

**EAST BAY DISCHARGERS AUTHORITY  
LIVERMORE-AMADOR VALLEY WATER MANAGEMENT AGENCY**

**AMENDED AND RESTATED MASTER AGREEMENT**

6/1/2021

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**AMENDED AND RESTATED 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” and individually as “Party.” This agreement shall hereinafter be referred to as the “Amended and Restated Master Agreement.”

**Recitals**

WHEREAS, EBDA owns, operates and maintains pump stations and a force main 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 was previously 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 Amended and Restated Master Agreement (the “Individual Contracts”); and

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 Effluent 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, 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, on April 26, 2007, the Parties executed a Master Agreement which, in all respects, superseded the Prior Agreements, but in no way affected 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; and

WHEREAS, the original term of the Master Agreement was through January 1, 2020; and

WHEREAS, the Parties executed the First Amendment to the Master Agreement to extend the term to June 30, 2020 to coincide with the term of EBDA's Joint Exercise of Powers Agreement; and

WHEREAS, the Parties executed the Second Amendment to the Master Agreement to extend the term to January 1, 2021; and

WHEREAS, the Parties executed the Third Amendment to the Master Agreement to extend the term to June 30, 2021 to provide sufficient time to negotiate an amended and restated agreement between the Parties; and

WHEREAS, the Second and Third Amendments also specified a method for allocating the costs incurred by LAVWMA between October 1, 2020 and June 30, 2021 and specified that the cost allocation mechanisms agreed to in this Amended and Restated Agreement would be applied retroactively for costs incurred from July 1, 2020 forward (collectively, the Master

Agreement and the First, Second and Third Amendments shall be the “Master Agreements”); and

WHEREAS, the Parties mutually negotiated the EBDA-LAVWMA Amended Master Agreement Term Sheet, which was approved by the LAVWMA Board of Directors on February 17, 2021 and the EBDA Board of Directors on February 18, 2021.

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 Amended and Restated Master Agreement by both Parties, the Master Agreements and Prior Agreements described in the above recitals will be superseded and will have no further force or effect.

**2. Definitions**

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

2.1 “EBDA’s Design Capacity.” EBDA’s current design capacity to convey flows through its infrastructure. As of the Effective Date of this Agreement, EBDA’s Design Capacity is 189.1 million gallons per day. EBDA reserves the right to reduce the Design Capacity of the EBDA System to accept and discharge wastewater in the future; however, any new Design Capacity shall continue to accommodate LAVWMA’s Firm Capacity of 19.72 MGD at all times. Any future Design Capacity shall also accommodate LAVWMA’s Interruptible Capacity of 21.48 MGD, except during certain operational and tide conditions, to be outlined in a Standard Operating Procedure.

2.2 “Effective Date.” July 1, 2021.

2.3 “MGD.” Million gallons per day.

2.4 “LAVWMA 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 Effluent Pump Station (OLEPS).

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 force main north of OLEPS and south of the Marina Dechlorination Facility (MDF) and to discharge its treated wastewater in and through the EBDA force main subject to the provisions, limitations and conditions of this Amended and Restated Master Agreement.

**4. LAVWMA’s Right of Discharge**

4.1 General Right of Discharge. Subject to the provisions, limitations and conditions of this Amended and Restated 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, up to a maximum of 41.2 MGD, and which is restricted by the ability of OLEPS to pump the flow from the southern portion of the system (from Union, Hayward, and Oro Loma) against the flow from the northern portion of the

system (from LAVWMA and San Leandro) and the tide. The ability of OLEPS to pump the flow from the southern portion of the system is the limiting factor in determining LAVWMA's Interruptible Capacity.

LAVWMA's Interruptible Capacity is thus variable and dynamic, as the actual flow rate changes continuously throughout any given hour, day, and season. Conditions whereby EBDA may interrupt LAVWMA's flow shall be outlined in a Standard Operating Procedure, to be agreed upon by the General Managers of both Parties. Said Standard Operating Procedure shall be consistent with the NPDES permits of both Parties as of the Effective Date and shall be updated as necessary.

4.3 LAVWMA's Alternate Permanent Disposal Options. LAVWMA, and its member agencies, recognize that the possibility of interruption by EBDA will require alternative discharge locations. In the event of such interruption by EBDA, it will be the responsibility of LAVWMA to provide alternate means of disposing of the interrupted flows of LAVWMA.

4.4 LAVWMA'S Release of all Claims as to Capacity. The Parties, in entering into this Amended and Restated 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, and/or direct or inverse condemnation. In addition, LAVWMA relinquishes all claims to any 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 discretion of EBDA) unless this Amended and Restated Master Agreement is amended in writing by the Parties.

4.5 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 EBDA's 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 Amended and Restated Master Agreement. LAVWMA may transfer or sell to EBDA or to any EBDA member agency any portion of LAVWMA's Firm Capacity rights described in this Amended and Restated 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 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, force main, and outfall system and, in addition, shall own the portions of the connection link at LAVWMA's point of connection north of OLEPS. Specifically, EBDA owns the EBDA vault and the tee on the 96-inch force main. LAVWMA owns the LAVWMA vault, the LAVWMA force main and the new LAVWMA valve. These facilities are more particularly shown on Exhibit A, attached hereto and incorporated herein by reference.

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. LAVWMA'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 interrupt flow 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 Amended and Restated Master Agreement, either Party may seek equitable relief against the other for violation of this Amended and Restated 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 Amended and Restated 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 Amended and Restated 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 Amended and Restated 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 costs as described in Paragraph 6.1 of this Amended and Restated 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 Amended and Restated Master Agreement to reflect changed conditions.

LAVWMA shall be responsible for paying twenty-six and one tenth of one percent

(26.1%) of the costs associated with all failures, including costs related to any repairs, of the force main between the OLEPS and the Marina Dechlorination Facility and the Bay Outfall. The term “failure” means a state in which the aforementioned portion of the force main is no longer able to convey flows reliably without spilling. Such costs may include temporary emergency repairs, permanent repairs, or the costs associated with abandonment of the segment, as well as costs associated with environmental liability or third-party claims arising from such failure(s). Any costs that LAVWMA is responsible for shall be proportionally offset by any state, federal, and/or other third-party reimbursements, including but not limited to insurance coverage and indemnity payments, if applicable. EBDA shall notify LAVWMA in writing prior to making any decision to abandon a segment of the force main that would impact LAVWMA’s ability to discharge treated wastewater effluent under this Amended and Restated Master Agreement and provide LAVWMA with an opportunity to assume responsibility for repairing the segment.

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. LAVWMA shall coordinate pumping with EBDA staff to ensure that representative samples can be collected for EBDA's discharge permit.

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 Amended and Restated 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 Amended and Restated 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. LAVWMA shall maintain a detectible chlorine

residual at all times at the San Leandro sample station. The General Managers of the Parties may agree to an alternative means of demonstrating bacteria compliance as an outcome of EBDA's Disinfection Master Plan. EBDA shall perform the dechlorination requirements imposed by both federal and state agencies.

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 force main 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.

5.12 Brine Management (Agency-Generated). Any project or activity that results in utilization of EBDA's System to dispose of brine generated from wastewater by the LAVWMA member agencies (hereinafter, "Agency-Generated Brine") shall not be subject to approval by EBDA and shall not require any payment to EBDA. LAVWMA may discharge Agency-Generated Brine that is not treated through the member agency's full secondary treatment process into the EBDA system provided that the following conditions are met:

- a) The addition of brine will not cause significant degradation of effluent quality or result in permit violations of either EBDA or its member agencies.
  1. Brine must be routinely monitored for key regulated constituents to ensure that there are no negative impacts of the brine on EBDA's combined effluent.
  2. Water quality and NPDES permit compliance issues must be addressed and resolved at no cost to EBDA.
- b) The addition of brine will not negatively impact the infrastructure of EBDA or its member



agencies.

LAVWMA may discharge Agency-Generated Brine or any other waste treated by a LAVWMA member agency through its full secondary treatment process into the EBDA System, provided that it is properly included in LAVWMA's effluent samples and all permit conditions for doing so are met.

5.13 Brine Management (Other). For brine that is generated by an entity other than a LAVWMA member agency or from a source other than LAVWMA-agency wastewater, a formal agreement must be unanimously approved by the EBDA Commission. The agreement will generally include the following:

- a) Provision for EBDA to unilaterally discontinue accepting brine into EBDA's system when continued acceptance of brine is not in the best interest of EBDA. Specific conditions around such discontinuation will be outlined in the agreement.
- b) Indemnification of EBDA against liability resulting from such disposal.

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

6.1 Operations and Maintenance. LAVWMA shall be responsible for its share of all applicable costs attributable to LAVWMA's use of and capacity rights in the EBDA System, which include OLEPS, MDF, Operations Center, and force main from OLEPS to Bay Outfall, and exclude those costs specifically associated with the Union Effluent Pump Station (UEPS), Hayward Effluent Pump Station (HEPS) and their associated force main sections, as well as facilities owned by the City of San Leandro. 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 B.

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 those costs specifically associated with UEPS, HEPS and their associated force main sections, as well as facilities owned by the City of San Leandro. 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 B.

6.3 Capital Buy-in. LAVWMA previously paid to EBDA: (a) the sum of approximately six million dollars (\$6,000,000) under the Prior Agreements, which included 10.43% of the actual construction costs of the EBDA pipelines and dechlorination station north of OLEPS, 10.43% of replacement costs, as well as indirect costs and industrial recovery cost, and (b) the sum of ten million dollars (\$10,000,000) under the Master Agreement, which was paid in full as of August 11, 2018, to "buy-in" to the EBDA System. These capital buy-in charges represented a fair and equitable share of project development and capital costs to expand the EBDA System to accommodate LAVWMA's flow for the life of the EBDA System. LAVWMA shall have no additional buy-in obligations attributable to LAVWMA's use of and capacity rights in the EBDA System.

## 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, or resulting from LAVWMA's acceptance of brine or other flows that are generated by an entity other than a LAVWMA member agency. EBDA further agrees to indemnify, defend and hold LAVWMA, its directors 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 EBDA's acceptance of brine or other flows that are generated by an entity other than an EBDA member agency, including, but not limited to, third-parties such as from Cargill.

**8. Term of the Agreement**

The term of this Amended and Restated Master Agreement begins on July 1, 2021 and shall extend until June 30, 2040, which coincides with the term of EBDA's Joint Exercise of Powers Agreement; provided, however, that all indemnification provisions contained in this Amended and Restated Master Agreement shall survive the expiration of this Amended and Restated 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 Amended and Restated Master Agreement expires. At least 60 days prior to the composition of EBDA's membership changing and/or at least 60 days prior to the termination of the EBDA JPA, EBDA shall give written notice to LAVWMA and an opportunity to become a member agency of EBDA. If LAVWMA is accepted and becomes a member agency of EBDA, this Amended and Restated

Master Agreement shall terminate and be of no further force and effect. The financial provisions of this Amended and Restated Master Agreement shall be applied retroactively to July 1, 2020, as agreed in the Second and Third Amendments to the 2007 Master Agreement.

**9. Amendment or Extension of Agreement**

This Amended and Restated 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. The Parties shall engage in good faith negotiations to determine if it is appropriate to amend this Amended and Restated Master Agreement upon the occurrence of the following events: (a) EBDA Member Agencies negotiating to revise the EBDA JPA; (b) the composition of EBDA's membership changing; and/or (c) LAVWMA's flow quantity or composition significantly changing.

**10. Entire Agreement**

This Amended and Restated 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 Amended and Restated Master Agreement. The Parties acknowledge a) that no statements or promises, oral or otherwise, have been made that are not embodied in this Amended and Restated Master Agreement; b) that they have not executed this Amended and Restated Master Agreement in reliance on any such statement or promise; and c) that no statement or promise not contained in this Amended and Restated Master Agreement including any purported supplements, modifications, waivers, or terminations of the Amended and Restated Master Agreement shall be valid or binding unless executed in writing by both Parties. This Amended and Restated Master Agreement in no way affects the Individual Contracts.

**11. No Material Change**

The Parties acknowledge and agree that this Amended and Restated Master Agreement is not intended to materially modify the general relationship of the Parties as described in the Prior Agreements and/or Master 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 Amended and Restated 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 Amended and Restated Master Agreement.

**13. Costs / Attorney's 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 Amended and Restated 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 Amended and Restated Master Agreement to any person or entity providing sewer services outside of LAVWMA's service area as it is currently described in its Amended and Restated 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 Amended and Restated 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 tendering such request in writing to the other Party. Should the receiving 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 attorney's 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 litigation 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 Amended and Restated 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 Amended and Restated 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: [JZipkin@ebda.org](mailto:JZipkin@ebda.org)

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

These addresses, fax numbers, and email addresses may be changed by written notice to the other Party, 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

6/1/2021

APPROVED AS TO FORM:

EAST BAY DISCHARGERS AUTHORITY

DocuSigned by:  
*Eric Casher*  
Eric Casher  
Legal Counsel for EBDA

DocuSigned by:  
*Ralph Johnson*  
By: Ralph Johnson, Chair

DocuSigned by:  
*Jacqueline Zipkin*  
By: Jacqueline Zipkin, General Manager

APPROVED AS TO FORM:

LIVERMORE-AMADOR VALLEY WATER MANAGEMENT AGENCY (LAVWMA)

DocuSigned by:  
*Alexandra Barnhill*  
Alexandra M. Barnhill  
General Counsel for LAVWMA

DocuSigned by:  
*Ann Marie Johnson*  
By: Ann Marie Johnson, Chair

DocuSigned by:  
*Charles Weir*  
By: Charles V. Weir, General Manager



EXHIBIT "A"  
THE LAVWMA/EBDA CONNECTION

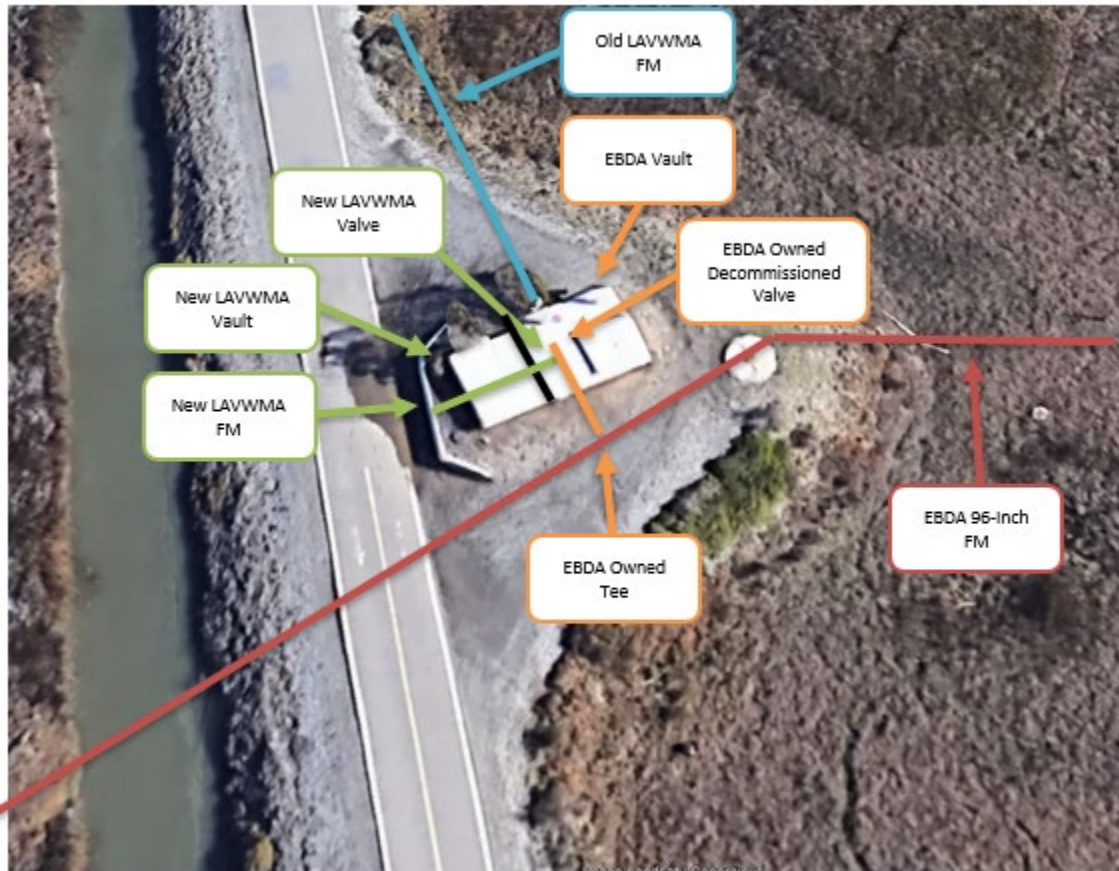




EXHIBIT "B"

1. LAVWMA shall reimburse EBDA for the costs attributable to LAVWMA's use of and capacity rights in EBDA's facilities. Said costs will be determined in accordance with the following definitions:
2. Fixed Costs: As defined by EBDA's Amended and Restated Joint Exercise of Powers Agreement, "Fixed Costs include all Operation and Maintenance Costs not defined below as 'Variable Costs.'" Fixed Costs shall be apportioned to LAVWMA at the rate of twenty-six and one tenth percent (26.1%) and shall apply to costs associated with all programs described in Number 5, below. LAVWMA shall not be charged for Fixed Costs associated with other programs.
3. Variable Costs: As defined by EBDA's Amended and Restated Joint Exercise of Powers Agreement, "Variable Costs shall be deemed to be costs of energy used for pumping, chemical costs used in operation of the Facilities and maintenance and repair charges incurred in the operation and maintenance of the system." LAVWMA's Variable Cost rate percentage shall be determined on a monthly basis and shall be determined by the following formula: (LAVWMA reported effluent flow ÷ total flow through Marina Dechlorination Facility) x 100. LAVWMA's Variable Costs apportionment shall apply to all items described in Number 5, below. LAVWMA shall not be charged for other Variable Costs.
4. Capital Project and R&R Fund Costs: Capital Project Costs shall be charged according to the Fixed Cost Percentage described in Number 2, above.
5. LAVWMA Participation in EBDA Programs: LAVWMA shall be responsible for percent costs as defined above in the following EBDA Fiscal Year Programs:

Program 12 06 General Administration - includes all costs associated with the overall administration and management of EBDA's ongoing business operations as a wastewater management agency.

Program 12 10 Outfall and Force Mains - for LAVWMA shall include all costs associated with the force main between the Oro Loma Effluent Pump Station and the Marina Dechlorination Facility and the Bay Outfall.

Program 12 14 Marina Dechlorination Facility - includes all costs associated with the operation and maintenance of the facility.

Program 12 16 Oro Loma Effluent Pump Station - includes all costs associated with the operation and maintenance of the facility.

Program 12 21 Bay & Effluent Monitoring - includes all costs associated with required NPDES laboratory analysis, receiving water monitoring, and reporting.

Special Projects - LAVWMA shall participate in other projects that are directly related to the interests of LAVWMA as agreed upon by the General Managers of EBDA and LAVWMA. Such projects may be required by the RWQCB or may be of mutual benefit. Cost sharing for LAVWMA may be based on one of the above definitions, if appropriate, or by some other mutually agreed upon basis.

7. Manner of Payment of Costs: EBDA shall submit to LAVWMA by May 1 of each year, a detailed estimate of LAVWMA's share of above noted costs for the next fiscal year, July 1 through June 30. EBDA shall adopt its budget by June 1 preceding each fiscal year and shall submit a copy of the adopted budget to LAVWMA immediately upon adoption. LAVWMA shall include in its budget said estimated costs for each fiscal year and submit a copy of its budget to EBDA immediately upon adoption. In the event actual costs are greater than those budgeted, EBDA shall advise LAVWMA of the projected costs, justification, and revised estimate of additional funds needed, at least two (2) months prior to the anticipated date of reaching LAVWMA's budget limitation. LAVWMA shall make such arrangements as necessary for reimbursing the actual costs incurred.
8. EBDA shall invoice LAVWMA on a periodic basis for all non-capital estimated fiscal year budget costs. Following the close of the fiscal year, EBDA shall issue a final invoice for actual fiscal year costs including actual costs for capital and renewal-replacement projects. LAVWMA shall make payment within thirty (30) days of receipt of said invoice from EBDA. Should LAVWMA be due a credit for actual fiscal year costs EBDA, may, at its discretion deduct said credit from the next invoice.