

# EXHIBIT 5

RESOLUTION NO. 82-509

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA MARIA APPROVING THE WATER SUPPLY RETENTION AGREEMENT/MODEL DRAFT II AND FIRST AMENDMENT THERETO AS APPROVED BY THE BOARD OF THE SANTA BARBARA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT FOR EXECUTION BY CERTAIN LOCAL WATER PURVEYORS

WHEREAS, on December 6, 1982 the Board of Directors of the Santa Barbara County Flood Control and Water Conservation District approved "Water Supply Retention Agreement, Model Draft II", dated November 16, 1982 with the attached "Water Supply Retention Agreement, Model Draft I", dated November 16, 1982, with the insertion of Election Option Number 6, from Inset A, dated November 29, 1982, and

WHEREAS, on December 20, 1982 the Board of Directors of said District approved the First Amendment of Water Supply Retention Agreements, Model Drafts I and II, dated December 20, 1982, and

WHEREAS, the Board of Directors of said District has, by its aforementioned actions, offered and made available for execution by the City of Santa Maria said "Water Supply Retention Agreement, Model Draft II", with "Model Draft I" attached, each dated November 16, 1982, together with said First Amendment, dated December 20, 1982.

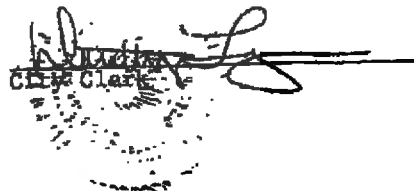
NOW THEREFORE, the City Council of the City of Santa Maria hereby resolves as follows:

1. That the execution of said Water Supply Retention Agreement, Model Draft II with Model Draft I attached, and said First Amendment thereto, will not directly or ultimately result in physical change in the environment and is therefore not a "project" under C.E.Q.A.
2. This Council approves said Water Supply Retention Agreement, Model Draft II with Model Draft I attached, and the First Amendment thereto, in the form on file with the City Clerk and hereby authorizes the Mayor and the City Clerk to execute said Agreements and Amendment.
3. Obligations arising out of the execution of Water Supply Retention Agreement, Model Draft II and the First Amendment thereto shall be funded by the City out of its "Municipal Waterworks Fund" as described at Santa Maria City Code Section 20-28.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Santa Maria held December 21, 1982.

  
Mayor


ATTEST:

  
City Clerk

STATE OF CALIFORNIA                   )  
COUNTY OF SANTA BARBARA        )  
CITY OF SANTA MARIA                ) ss.

I, DOROTHY LYMAN, City Clerk of the City of Santa Maria and ex officio Clerk of the City Council DO HEREBY CERTIFY that the foregoing is a full, true and correct copy of Resolution No. 82-509 which was duly and regularly introduced and adopted by said City Council at a regular meeting held December 21, 1982.

AYES:           Councilmen Jack Adam, Robert R. Cutler, Donald Shaw  
                  and Curtis J. Tunnell.  
NOES:           Mayor George S. Hobbs, Jr.  
ABSENT:        None.

  
City Clerk of the City of  
Santa Maria and ex officio  
Clerk of the City Council

File: A-190.1

APPROVED AS TO FORM

  
City Attorney

CONTENTS:

BY:   
DEPARTMENT HEAD

BY:   
CITY ADMINISTRATOR

FIRST AMENDMENT TO  
WATER SUPPLY RETENTION  
AGREEMENTS, MODEL DRAFTS I AND II

This Agreement is made between the SANTA BARBARA COUNTY  
FLOOD CONTROL AND WATER CONSERVATION DISTRICT ("DISTRICT") and the  
CITY OF SANTA MARIA ("CONTRACTOR").

RECITALS:

A. On December 6, 1982, the Board of Directors of DISTRICT adopted Resolution No. 1266 approving "Water Supply Retention Agreement, Model Draft II", dated 11/16/82 with the attached "Water Supply Retention Agreement, Model Draft I", dated 11/16/82, with the insertion of election option number 6, from Insert A, dated 11/29/82.

B. DISTRICT and CONTRACTORS now wish to amend said Model Drafts I and II.

NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

1. Article 2(a) of Water Supply Retention Agreement, Model Draft I, 11/16/82, is amended to read as follows:

(a) The CONTRACTOR agrees to pay the DISTRICT the amount required to be paid by the DISTRICT under the State Water Contract to retain annual entitlement and capacity right of 11,300 acre feet and all rights associated therewith under the State Water Contract ("Retained Rights") commencing with the July 1, 1983 payments. The amount required to be paid by the DISTRICT shall mean the amount that STATE bills the DISTRICT under the State Water Contract after STATE'S deduction of any credits or payments due to DISTRICT or CONTRACTORS' protest of payments, the transfer or termination of DISTRICT'S or CONTRACTOR'S entitlement and/or capacity, or other credits after execution of this Agreement. Conversely any payments or credits by STATE to DISTRICT under the

State Water Contract relating to such claims or transfers made prior to the execution of this Agreement shall not be credited against the amount required to be paid by the DISTRICT and shall not be deducted from CONTRACTOR's obligation.

2. Article 5(a)(1) and (2) of Water Supply Retention

Agreement, Model Draft I, 11/16/82 are amended to read as follows:

(1) Any one or more of the PUBLIC CORPORATIONS may at any time give Written Notice ("Notice") to all other CONTRACTORS, the DISTRICT, and the San Luis Obispo County Flood Control and Water Conservation District ("SLO") of an Intention to Request Construction of Described Project Facilities under the State Water Contract. The described project facilities may involve the construction of the Coastal Aqueduct or the construction of local in-lieu projects, or both. The Notice shall establish a time for determination of participation in and sizing of the particular project described, which time shall not be less than three nor more than five years from the date of the Notice.

(2) Prior to the determination date, all CONTRACTORS shall decide whether or not to participate in the described project. If a CONTRACTOR decides to participate, it shall take the necessary action to enable itself to make such a determination on or before the determination date. CONTRACTOR agrees that the submittal of the described project or the financing of the described project to a vote of the people shall not exempt any CONTRACTOR from compliance with CEQA or NEPA to the extent such CONTRACTOR would have been required to comply with CEQA or NEPA in the absence of such vote. Potential participants shall identify themselves within six (6) months of the Notice to allow preparation of data essential to such determination.

Potential participants who have identified themselves within the six (6) months, including, the PUBLIC CORPORATION giving the Notice, may unanimously agree to amend the Notice as to the time for determination of participation and sizing without the limitation of from three to five years in Article 5(a)(1). To be eligible to participate, a CONTRACTOR must pay its pro rata share of all costs determined to be necessary and jointly beneficial by a majority of the potential participants, including the costs of compliance with CEQA or NEPA, if any, subject to reimbursement by the actual participants. If a CONTRACTOR ultimately elects not to participate ("Non-Participant") and other CONTRACTORS elect to proceed ("Participant"), the Participants shall reimburse the Non-Participants for such joint costs. No reimbursement will be required if no CONTRACTOR decides to proceed.

3. Article I of said Water Supply Retention Agreement, Model Draft II, is amended by the addition of a new paragraph (d) to read as follows:

(d) The term "Delta Water Charge," as used in this Agreement shall not include any credits or payments due to DISTRICT, from STATE due to DISTRICT's protest of payments, transfer or termination of DISTRICT's entitlement and/or capacity, or litigation initiated prior to the execution of this Agreement.

4. This First Amendment shall not be effective until all the CONTRACTORS, who have executed Water Supply Retention Agreement, Model Draft II, before the adoption of DISTRICT's Resolution approving this First Amendment, have executed this First Amendment.

5. Except as amended by this First Amendment, all other provisions of Water Supply Retention Agreement, Model Drafts I and II, shall remain in full force and effect.

IN WITNESS WHEREOF, each party hereto has executed this Agreement, effective this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_.

DISTRICT:

SANTA BARBARA COUNTY FLOOD CONTROL  
AND WATER CONSERVATION DISTRICT

ATTEST:  
HOWARD C. MENZEL  
COUNTY CLERK-RECORDER &  
EX OFFICIO CLERK OF THE DISTRICT

By \_\_\_\_\_

By \_\_\_\_\_  
Deputy Clerk-Recorder

CONTENTS:

BY: [Signature]  
DEPARTMENT HEAD

APPROVED AS TO FORM:

BY: \_\_\_\_\_  
CITY ATTORNEY

BY: \_\_\_\_\_  
CITY ADMINISTRATOR

CONTRACTOR:

CITY OF SANTA MARIA

ATTEST: \_\_\_\_\_ By \_\_\_\_\_

APPROVED AS TO FORM:  
KENNETH L. NELSON  
COUNTY COUNSEL

APPROVED AS TO ACCOUNTING FORM:  
KRISTI M. JOHNSON  
AUDITOR-CONTROLLER

By \_\_\_\_\_ By \_\_\_\_\_