

Appendix 1011

**WATER: CALIFORNIA
SAN DIEGO, SEPTEMBER 23, 1946**

NOy-13300

SUPPLEMENTAL AGREEMENT NO. 1

**BETWEEN UNITED STATES OF AMERICA, THE CITY OF SAN DIEGO AND
SAN DIEGO COUNTY WATER AUTHORITY**

THIS SUPPLEMENTAL AGREEMENT No. 1 entered into as of the 23d day of September 1946, between the UNITED STATES OF AMERICA, hereinafter called the "Government," represented by the Chief of the Bureau of Yards and Docks, Navy Department; THE CITY OF SAN DIEGO, a municipal corporation, organized and existing under and by virtue of the laws of the State of California, hereinafter called the "City"; and the SAN DIEGO COUNTY WATER AUTHORITY, a public corporation, organized and existing under and by virtue of the laws of the State of California, hereinafter called the "Authority",

Witnesseth:

Whereas The Government and the City, under date of October 17, 1945, entered into Contract NOy-13300 (hereinafter called the "Contract") wherein the Government undertook to construct, and the City undertook to lease, operate and maintain, an aqueduct from a connection with the Colorado River Aqueduct of the Metropolitan Water District of Southern California, near the West Portal of the San Jacinto Tunnel in Riverside County, to San Vicente Reservoir in San Diego County, and wherein certain options to purchase said aqueduct are granted to City; and

Whereas there is now pending between the City and the Government a proposal for the amendment of the Contract to provide for the retention of title by The Metropolitan Water District of Southern California to certain connection facilities; and

Whereas as a step in the annexation of the corporate area of the Authority (of which the corporate area of the City is a part) to the Metropolitan Water District of Southern California, as a means of securing a supply of water for the Authority, it is necessary or desirable to transfer the said Contract from the City to the Authority; and

Whereas the legal characteristics of the Authority differ in some particulars from the legal characteristics of the City, and some of the

obligations of the City under the said contract cannot be performed physically by the Authority, but the City, as a part of the Authority, will continue to be benefited by the said Contract;

Now, therefore, in consideration of the premises, it is agreed as follows:

1. Contingent upon the annexation of the Authority to the Metropolitan Water District of Southern California, the said Contract, subject to the following qualifications and amendments, is hereby assigned by the City to the Authority and the Authority hereby accepts and assumes the same and the Government accepts the Authority as Obligor in said Contract in lieu of the City;

Provided that this agreement shall be of no force or effect until and unless:

(a) A majority of the qualified electors of the City voting on the proposition shall authorize the transfer and assignment to the District by the City of its rights and obligations under the Water Delivery Contract between the Government and the City, dated February 15, 1933, relating to the waters of the Colorado River;

(b) A majority of the qualified electors of the City voting on the proposition shall authorize the transfer and assignment to the Authority of the City's rights and obligations under the Contract dated October 17, 1945 (NOy-13300) granting the City a lease of the aqueduct being constructed by the United States Navy from San Jacinto Tunnel to San Vicente Reservoir, except the City's obligation under Article 2 (a) of said Contract to construct a water treatment plant and other works as contemplated by the City bond issue approved April 17, 1945, and the obligation under Article 2 (c) of said Contract that the City supply all Government agencies within the area with an adequate supply of water at nondiscriminatory rates, and on condition that if the Authority shall cease to be a portion of the corporate area of the Metropolitan Water District of Southern California, the said Lease-Contract shall revert to the City, subject to all modifications, defaults, or acts of the Authority, affecting the said Lease-Contract;

(c) A majority of the qualified electors of the Authority voting on the proposition shall authorize the acceptance of the rights and the assumption by the Authority of the obligations transferred to the Authority by the assignment of the Contract dated October 17, 1945 (NOy-13300) in accordance with this agreement;

(d) The corporate area of the Authority shall, prior to December 31, 1946, completely be annexed to and become a portion of the corporate area of The Metropolitan Water District of Southern California; and

Provided further, that the Authority shall be bound by and shall take subject to all modifications, defaults, and acts affecting the Contract entered into, suffered or committed by the City before this agreement becomes of force and effect.

2. Article 1, subdivision (b), paragraph iv, subdivisions (1) and (2) are hereby amended to read as follows:

"(1) At intervals of five years the City may in writing request the Contracting Officer to name and fix a purchase price of said Aqueduct, and thereafter the City may purchase said Aqueduct for the price so named, and thus terminate the lease. This right or option on the part of the City to purchase said Aqueduct shall inure to the benefit of any assignee of the City under an assignment pursuant to the provisions of Article 5.

"(2) Upon request in writing from said City the Contracting Officer shall furnish to said City in writing the true cost to the Government of said Aqueduct. Thereupon the City shall have the right and option to purchase said Aqueduct by paying to said Government said true cost of said Aqueduct, and upon payment to the said Government of the full and true cost of said Aqueduct, minus any rentals therefor paid by the said City under the terms and provisions of this Lease Contract, the Government shall convey to said City all of its right, title, and interest in and to the said Aqueduct and its appurtenances. This right or option on the part of the City to purchase said Aqueduct shall inure to the benefit of any assignee of the City under an assignment pursuant to the provisions of Article 5."

3. Said Contract is hereby amended by adding to Article 1, subdivision (b), paragraph iv, an additional subdivision to be designated "(3)", and to read as follows:

"(3) Upon the completion of payment of rentals by the City or its assignee to the Government in an amount equal to the true cost of the said Aqueduct as defined in Article 3 of this Contract, the Government shall convey to the City, or its assignee, all of its right, title, and interest, in and to the said Aqueduct and its appurtenances."

4. The obligations of subdivisions (a) and (c) of Article 2 shall remain with, and be performed by, the City.

5. In addition to the reasons specified heretofore, this supplemental contract shall be void and of no force or effect in the event the corporate area of the Authority shall cease to be a portion of the corporate area of The Metropolitan Water District of Southern California, in which event said Contract shall be revived and reinstated and shall become severally operative with the City as party thereto;

Provided, however, that the City shall receive credit for any and all payments made to the Government while this Agreement is in full force and effect, and that the City shall be bound by and shall succeed subject to all modifications, defaults, or acts affecting the Contract theretofore entered into, suffered or committed by the Authority.

6. Except as herein specifically provided, said Contract, as so amended and assigned, shall be and remain in full force and effect.

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APPENDIX 1011

In witness whereof, the parties hereto have executed this instrument the day and year first above written.

THE UNITED STATES OF AMERICA,
By R. H. MEADE (CEC), USN
(For Chief of the Bureau of Yards and Docks,
Navy Department.)
THE CITY OF SAN DIEGO,
By F. A. RHODES, *City Manager*.

Attest:

FRED W. SICK, *City Clerk*.
SAN DIEGO COUNTY WATER AUTHORITY,
By J. BURKHOLDER, *General Manager*.

Attest:

ELEANOR LONGFELLOW, *Executive Secretary*.

I hereby approve the form and legality of the within Supplemental Agreement this 20th day of September 1946.

J. F. DuPAUL, *City Attorney*.