2007.

APPROVED AS TO FORM:

EAST BAY DISCHARGERS AUTHORITY

Charles T. Kilian
Legal Counsel for EBDA

By: _____
Harry Francis, Chair

By: _____
Charles V. Weir, General Manager

APPROVED AS TO FORM:

LIVERMORE-AMADOR VALLEY WATER
MANAGEMENT AGENCY (LAVWMA)

Michelle Kenyon
General Counsel for LAVWMA

By: _____
Jeffrey G. Hansen, Chairman

By: _____
Ed Cummings, General Manager