



● **Report on Terms of Initial Annexation of San Diego County Water Authority**

Summary

Report on the terms of the initial annexation of San Diego County Water Authority

Attachments

- Attachment 1: Communication from the President of the United States Transmitting a Report Relative to an Impending Emergency in the Water Supply of San Diego County, Calif., Owing to the Very Large Naval, Other Military, War Industrial, and War Housing Installations in the Area (November 29, 1944)
- Attachment 2: Metropolitan Resolution 3612 (October 4, 1946) (fixing terms and conditions of annexation)
- Attachment 3: Navy Department, Bureau of Yards and Docks, Contract NOy-13300 with the City of San Diego for Construction and Lease of Aqueduct (November 17, 1945)
- Attachment 4: Metropolitan Resolution 3621 (December 13, 1946) (finding that SDCWA satisfied all terms of the annexation)

Detailed Report

The San Diego County Water Authority (SDCWA) was annexed into Metropolitan on December 17, 1946. The annexation comprised approximately 94,700 acres. SDCWA paid an annexation fee comparable to the “back tax method” currently applied by Metropolitan, among other terms as described below.

Between 1930 and 1946, the population within what would become SDCWA’s boundaries increased from approximately 173,000 to 431,000 due in large part to the development of military facilities in the area. The federal government was concerned that there were not adequate reliable water supplies for the San Diego area and its military facilities and personnel. SDCWA was created June 9, 1944 pursuant to an organizing election authorized by an act of the State Legislature as a public agency to address the water supply concerns in the San Diego area and to administer the region’s Colorado River water rights, which were held by the City of San Diego (City).

At the direction of President Franklin D. Roosevelt, a committee was convened to analyze the water supply issues in San Diego. The committee included representatives from the U.S. Bureau of Reclamation, U.S. Navy, Bureau of Yards and Docks, the U.S. Federal Works Agency, and Phil D. Swing, attorney for SDCWA. In a November 29, 1944 report to Congress, President Roosevelt reported on the committee findings and its recommendation that the federal government immediately commence construction of the first barrel of the San Diego Aqueduct (San Diego Aqueduct) to connect the San Diego area to Metropolitan’s Colorado River Aqueduct. The report also recommended that SDCWA “press negotiations” with Metropolitan for annexation. The report found that San Diego would require imported supplies for future water reliability and that federal intervention was necessary to ensure timely completion of facilities to provide the imported water.

In response to the federal recommendations, the City entered into a contract on October 17, 1945 with the United States for construction of the San Diego Aqueduct. Under the contract, the United States agreed to construct the San Diego Aqueduct and City agreed to reimburse it over time with the option to assume ownership upon full reimbursement. The San Diego Aqueduct was proposed to connect the City’s San Vicente Reservoir to the Colorado River Aqueduct near the west portal of the San Jacinto Tunnel, a length of approximately 71 miles.

Board Report (<Report on Terms of Initial Annexation of San Diego County Water Authority>)

Simultaneously with negotiation and execution of this contract, the City commenced negotiations with Metropolitan for annexation. The City wrote to Metropolitan on September 15, 1944 requesting Metropolitan's cooperation in securing its Colorado River supplies. Negotiations among the City, SDCWA, and Metropolitan continued between 1944 and 1946.

The terms and conditions of SDCWA's original annexation to Metropolitan were fixed in Resolution 3612, adopted October 4, 1946, as follows:

1. The City assigned and merged its 1933 contract for 155 cubic foot per second or 112,000 annual acre-feet of Colorado River supplies to Metropolitan, subject to approval of the San Diego County Board of Supervisors and the electors of the City and SDCWA. Under the priorities of delivery of Colorado River water to California, as established in the 1931 Seven Party Agreement, the San Diego contract was for fifth priority water.
2. The City assigned its contract with the United States for construction of the San Diego Aqueduct to SDCWA, subject to approval of a majority of the City's and SDCWA's electorate.
3. Metropolitan's point of delivery to SDCWA within the first barrel of the San Diego Aqueduct was established at Station 1920+00, approximately 5.9 miles south of the Riverside-San Diego county line and the boundary of SDCWA's service area. Since each agency agreed to pay one-half of the construction costs, the point of delivery was located at the point representing the place at which the construction costs were equally attributable to the portions north and south.
4. SDCWA was required to take title to the San Diego Aqueduct and transfer the portion north of the point of delivery to Metropolitan upon Metropolitan's payment of one-half of the costs of its construction.
5. Metropolitan had use of the northerly section of the San Diego Aqueduct until such time as it was transferred to it, and Metropolitan agreed, at its own cost, "when necessary to satisfy the Authority's requirements for water" to assume the "obligation to enlarge or parallel that part of said aqueduct lying northerly of said point of delivery."
6. The total cost of construction of the San Diego Aqueduct was approximately \$15 million or approximately \$7.5 million each for Metropolitan and SDCWA. In consideration for use and title to the San Diego Aqueduct north of the point of delivery, Metropolitan agreed to pay half of the costs of its construction to SDCWA in quarterly payments at rate of \$250,000 per year, without interest.
7. SDCWA was required to pay Metropolitan an annexation fee that totaled about \$13.045 million. This annexation fee was premised on a "back taxes" method set on the assessed valuation of the property as of 1946-1947 plus four percent interest and a one-time charge for lost power production. The lost power production charge of \$300,000 was necessary to offset the United States' loss of power generation due to the diversion of San Diego supplies into Metropolitan's system upstream of Parker Dam. The annexation fee was levied on properties within SDCWA's service area and paid to Metropolitan over 30 years, without further interest charges.

On December 13, 1946, Metropolitan's board adopted Resolution 3621 finding that SDCWA satisfied all terms of the annexation. Certification of the annexation was filed with the State of California on December 17, 1946. Water from the Colorado River first arrived in the new San Vicente Reservoir in November 1947. SDCWA satisfied the long-term conditions of the annexation, paid for its portion of the San Diego Aqueduct, and completed payment of the annexation fee in fiscal year 1976-1977. Metropolitan satisfied its obligations under Resolution 3612, and title to the north portion of the San Diego Aqueduct transferred to Metropolitan, in 1997.

MISSOURI RIVER BASIN

n, Senate Document No. 191, Seventy-eighth Congress,
ion:

Upper Missouri River Basin.
Yellowstone River Basin.
Missouri River—Fort Peck to Sioux City.
Minor western tributaries.
Niobrara, Platte, and Kansas Rivers.
Lower Missouri Basin.

s agreed that there were no points of conflict in the engineer-
s of the two plans in the following subdivisions:

Upper Missouri River Basin.
Minor western tributaries.
Lower Missouri Basin.

s agreed that the Yellowstone River Basin be developed
nce with the plans set forth in Senate Document No. 191,
gth Congress, second session. With regard to the other
visions all of the engineering features of both plans were
n with the following modifications:

Missouri River: Fort Peck to Sioux City.

Gavins Point Reservoir and the Garrison Reservoir to be
in accordance with House Document No. 475 Seventy-
gress, second session.

Fort Randall Reservoir, the Big Bend Reservoir, and the
rvoir to be developed in accordance with Senate Document
eventy-eighth Congress, second session.

Oak Creek Reservoir, as proposed in House Document
eventy-eighth Congress, second session, to be eliminated.

niobrara, Platte, and Kansas Rivers: It was agreed to
the Bonny and Pioneer Reservoirs, as proposed in Senate
No. 191, Seventy-eighth Congress, second session, for
and Beecher Island Reservoirs as proposed in House Docu-
475, Seventy-eighth Congress, second session, and to
the Enders Reservoir as proposed in House Document No.
ty-eighth Congress, second session, for the Harvey Reservoir
d in Senate Document No. 191, Seventy-eighth Congress,
sion.

R. C. CRAWFORD,
*Brigadier General, United States Army,
Division Engineer.*

GAIL A. HATHAWAY,
*Head Engineer,
Representing Office of the
Chief of Engineers.*

W. G. SLOAN,
*Assistant Regional Director,
Bureau of Reclamation,
Billings, Mont.*

JOHN R. RITER,
*Acting Director, Branch of Project Planning,
Bureau of Reclamation,
Denver, Colo.*

78TH CONGRESS }
2d Session }

SENATE

{ DOCUMENT
No. 249

WATER SUPPLY OF SAN DIEGO COUNTY, CALIF.

COMMUNICATION

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING A REPORT RELATIVE TO AN IMPENDING EMER-
GENCY IN THE WATER SUPPLY OF SAN DIEGO COUNTY, CALIF.,
OWING TO THE VERY LARGE NAVAL, OTHER MILITARY, WAR
INDUSTRIAL, AND WAR HOUSING INSTALLATIONS IN THE AREA

DECEMBER 4 (legislative day, NOVEMBER 21), 1944.—Read; referred to the
Committee on Irrigation and Reclamation, and ordered to be printed

THE WHITE HOUSE,

Washington 25, D. C., November 29, 1944.

HON. HENRY A. WALLACE,
President of the Senate.

MY DEAR MR. VICE PRESIDENT: An impending emergency in the
water supply of San Diego County, Calif., has been called to my
attention. Owing to the very large naval, other military, war in-
dustrial, and war-housing installations in the area, the situation is
of emergency importance to the Federal Government.

At my direction, an interdepartmental committee, on which the
San Diego County Water Authority also had membership, reviewed
the problem, and has reported to me. The War Department, the
Navy Department, the Department of the Interior, and the Federal
Works Agency were represented on the committee. Engineering
investigations and surveys were begun in 1943 by the Bureau of
Reclamation, Department of the Interior, working in cooperation
with the city of San Diego, the county of San Diego, and the Federal
Works Agency. Fortunately, these studies had proceeded to points
at which decisions could be safely made.

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WATER SUPPLY OF SAN DIEGO COUNTY, CALIF.

I am attaching a copy of the report of the committee, which has been reviewed by the Secretary of the Interior and which I approve. In accordance with the recommendations of the committee, joined in by the Secretary of the Interior, I have instructed that the emergency be met in keeping with the report.

The Bureau of Reclamation has been directed to complete the plans and specifications for the construction of the aqueduct from San Jacinto, Calif., to the San Vicente Reservoir, and the Army, Navy, and Federal Works Agency have been directed to cooperate with the Bureau to that end. The Bureau of Yards and Docks, Navy Department, has been instructed to construct the emergency water connection, with the other agencies cooperating. After the war emergency, the Bureau of Reclamation, which will continue its existing relationships with the local interests, will be in a position to assume charge of the aqueduct, and, when suitable arrangements with the local interests have been completed, to build the permanent additional works. I have asked the San Diego County Water Authority, and the city of San Diego, to press negotiations with the Metropolitan Water District of Southern California in order that an equitable arrangement may be completed for the permanent operation of the works, which will have continued value and utility.

While the emergency demanded the actions that have been taken, the Congress in the future may have submitted to it recommendations for additional work under the reclamation laws in connection with this project, and I am, therefore, submitting to you now this explanation and report.

Sincerely yours,

FRANKLIN D. ROOSEVELT.

DEPARTMENT OF THE INTERIOR,
BUREAU OF RECLAMATION,
Washington, October 21, 1944.

The PRESIDENT,
The White House.

(Through the Secretary of the Interior.)

MY DEAR MR. PRESIDENT: In behalf of your committee, and in response to the assignment made in your letter of October 3, 1944, to me, I submit the attached report on the San Diego, Calif., area water-supply problem. The report finds that an emergency impends in San Diego and already exists in the Santa Margarita section. The report also makes recommendations in accordance with the assignment given.

Sincerely yours,

WILLIAM E. WARNE,
Assistant Commissioner and Chairman of the Committee.

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DEPARTMENT OF THE INTERIOR,
BUREAU OF RECLAMATION,
Washington, October 21, 1944.

The PRESIDENT,
The White House.

SIR: In response to your letter of October 3, 1944, your Committee on Methods of Financing the San Diego Water Supply Project was organized with the following members:

William E. Warne, Assistant Commissioner, Bureau of Reclamation; United States Department of the Interior, chairman;
Vice Admiral Ben Moreell, Chief of the Bureau of Yards and Docks, Navy Department;
Maj. Gen. Eugene Reybold, Chief of Engineers, War Department;
Baird Snyder, Assistant Administrator, Federal Works Agency;
Phil D. Swing, attorney, San Diego County Water Authority.

The Committee met on October 16 and thereafter for study of the problems in consideration of the assignment that you made. The assignment was as follows:

THE WHITE HOUSE,
Washington 25, D. C., October 3, 1944.

Mr. WILLIAM E. WARNE,
Assistant Commissioner,
Bureau of Reclamation, Washington, D. C.

MY DEAR MR. WARNE: On recommendation of the Secretary of the Interior, I am designating you as the chairman of an interdepartmental committee to make a study, a report, and recommendations to me on methods of financing proposed construction of facilities to transfer Colorado River water to relieve a critical shortage in the supplies for the city of San Diego, Calif., and nearby communities. Your associates on the committee are to be named by the Secretary of War, the Secretary of the Navy, the Administrator of the Federal Works Agency, and the San Diego County Water Authority. The committee should be organized promptly and begin its activities so that I may have a report with the least practicable delay.

The Bureau of Reclamation, under the direction of the Secretary of the Interior, is making studies of alternate routes by which Colorado River water can be transferred to the San Diego area. I have requested the Secretary of the Interior to expedite a recommendation from the Bureau of Reclamation as to the most feasible route and am designating the Bureau of Reclamation as the construction agency for this work when it is authorized.

The work of the interdepartmental committee will be directed toward recommendations, with adequate supporting data, on these specific points:

- (1) The extent of Federal and local participation in the financing of the construction proposed.
- (2) The extent to which the additional facilities are required as a result of Federal activities in connection with the prosecution of the war.
- (3) The source of Federal funds for the work.
- (4) The existing laws under which the development might be authorized.

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- (5) Additional legislation which might be required.
(6) Any other matters relating to the subject which the committee may deem pertinent.

The report will be forwarded to me through the Secretary of the Interior with his comments.

Sincerely yours,

FRANKLIN D. ROOSEVELT.

The Committee received full information from the agencies represented, and, in addition, obtained a full presentation of data and evidence bearing on the problem from the city of San Diego, Calif., through Mr. Walter Cooper, city manager.

The Committee now submits this report, with findings as to the facts, and with recommendations relating to the six specific points included in your assignment.

REPORT

REQUIREMENT FOR WATER FOR MILITARY AND CIVILIAN USE IN THE SAN DIEGO AREA

When the United States was drawn into the war, large military organizations, training camps, and industrial plants were established in and around the city of San Diego. The population of San Diego in 1940 was slightly over 200,000 and at that time, it was predicted that the growth of population would not exceed 350,000 by the year 1960. The influx of military personnel, defense workers, and their families, however, shot the population dependent upon the San Diego water supply system up to about 450,000 early this year. This extraordinary increase placed a great strain on many community facilities. The water supply was no exception. The meter records of water supplied by the city of San Diego disclose that the various military establishments, Federal housing, and the aircraft plants, during the years 1940, 1941, 1942, and 1943, used 10.9, 17.5, 28.4, and 40.3 percent, respectively, of the total quantities of water delivered to the city, and for the fiscal year ended June 30, 1944, about 45 percent of total consumption.

The water supply of the city of San Diego is now obtained from three principal drainage basins located in the coastal mountains. The crests of these mountains are relatively near to the ocean and the streams are short and of erratic flows. Because of the seasonal character of the rainfall and variable nature of the run-off, the city has necessarily constructed, for water-supply purposes, a system of reservoirs to catch and hold the large periodic floods which occur approximately at intervals of 10 years. The net safe yield of the presently constructed system is 31.9 millions of gallons per day, while the average use in 1942 was 36.24 millions of gallons per day, and in 1943, 42.19 millions of gallons per day, and the estimated use in 1944 is 46.16 millions of gallons per day. Increased storage facilities are contemplated by the city, but even if completed in the near future, no assumption of an augmented firm supply can be made—for, if a cycle of dry years, similar to the driest cycle of record, should recur, there would be little run-off to store. The annual rainfall averages about 10 inches along the coast and is 4 to 5 times greater near the crest of the mountain ranges. Practically all of the

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precipitation occurs during the months of December to April, inclusive. The rainfall varies from year to year, and the volume of the annual run-off is very erratic, ranging from extremes of only 2.6 to as much as 580.8 percent of the mean for the 60-year period of record, 1883 to 1943. Because of wide variations from year to year in stream run-off, a safe yield from local sources must be predicated on holdover storage with which to enter the dry cycles. Local storage developments might not provide additional water likely to be needed for this purpose, as demonstrated by the history of San Vicente Reservoir, which was completed 2 years ago and is only 12 percent full now.

In the light of past records of run-off from the local streams, there is cause for anxiety regarding the ability of the supply as developed by present works to meet the demand which is now being made upon it. Fortunately, good run-off filled the reservoirs in the winters 1940-41, 1941-42, 1942-43, and 1943-44. In June 1944, it was thought that the city of San Diego had sufficient water in storage to supply its users through the year 1947. During the subsequent 3 months, however, the volume of use increased to such an extent that the supply may be depleted, assuming that the demand continues to increase at a diminishing rate, by July 1947 should there be a recurrence of a dry cycle similar to that which occurred in the years 1897-1904. Such a drought may recur at any time.

It seems evident, therefore, that a firm supplement to the water supply that is obtainable from local sources is now required. Only with a fortunate continuation of wet winters can the greatly expanded needs of the area otherwise be met, and it would be foolhardy to rely on a continuation of the favorable conditions of the past 4 years, in view of the well-established erratic character of the precipitation and run-off in San Diego County.

PREPARATIONS UNDER WAY TO MEET THE PROBLEM

In May 1943, contracts between the Bureau of Reclamation and the Federal Works Agency and the city of San Diego and county of San Diego were executed for the cooperative prosecution by the Bureau of Reclamation of engineering surveys and investigations of two routes by which a supplemental supply of water could be obtained from the Colorado River for the San Diego area. The Committee had before it the preliminary findings of these investigations with regard to a connection near San Jacinto with the Colorado River aqueduct of the Metropolitan Water District of Southern California which heads at Parker Dam in the Colorado River and a connection near Kane Springs with the All-American Canal system which heads at Imperial Dam in the Colorado River about 150 miles south of Parker Dam. Final reports on the engineering plans are expected to be completed by the end of this year provided adequate manpower is made available. The preliminary reports indicate that either route would have engineering feasibility. The estimated total construction cost of building the connection to the Metropolitan Water District aqueduct is \$17,500,000 and of building the connection to the All-American Canal is \$24,750,000.

(November 29, 1944)

FINDINGS OF FACT

Finding No. 1.—An emergency impends in the water supply of the city of San Diego and surrounding communities, and an emergency exists in the water supply of Camp Pendleton and other military installations in the Santa Margarita vicinity of San Diego County. These situations demand relief at the earliest practicable time.

Finding No. 2.—The Colorado River offers the only available source from which an adequate, dependable supplemental water supply can be obtained for the area. It has long been contemplated, as evidenced by contracts between the Department of the Interior and the city of San Diego and the county of San Diego, that eventually Colorado River water would be required.

There are two possible routes by which water from the Colorado River can be brought to the area; namely, (route 1) by means of an aqueduct connecting with the Colorado River aqueduct of the Metropolitan Water District of Southern California near San Jacinto, Calif., and extending 71.57 miles south to the San Vicente Reservoir on San Vicente Creek, a reservoir of the city of San Diego; and (route 2) by means of an aqueduct and tunnel connecting with the All-American Canal system near Kane Springs, Calif., and extending west 66.6 miles to El Capitan Reservoir on San Diego River, a reservoir of the city of San Diego.

An aqueduct over route 1, while longer, would be largely a gravity system and would not require large amounts of critical materials, including pumps and electrical equipment. Construction of the aqueduct over route 1 would be a simpler engineering problem and could be completed within a period of 2 years. The Colorado River aqueduct, with which route 1 would connect, is already completed to a sufficient capacity to care for the emergency needs of San Diego County, and is equipped with pumps and electrical equipment at the present time.

An aqueduct over route 2, while shorter, would require pumping and electrical equipment to lift the water about 3,100 feet and would require larger quantities of critical materials. It would also involve the construction of a tunnel about 39,000 feet in length. It could be built in about 3 years.

The initial construction cost of the aqueduct along route 1 would be materially less than that along route 2. Route 1 would supply the supplemental water needed by Camp Pendleton and other installations in the Santa Margarita vicinity, while route 2 would not. Camp Pendleton and the other installations in that vicinity are not at present connected with the San Diego water-supply system. In the event of the occurrence of the 7-year drought, against which the city of San Diego must be protected, it is inevitable that the water supply for the naval installations at Santa Margarita will be in even worse condition than the water supply for the city of San Diego since Santa Margarita has no impounding reservoirs. This makes it even more important that the naval population, which might go as high as 65,000 people, be protected against the anticipated drought. Either route, if the aqueduct could be completed in time, would meet the emergency requirements of the city of San Diego and all the Federal installations that are connected with the water-supply system of that city.

An aqueduct over either route would have continued utility after the war emergency provided that the San Diego County Water Authority or the city of San Diego could make appropriate arrangements with the Metropolitan Water District of Southern California for the continued use of route 1. There would be no problem in this regard with respect to route 2. The Metropolitan Water District of Southern California has made an offer to the city of San Diego, the terms of which appear to make the aqueduct over route 2 the more desirable for permanent use by the local community because of appreciable lower annual charges over the long period.

Finding No. 3.—The present requirement of the military and naval installations, directly connected war industrial installations, and Federal war housing facilities amounts to about 45 percent of the current demand on the San Diego water-supply system. In addition, Camp Pendleton and other naval installations in the Santa Margarita vicinity have an anticipated maximum requirement of about 5,000,000 gallons per day. The present draft on the San Diego water-supply system exceeds by more than 40 percent the safe annual yield of the present reservoirs. Water stored at present would be exhausted if the stream run-off that supplies the local system should fall sharply below normal for a period of only a few brief years. Such droughts occur frequently in the area as disclosed by the 60-year record that is available. An extended drought may begin at any time. Four comparatively wet years in succession have made it possible for the San Diego water-supply system to withstand the current overdraft, but the essential character of the naval and other military installations in the vicinity precludes tempting fate further.

An aqueduct over either route would have value at the conclusion of the war emergency and would present the opportunity to provide a permanent benefit to the entire local community. The extent of the value and the permanent utility would be more certain with regard to route 2 owing to the absence of the complication introduced by the necessity for an agreement by the local agencies with the Metropolitan Water District of Southern California when route 1 is considered. Since the out-of-pocket cost and the drain on manpower, critical materials, and equipment, as well as the time factor, are much smaller for route 1 than for route 2, we favor route 1.

The construction of either aqueduct as an emergency measure should provide for a capacity of 50,000,000 gallons per day, and tunnels and other permanent structures should be built to the full ultimate size (100,000,000 gallons per day), provided that the bidding on the project indicates an increase of cost no greater than would warrant this action. The increase in cost of the installation herein proposed (50,000,000 gallons per day) would be approximately 20 percent additional when compared with an installation to meet only the existing war emergency requirement (25,000,000 gallons per day). An emergency installation to meet only the existing war needs would provide no margin of safety as to capacity.

Finding No. 4.—Because of the importance of its establishments and activities in the area and their relation to the winning of the war in the Pacific, the Federal Government has a direct and vital interest in assuring an obligation to assure a continued adequate water supply to its own establishments and an implied obligation to the local communities.

RECOMMENDATIONS

Your committee recommends the immediate construction by the Federal Government of the described aqueduct over route 1 connecting with the Colorado River Aqueduct near San Jacinto, with the War Department, the Navy Department, and Federal Works Agency bearing the cost.

Based on this recommendation, the answers to the questions in your letter of October 3 are as follows:

1. The extent of the Federal participation in the construction proposed to meet the emergency is 100 percent.
2. The facilities are required as a result of Federal activities in connection with the prosecution of the war. The extent of the requirement is disclosed in finding No. 3.
3. The Federal funds for the work should be supplied by the War Department, the Navy Department, and the Federal Works Agency.
4. The laws under which the development is authorized include the First War Powers Act of 1941, the Lanham Act, and the laws relating to Army and Navy construction and Army and Navy appropriation acts.
5. There would be no additional legislation required to undertake the proposed construction during the war emergency. The Federal Reclamation Laws contain sufficient authority for the Bureau of Reclamation, in cooperation with the San Diego County Water Authority or the city of San Diego, to complete the aqueduct to its ultimate required capacity after the war when the needs develop and satisfactory arrangements have been completed.
6. While you have designated the Bureau of Reclamation as the construction agency, the Committee wishes to point out that there are four Federal agencies competent to undertake the emergency construction. They are the Bureau of Yards and Docks, Navy Department, the Corps of Engineers, War Department, the Federal Works Agency, and the Bureau of Reclamation. The Committee believes that you may wish to place the construction of the emergency project in the hands of the Bureau of Yards and Docks since it represents the Federal agency with the greatest and most pressing need, and since the construction would be undertaken as a Federal project without repayment contracts previously entered with local interests. In any event, the Committee recommends that the Bureau of Reclamation complete the plans and specifications for the aqueduct over route 1 with funds made available immediately from the Lanham Act appropriations to the Federal Works Agency, and that the plans and specifications be completed at the earliest possible time to be made available as completed to the Bureau of Yards and Docks, if the latter is to construct the emergency project. The Committee recommends that the War Department and the Navy Department cooperate with the Bureau of Reclamation as may be required in the completion of the engineering work preparatory to construction. The Committee recommends that the Bureau of Reclamation continue its present relationship with the local agencies in order that work already begun may be completed preparatory to providing a permanent solution to the water-supply problem of the area. The Committee recommends that the San Diego County Water Authority or the city of San Diego continue and press negotiations with the Metropolitan Water District

of Southern California to the end that an equitable arrangement be worked out which would make possible permanent service by way of route 1 in order that the value and permanent utility of the emergency work may be realized, and to protect against the possibility of an interruption in the supplemental water supply on the termination of the war emergency. It may be necessary for agencies of interest of the Federal Government to participate in these negotiations.

Respectfully submitted.

WILLIAM E. WARNE,
*Assistant Commissioner,
Bureau of Reclamation,
Chairman.*

EUGENE REYBOLD,
*Major General,
Chief of Engineers, United States Army,
Member.*

BEN MOREBELL,
*Vice Admiral, Civil Engineer Corps, United States Navy,
Chief, Bureau of Yards and Docks,
Member.*

BAIRD SNYDER,
*Assistant Administrator,
Federal Works Agency,
Member.*

PHIL D. SWING,
*Attorney,
San Diego County Water Authority,
Member.*

RESOLUTION NO. 3612

Resolution of the Board of Directors of The Metropolitan Water District of Southern California Consenting to the Annexation to the District of the Corporate Area of the San Diego County Water Authority and Fixing the Terms and Conditions of such Annexation.

1. WHEREAS, the governing body of the San Diego County Water Authority, a county water authority situated in the County of San Diego, State of California (hereinafter referred to as the "Authority"), in accordance with the provisions of the Metropolitan Water District Act, has applied to the Controller of The Metropolitan Water District of Southern California (hereinafter referred to as the "District") for a statement showing the amount of the bonded and other indebtedness of the District, the assessed value of the taxable property therein according to the most recent assessment, and the names of the municipalities, the areas of which as units respectively, have been included within the District, and such information has been supplied as requested; and

2. WHEREAS, the governing body of the Authority, after consideration of said statement, has presented to the Board of Directors of the District its Resolution No. 27 applying for consent to annex the corporate area of the Authority to the District; and

3. WHEREAS, The City of San Diego (hereinafter referred to as the "City") under date of February 15, 1933 entered into a contract with the United States of America, which contract was approved by the Board of Supervisors of the County of San Diego and called for the delivery of Colorado River water by the United States to the City for use in said City and in the County of San Diego, in amounts and in accordance with the scale of priorities therein set out, said contract being hereinafter referred to as the "City's Water Delivery Contract"; and

4. WHEREAS, the District under date of April 24, 1930, entered into a contract with the United States, which contract was amended September 28, 1931, and called for the delivery of Colorado River water by the United States to the District in amounts and in accordance with the scale of priorities therein set out, said contract being hereinafter referred to as the "District's Water Delivery Contract"; and

5. WHEREAS, there has been approved and ordered filed this 4th day of October, 1946, in the office of the Secretary of The Metropolitan Water District of Southern California a form of contract entitled "Contract Merging Rights of The City

Resolution 3612

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of San Diego and The Metropolitan Water District of Southern California Under Contracts with the United States Dated February 15, 1933, and April 24, 1930 (Amended September 28, 1931), Respectively," and hereinafter referred to as the "Merger Contract," in which the United States, the City, the Authority, and the District are named as parties, and provision is made for the endorsement thereon of the approval of the Board of Supervisors of the County of San Diego, providing, among other things, that the City's rights and obligations under the City's Water Delivery Contract shall be assigned and transferred to the District and merged with the rights and obligations of the District under the District's Water Delivery Contract, and made a part of the District's water supply for all purposes, and particularly for the purpose of apportioning water pursuant to the provisions of Section 5½ of the Metropolitan Water District Act, and further providing that such Merger Contract shall be of no force or effect until and unless the corporate area of the Authority shall be annexed to the corporate area of the District prior to December 31, 1946, and until and unless the conditions set out in paragraph 9(2) hereof relating to approval of certain proposals by the electors of the City and of the Authority, respectively, shall have been complied with; and

6. WHEREAS, the United States and the City entered into a certain contract dated October 17, 1945 (NOY-13300) providing for the construction of an aqueduct from a connection with the District's Colorado River Aqueduct near the west portal of the San Jacinto tunnel in the County of Riverside to San Vicente reservoir in the County of San Diego, said aqueduct and all rights of way and incidental works and equipment appurtenant thereto being herein referred to as the "San Diego Aqueduct," and said contract being hereinafter referred to as the "Lease-Contract"; and

7. WHEREAS, there has been approved and filed this 4th day of October, 1946 in the office of the Secretary of The Metropolitan Water District of Southern California a form of contract entitled "Supplemental Agreement No. 1 Between United States of America, The City of San Diego and San Diego County Water Authority," and hereinafter referred to as the "Assignment Contract," amending the Lease-Contract in certain particulars and providing for the transfer and assignment by the City to the Authority, with certain exceptions set out in paragraph 9(2)(b) hereof, of the rights and obligations of the City under said Lease-Contract, and further providing that such assignment of said Lease-Contract shall have no force or effect until and unless the corporate area of the Authority shall be annexed to the corporate area of the District prior to December 31, 1946, and until and unless

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certain conditions set out in paragraph 9(2) hereof relating to approval of certain proposals by the electors of the City and of the Authority, respectively, shall have been complied with; and

8. WHEREAS, it appears to the Board of Directors of the District that the application of the governing body of the Authority expressed by Resolution No. 27 should be granted, subject to the terms and conditions hereinafter set forth;

9. NOW, THEREFORE, BE IT RESOLVED AND ORDERED, that the Board of Directors of the District, subject to the following terms and conditions, does hereby grant the said application of the governing body of the Authority for consent to annex the corporate area of the Authority to the District, and does hereby fix the terms and conditions upon which such annexation may occur, as follows:

(1) Execution of Contracts

Prior to the date upon which the question of annexation of the corporate area of the Authority to the District shall be submitted to the electors of the Authority, the forms of Merger Contract and Assignment Contract referred to in paragraphs 5 and 7 hereof shall be entered into and executed by the parties named therein, and the Merger Contract shall be approved by the Board of Supervisors of the County of San Diego.

(2) Approval of Proposals by Electors

Prior to, or concurrently with, submission to and approval by the electors of the Authority, of the proposition of annexing the corporate area of the Authority to the District:

(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 United States 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) referred to in paragraph 6 hereof (the Lease-Contract), except the City's obligation under Article 2(a)

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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, said Lease-Contract shall revert to the City, subject to all modifications, defaults or acts of the Authority affecting said Lease-Contract; and

(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 the Assignment Contract referred to in paragraph 7 hereof.

(3) Point of Delivery of Water

When the corporate area of the Authority shall be annexed to and become a part of the District, the point of delivery of water by the District to the Authority shall be at or in the immediate vicinity of North Station 1920/00 as shown on Y. & D. Drawing No. 386,014 entitled "San Jacinto-San Vicente Aqueduct, North Station 1919/50 to 1968/00, North Station 2101/00 to 2109/00, Profiles and Alignments," approved September 14, 1945 by A. K. Fogg, Public Works Officer, Eleventh Naval District, San Diego, California, being sheet 2 of 8 sheets accompanying Specifications No. 17383 issued under date of September 21, 1945 by A. K. Fogg, Captain (CEC) USN, Officer-in-Charge of Construction Contracts, Naval Operating Base, San Diego, California, which Station 1920/00 is hereinafter referred to as the point of delivery; provided, however, that if the United States shall resume possession of the San Diego Aqueduct to the exclusion of the District's use thereof, or if the District shall be excluded from, or be interrupted in its use of, that part of the San Diego Aqueduct lying northerly of said point of delivery as the result of any breach or failure of performance of said Lease-Contract on the part of the Authority or on the part of the City, the District, during the period of such exclusion or interruption, shall be under no obligation to deliver water at the said point of delivery, but shall deliver all water which the Authority may rightfully be entitled to receive from the District, at a point near the west portal of the District's San Jacinto tunnel and to such facilities as

Resolution 3612

- 5 -

may be provided therefor by the Authority, subject to the approval of the District as to construction details.

(4) Title to Works

The Authority, pursuant to the terms of the Lease-Contract, shall acquire title to the San Diego Aqueduct, and upon acquisition of title shall transfer to the District title to that part of the San Diego Aqueduct lying northerly of said point of delivery; provided, that the Authority shall be under no obligation to transfer such title until and unless the District shall have paid to the Authority the consideration provided in subparagraph (6) hereof.

(5) Use of Works

From and after the date when, pursuant to said Lease-Contract, the Authority shall have assumed possession of the San Diego Aqueduct, and until the title to that part thereof lying northerly of said point of delivery shall have been transferred to the District, the District shall have the right of use of the said northerly part of said aqueduct for the purpose of delivering water to the Authority, and during the period of such use and after title thereto shall have been conveyed to the District, the District, at its own cost, shall have the duty of operating, maintaining and, when necessary to satisfy the Authority's requirements for water, the obligation to enlarge or parallel that part of the said aqueduct lying northerly of the said point of delivery.

(6) Payments by District

In consideration of the use of works, and the transfer of title, as provided in subparagraphs (4) and (5) hereof, the District shall pay to the Authority an amount equal to one-half of the true cost of the San Diego Aqueduct as such true cost is fixed and defined in Article 3 of the Lease-Contract. Such payments shall be made in quarterly installments at the rate of \$250,000 per year, without interest, commencing at the close of the first quarter following the time when the use of the northerly part of said aqueduct shall be made available to the District pursuant to subparagraph (5) hereof, and continuing until the aggregate payments shall equal one-half of the said true cost as so defined; provided, that such quarterly payments shall be made at least ten (10) days prior to the times, respectively, at which the Authority shall be obligated to pay quarterly installments of its annual obligation to the United States.

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In the event that the District, through no fault of its own, shall be permanently excluded from the use of that portion of the San Diego Aqueduct lying northerly of said point of delivery, by reason of cancellation or nullification of the said Lease-Contract, or otherwise, the District shall be under no obligation to continue payments hereunder.

In the event that the District shall be temporarily excluded from, or interrupted in, its use of said part of the San Diego Aqueduct lying northerly of said point of delivery, as the result of any breach or failure of performance of said Lease-Contract on the part of the Authority or on the part of the City, the District, during the period of such exclusion or interruption, shall be under no obligation to make the periodic payments as hereinbefore provided, but such periodic payments shall be resumed at the end of such period of exclusion or interruption. In the event that periodic payments shall be suspended during any period of exclusion or interruption, as herein provided, the District, prior to the conveyance to the District of title to said part of said aqueduct lying northerly of said point of delivery, shall pay to the Authority the difference between one-half of said true cost and the amount theretofore paid on the obligation set out in this subparagraph (6).

(7) Amendments to Contracts

The Lease-Contract, Assignment Contract, the City's Water Delivery Contract, the District's Water Delivery Contract, and the Merger Contract, hereinbefore in this resolution mentioned, or any of them, may be amended, either prior or subsequent to the annexation of the corporate area of the Authority to the District, in such particulars as may be agreed upon by the District and the parties to the contract or contracts involved; provided, that these terms and conditions upon which consent is hereby granted to the annexation of the corporate area of the Authority to the District shall not be materially or substantially modified or waived by any such amendment or amendments.

(8) Time of Annexation

The annexation of the corporate area of the Authority to the District shall be completed, and the certificate of the Secretary of State of the State of California evidencing such annexation shall be filed with the Secretary of the District, and a certified copy thereof shall be filed with each of the County Clerks of the Counties of San Diego, Los Angeles, and Orange, prior to December 31, 1946.

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(9) Special Tax

There shall be levied by the District special taxes upon taxable property within the Authority; the aggregate amount to be so raised by such special taxes shall be \$13,045,000.00; the number of years prescribed for raising such aggregate sum shall be thirty (30) years, commencing with the fiscal year 1947-1948; and substantially equal annual levies shall be made for the purpose of raising said sum over the period so prescribed; the special taxes so levied shall be in addition to the taxes elsewhere in the Metropolitan Water District Act authorized to be levied by the District.

(10) Compliance with Conditions Required

In the event that either the Merger Contract referred to in paragraph 5 hereof, or the Assignment Contract referred to in paragraph 7 hereof, shall not have been executed by all of the named parties thereto, and the Merger Contract approved by the Board of Supervisors of the County of San Diego, prior to the date of the election at which the question of annexation of the corporate area of the Authority to the District shall be submitted to the electors of the Authority, or in the event that the proposal so to annex the corporate area of the Authority, or any one of the proposals (a), (b), or (c) referred to in subparagraph (2) hereof, shall fail to receive the affirmative vote of a majority of the qualified electors voting thereon at the election at which said proposal shall be submitted, annexation of the corporate area of the Authority to the District shall not be authorized, and the District's consent thereto shall be void and of no force or effect.

BE IT FURTHER RESOLVED AND ORDERED, that the Executive Secretary be, and he hereby is, directed to transmit forthwith to the governing body of the Authority a certified copy of this resolution and order.

I HEREBY CERTIFY, that the foregoing is a full, true, and correct copy of a resolution and order adopted by the Board of Directors of The Metropolitan Water District of Southern California at its adjourned regular meeting held October 4, 1946.

10438
Attachment 3
Navy Department, Bureau of Yards and Docks
(November 17, 1945)
Duplicate of Original

Our Act. # 217

NAVY DEPARTMENT

BUREAU OF YARDS AND DOCKS

CONTRACT N0y-13300

WITH

THE CITY OF SAN DIEGO

*Document # 356879
Filed Oct 18 1945
Fred W Sick - City Clerk*

dated 10/17/45

CONSTRUCTION AND LEASE OF AQUEDUCT

(RIVERSIDE AND SAN DIEGO COUNTIES, CALIFORNIA)

October 17, 1945

*Seal
of
Bureau of
Yards & Docks*

Book 16 page 186

NOy-13300

THIS NEGOTIATED CONTRACT made this 17th day of October, 1945, between the UNITED STATES OF AMERICA (hereinafter called the "Government?"), represented by the CHIEF OF THE BUREAU OF YARDS AND DOCKS, NAVY DEPARTMENT (hereinafter called the "Contracting Officer") and the CITY OF SAN DIEGO (hereinafter called the "City"), a municipal corporation organized and existing under and by virtue of the laws of the State of California,

W I T N E S S E T H:

WHEREAS, it is recognized that the deficiency of the water supply in San Diego County, California, has become of emergency importance to the Government, owing to the large Naval, other military, Federal housing, and other Government installations in the area; and

WHEREAS, as a result of extended studies by the interested parties a joint program has been formulated as hereinafter provided which it is anticipated will effectively eliminate such water supply deficiency; and

WHEREAS, the Contracting Officer has determined that the accomplishment of the provisions of this contract, including the furnishing by the Government of extensive facilities on the terms provided, is necessary in the interest of the national defense;

NOW, THEREFORE, it is mutually agreed as follows:

ARTICLE 1 - FACILITIES TO BE FURNISHED BY GOVERNMENT AND LEASE THEREOF.

(a) The Government, at its own expense, shall diligently prosecute to completion a steel and concrete Aqueduct running from a connection with the Colorado River aqueduct of the Metropolitan Water District of Southern California near the west portal of San Jacinto tunnel in Riverside County, to San Vicente Reservoir, in San Diego County, which undertaken project is hereinafter referred to in its entirety as the "Aqueduct," and includes the entire structure and appurtenances thereto together with those rights in real property acquired by the Government for its construction of operation. The Aqueduct shall be constructed in accordance with the presently existing Government specifications therefor (such specifications being generally identified as Bureau of Yards and Docks Specifications numbered 16713, 16781, 17270, 16954, 17383, 16998, 16254, and likewise the specifications contained in Bureau of Supplies and Accounts Contract N5sy 3213, and also

my-13300

including such additional specifications as the Contracting Officer may deem desirable for the completion of the work), which specifications are by this reference made a part hereof. The Government may make such changes in such specifications as it may deem proper, provided, however, that no fundamental changes therein will be made without first consulting with the City. The estimated cost of the Aqueduct is \$14,500,000 and the estimated completion date is May, 1947, but neither party guarantees such amount or date nor sponsors either of them as a material representation hereunder.

*Est. Cost
\$ 14,500,000
Est. date of
Completion
May 1947.*

(b) Upon completion of the Aqueduct as determined by the Contracting Officer, the Government shall deliver the possession* thereof to the City for use in its water system and upon the following lease basis:

(1) After the date of delivery of possession to it the City shall thereafter repair, maintain and operate such Aqueduct and shall be responsible for the safekeeping thereof regardless of the cause of loss or damage thereto and for all charges and assessments of whatsoever type or nature thereafter accruing against the same, it being intended that after the date of such delivery of possession under this lease the Government shall be without financial obligation or liability with respect to such property and that such property shall be maintained intact and free of encumbrance. The City shall hold the Government, its officers, agents and employees, harmless from any claims or liabilities arising out of the City's operations or other activities under this lease and shall not permit of the attachment of any encumbrance whatsoever to such Government property. The Government shall have access to the premises leased hereunder at all reasonable times for inspection or other proper purposes. Should the City fail in any of its undertakings under this paragraph, the Government, at its option and without prejudice to such other rights as it may have, may enter the premises and remedy such default or any part thereof and charge the actual cost thereof to the City, plus 15% to cover overhead and general expense, which total amount together with interest at the rate of 4% per annum from the date of expenditure to the date of payment shall be paid to the Government by the City on June 1 immediately succeeding the date when the Government completes or discontinues the remedying of such default or part thereof.

(if) Title to the Aqueduct shall remain in, and title to all replacements and improvements thereto made during the life of this lease shall vest in, the Government.

(iii) The annual rental under this lease shall be \$500,000. The lease period shall commence to run from

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the date the Government delivers possession of the Aqueduct to the City, Such annual payment shall be divided into quarterly payments of \$125,000 each, the first of such payments to be made within three months of said date of delivery of the Aqueduct and the remainder quarterly thereafter.

(iv) This lease shall continue until such time as the City has paid to the Government in rentals the full amount of the true cost to the Government, as defined in Article 3, of the Aqueduct, During the term of this lease the City shall have the right and option to purchase said Aqueduct from the Government upon the terms and conditions contained in either of the following subparagraphs (1) and (2), the option in each being deemed independent of the option in the other:

*retal to apply
on amount if
purchase option
is exercised.*

(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; (provided that if the City is unable to pay the price so fixed out of the annual revenues of said City for the year in which said option is exercised, then said purchase by said City must be first authorized by a vote of two-thirds of the qualified electors of said City voting at an election held for that purpose. The ratification of said purchase shall be authorized by said electors within one year following the notice by said City that it desires to exercise the option. This right of 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 receipt 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, provided that the purchase has been first authorized by a vote of two-thirds of the qualified electors of said City voting at an election held for that purpose, if the City is unable to pay said price out of the

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annual revenue for said year. In event that said purchase is so authorized by said electors at said election, the Government shall convey to said City all of its right, title and interest in and to said Aqueduct and appurtenances, upon payment to said Government of the full and true cost of said Aqueduct, minus any rental theretofore paid by said City under the terms and provisions of this lease-contract.

(v) Notwithstanding any of the foregoing provision, this lease shall not continue for a period of more than thirty-two (32) years from date of delivery to the City, should this lease terminate by reason of the expiration of such period, except such termination as may be occasioned by the City exercising the option to purchase, as hereinabove provided, then the Aqueduct, together with all replacements and improvements, shall be redelivered to the Government, free of encumbrance, and in as good condition as when delivered to the City, reasonable wear and tear excepted.

ARTICLE 2 - FACILITIES AND SERVICE TO BE FURNISHED BY CITY.

(a) The City, at its own expense, shall diligently prosecute to completion that water treatment plant and additions to the water transportation system and connections to the distribution system as contemplated by the City Bond Issue approved at the election held in said City on the 17th day of April, 1945.

(b) The City shall diligently pursue and the Council of said City shall forthwith take such legal steps as may be necessary and authorized by law to secure an adequate supply of water from the Metropolitan Water District of Southern California to be supplied through said Aqueduct.

(c) The City shall exert every reasonable effort to supply all Government agencies and establishments within the area with an adequate supply of fresh, clear and potable water at applicable and non-discriminatory rates, provided, however, that this agreement shall in no way estop the Government from taking appropriate action with respect to any rates or service which it may deem unreasonable or otherwise improper. This stated obligation of service shall not be limited to any particular source of water.

ARTICLE 3 - TRUE COST TO GOVERNMENT OF AQUEDUCT.

(a) The true cost to the Government of the Aqueduct is herein defined as the sum of (i) the cost of acquisition of

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all rights in real property acquired for either the construction or operation of the Aqueduct, including incidental costs such as appraisals, surveys, maps, title evidence, court costs, and the like, (ii) the cost of construction contracts utilized in the accomplishment of the Aqueduct plus the reasonable value of Government-furnished material and equipment furnished with respect thereto, and (iii) these costs incurred in the field for Government or other employees (exclusive of Naval officers) and equipment in connection with the work on the Aqueduct (excluding that required in the preparation of presently existing specifications) which the Contracting Officer finds to be in excess of those costs which would have been incident to the ordinary maintenance of Government establishments in the absence of such work,

(b) It is anticipated that the City and the Contracting Officer will be able to agree upon all items of such true cost. To the extent agreement is reached, such agreement shall, in the absence of fraud, supersede for the items covered the application of the abovestated definition of true cost. To the extent that agreement is not reached, the determination of whether disputed items are a part of true cost within said definition shall be deemed a question of Fact within the meaning of Article 9 hereof.

ARTICLE 4 - RIGHT OF REENTRY UPON DEFAULT

Should the City, after the delivery to it of possession of the Aqueduct as hereinabove provided, default or continue in default in any of the rental payments to be made by it to the Government or in any of its other undertakings hereunder, whether included in the lease arrangement or otherwise, and remain in such default after sixty (60) days from written notice to it from the Contracting Officer to remedy such default, then the Government at its option and without prejudice to such other rights as it may have, may re-enter and take exclusive possession of such Aqueduct, with or without process of law, and free and clear of any obligation in respect thereto to the City or any one claiming through the City. Rental payments made by the City prior to the date of such re-entry shall be retained by the Government and any rental payments accrued but unpaid on such date (and for this purpose rent shall be deemed to accrue pro rata from day to day) shall be forthwith paid to the Government, all such payments being deemed to be compensation for the use of the Aqueduct during the period of the City's possession.

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ARTICLE 5 - ASSIGNMENT.

Neither this contract, nor any interest therein, nor any claim arising thereunder, shall be transferred by the City to any party or parties without the written approval thereto of the Government; provided, however, that the Government will consent to the assignment of the City's rights and interests herein to either the Metropolitan Water District of Southern California and/or the San Diego County Water Authority, upon such terms and conditions as may then be deemed reasonable by the Contracting Officer for the purpose of preserving the intent of this agreement and the protection of the Government's interests therein.

ARTICLE 6 - FAILURE TO INSIST ON COMPLIANCE - REMEDIES NOT EXCLUSIVE.

Failure of the Government in any one or more instances to insist upon strict performance of any of the terms of this contract or to exercise any provided right or option herein conferred, shall not be construed as a waiver or relinquishment for the future of any such terms, options or rights, Nothing contained in this contract shall be construed as in any matter abridging, limiting, or depriving the United States of any means of enforcing any remedy either at law or in equity for the breach of any of the provisions hereof which it would otherwise have.

ARTICLE 7 - COVENANT AGAINST CONTINGENT FEES.

The City warrants that it has not employed any person to solicit or secure this contract upon any agreement for a commission, percentage, brokerage or contingent fee. Breach of this warranty shall give the Government the right to annul the contract, or, in its discretion, to deduct from the contract price or consideration the amount of such commission, percentage, brokerage, or contingent fees.

ARTICLE 8 - OFFICIALS NOT TO BENEFIT.

No member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this contract or to any benefit that may arise therefrom, but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit,

ARTICLE 9 - DISPUTE?.

Except as otherwise specifically provided in this contract, all disputes concerning questions, of fact arising under

NOy-13300

this contract shall be decided by the Contracting Officer, subject to **written** appeal by the City within 30 days to the **Secretary of the Navy or his** duly authorized representative, whose **decision shall** be final and conclusive. Pending decision, the City shall diligently proceed with performance.

ARTICLE 10 - NONDISCRIMINATION IN EMPLOYMENT,

The City in **performing** work under this contract shall not discriminate against any employee or applicant for employment because of race, creed, color or national origin, The City shall include an identical provision in all of its subcontracts; For the purposes of this article, subcontracts shall include all purchase orders and agreements to perform all or any part of the **work**, or to make or furnish any article required for the performance of this contract, except purchase orders or **agreements for** the furnishing of standard commercial articles or raw materials.

ARTICLE 11 - LABOR PROVISIONS.

In the event the City accomplishes any of its undertakings hereunder by private contract, **such** contract or contracts shall contain appropriate provisions to assure compliance with the following acts to the extent the same are applicable:

Davis Bacon Act (U.S.C. 276 a as amended);
Copeland Act (40 U.S.C. 276 b'and 276 c); and
The Eight Hour Law (40 U.S.C. 321, 324-6, as in
part modified by Section 303 of Pub. Act. No.
781, 76th Congress, approved Sept. 9, 1940).

ARTICLE 12 - CONTRACTING OFFICER

The designation "**Contracting** Officer** means the Chief of the Bureau of Yards and Docks or any one authorized to act for him.

This negotiated contract is made pursuant to the **pro-**
visions of the **First** War Powers Act, 1941, the **Second** War

NOy-13300

Powers Act, 1942, and the Act of July 2, 1940 (54 Stat. 712).

IN WITNESS WHEREOF the parties hereto have executed this contract the day and year first above written.

UNITED STATES OF AMERICA,

By B
Adm. Morrell
Chief of the Bureau of Yards and
Docks, Navy Department

THE CITY OF SAN DIEGO,

By F. A. Rhodes
City Manager.

Witnesses:

Kirby Kidd Smith

F. Heilbron

I hereby approve the form and legality of the foregoing
Contract, this 17th day of October, 1945.

J. F. DuPaul
City Attorney

RESOLUTION NO. 81910

BE IT RESOLVED By the Council of The City of San Diego, as follows:

That the City Manager of The City of San Diego be, and he is hereby authorized, for and on behalf of said City, to enter into a contract with the United States of America, represented by the Chief of the Bureau of Yards and Docks, Navy Department, wherein the Government leases to said City the Colorado River Aqueduct upon its completion for a term of not to exceed thirty eight (38) years, for an annual rental of at least \$500,000, together with an option agreement wherein said City shall have the right to purchase said Aqueduct at any time during said period at a price to be fixed by said Government, said purchase, if required by law, to be first authorized by a vote of two-thirds of the qualified electors of said city.

Approved as
to form by J. F. DuPAUL
City Attorney

Passed and adopted by the said Council of the said City of San Diego, California, this 15th day of October, 1945, by the following vote, to-wit:

YEAS--Councilmen: Crary, Wincoete, Boud, Dail, Austin, Mayor Knox

NAYS--Councilmen: None

ABSENT--Councilman: Hartley

BARLEY E. KNOX
Mayor of the City of San Diego, California

FRED W. SICK
City Clerk of the City of San Diego, California

By AUGUST M. WADSTROM Deputy

I HEREBY CERTIFY that the above and foregoing resolution was passed by the Council of the said City of San Diego, at the time and by the vote, above stated.

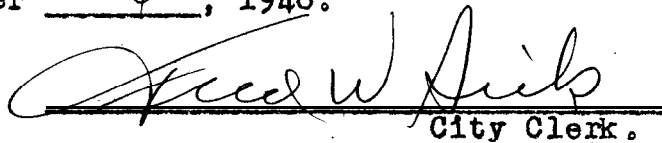
FRED W. SICK
City Clerk of the City of San Diego, California

(SEAL)

By Francis T. Tatten Deputy

I **HEREBY** CERTIFY the above to be a true, full and correct copy of a contract between the UNITED STATES OF AMERICA, represented by Chief of the Bureau of Yards and Docks, Navy Department, and THE CITY OF SAN DIEGO, entitled, "Contract NOy-13300, Construction and Lease of Aqueduct, (Riverside and San Diego Counties, California), bearing Document No. 356879 in the records of my office, which document was executed pursuant to the authority granted by the Council of The City of San Diego in Resolution No. 81910.

Dated: November 26, 1946.


City Clerk.

10938
Res 3621

THE METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA

306 WEST THIRD STREET
LOS ANGELES, CALIFORNIA

December 13, 1946

ANAHEIM
BEVERLY HILLS
BURBANK
COMPTON
FULLERTON
GLENDALE
LONG BEACH
LOS ANGELES
PASADENA
SAN MARINO
SANTA ANA
TORRANCE
COASTAL MUNICIPAL
WATER DISTRICT



JAMES H. HOWARD
GENERAL COUNSEL
CHARLES C. COOPER JR.
ALAN PATTEN
ATTORNEYS

FILED by order
of the Board of Directors of
The Metropolitan Water District
of Southern California
at its meeting held Dec 13, 1946
A. L. Gram
Executive Secretary

Board of Directors
The Metropolitan Water District
of Southern California
Building

Gentlemen:

I am transmitting herewith the following documents relative to the annexation of the corporate area of San Diego County Water Authority to The Metropolitan Water District of Southern California:

1. "CERTIFICATE OF THE PROCEEDINGS OF THE SAN DIEGO COUNTY WATER AUTHORITY IN RELATION TO THE ANNEXATION OF ITS CORPORATE AREA TO THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA, THE APPROVAL OF THE ASSIGNMENT TO THE AUTHORITY AND THE ACCEPTANCE BY IT OF THE CONTRACT FOR THE ACQUISITION OF THE SAN JACINTO-SAN VICENTE AQUEDUCT, AND THE INCURRING OF A BONDED INDEBTEDNESS FOR THE CONSTRUCTION OF WATERWORKS", issued by the Secretary of the Authority and dated November 29, 1946.
2. Certified copy of Resolution No. 84575, entitled "A RESOLUTION DECLARING THE RESULT OF THE MUNICIPAL SPECIAL ELECTION HELD IN THE CITY OF SAN DIEGO, CALIFORNIA, ON TUESDAY, THE 5TH DAY OF NOVEMBER, 1946, UPON TWO PROPOSITIONS AUTHORIZING THE TRANSFER AND ASSIGNMENT TO THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA OF THE CITY'S RIGHTS TO THE WATERS OF THE COLORADO RIVER, AND AUTHORIZING THE TRANSFER AND ASSIGNMENT TO THE SAN DIEGO COUNTY WATER AUTHORITY OF THE CITY'S RIGHTS IN THE LEASE-CONTRACT OF THE NAVY AQUEDUCT", adopted by the Council of The City of San Diego on November 19, 1946.
3. A copy of each of the following contracts as executed by the respective parties thereto and certified by the City Clerk of The City of San Diego to be a true and correct copy of the respective contract as shown by the executed counterpart thereof on file in his office; namely:

"Navy Department Bureau of Yards and Docks Contract NOy-13300 with the City of San Diego Construction and Lease of Aqueduct (Riverside and San Diego Counties, California)";

"NOy-13300 Supplemental Agreement No. 1 between United States of America The City of San Diego and San Diego County Water Authority";

"Navy Department Bureau of Yards and Docks Supplemental Agreement No. 2 Modification of Contract NOy-13300 with The City of San Diego, California";

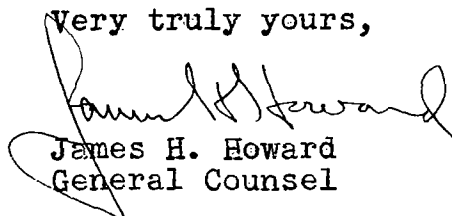
"Contract Merging Rights of The City of San Diego and The Metropolitan Water District of Southern California Under Contracts with the United States Dated February 15, 1933, and April 24, 1930 (Amended September 28, 1931), Respectively".

These documents show compliance with the terms and conditions which, under Resolution No. 3612 of your Board, consenting to this annexation, must be met at this time, to complete the annexation, which will occur upon the filing of the necessary certificates.

Submitted herewith is draft of resolution reciting the presentation to your Board of these documents, finding and determining that the respective propositions have received the affirmative vote of a majority of the electors voting thereon at the elections called and held for the purpose, further finding and determining that the necessary contracts have been entered into and that the required acts have occurred to enable the annexation to be completed, ordering the filing in the office of the Secretary of this Board of the certificate issued by the Secretary of San Diego County Water Authority and of the certified copy of the resolution of the Council of the City of San Diego, ordering the filing in the office of the Controller of the copies of the contracts, and directing the Secretary of this Board, who is sometimes known as Secretary of this District, to make and file in the proper offices, the Certificate of Proceedings and the further certificates, statements, and affidavits, necessary to make such annexation effectual for all purposes.

It is recommended that this resolution be adopted.

Very truly yours,



James H. Howard
General Counsel

RESOLUTION NO. 3621

Executive Secretary

WHEREAS, there has been presented to the Board of Directors of The Metropolitan Water District of Southern California, on this 13th day of December, 1946, the "CERTIFICATE OF THE PROCEEDINGS OF THE SAN DIEGO COUNTY WATER AUTHORITY IN RELATION TO THE ANNEXATION OF ITS CORPORATE AREA TO THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA, THE APPROVAL OF THE ASSIGNMENT TO THE AUTHORITY AND THE ACCEPTANCE BY IT OF THE CONTRACT FOR THE ACQUISITION OF THE SAN JACINTO-SAN VICENTE AQUEDUCT, AND THE INCURRING OF A BONDED INDEBTEDNESS FOR THE CONSTRUCTION OF WATERWORKS", issued by the Secretary of said San Diego County Water Authority under date of November 29, 1946, which "Certificate of the Proceedings of the San Diego County Water Authority" contains: 1) the certification by the governing body of said San Diego County Water Authority of the result of the election held on November 5, 1946, in said San Diego County Water Authority, on the proposition to annex the corporate area of said San Diego County Water Authority to The Metropolitan Water District of Southern California, subject to the terms and conditions fixed by the Board of Directors of said The Metropolitan Water District of Southern California; and 2) the certification by said governing body of said San Diego County Water Authority of the result of the election held on said 5th day of November, 1946, in said San Diego County Water Authority, on the proposition to authorize the acceptance of the rights and the assumption by said San Diego County Water Authority of the obligations transferred to said San Diego County Water Authority by the assignment by The City of San Diego of the contract dated October 17, 1945 (NOY-13300) between the United States of America and said City of San Diego, in accordance with the Assignment Contract designated "NOY-13300 Supplemental Agreement No. 1 between United States of America The City of San Diego and San Diego County Water Authority"; and

WHEREAS, there has been presented to the Board of Directors of The Metropolitan Water District of Southern California, on this 13th day of December, 1946, a certified copy of Resolution No. 84575, entitled "A RESOLUTION DECLARING THE RESULT OF THE MUNICIPAL SPECIAL ELECTION HELD IN THE CITY OF SAN DIEGO, CALIFORNIA, ON TUESDAY, THE 5TH DAY OF NOVEMBER, 1946, UPON TWO PROPOSITIONS AUTHORIZING THE TRANSFER AND ASSIGNMENT TO THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA OF THE CITY'S RIGHTS TO THE WATERS OF THE COLORADO RIVER, AND AUTHORIZING THE TRANSFER AND ASSIGNMENT TO THE SAN DIEGO COUNTY WATER AUTHORITY OF THE CITY'S RIGHTS IN THE LEASE-CONTRACT OF THE NAVY AQUEDUCT", adopted by the Council of The City of San Diego on November 19, 1946; and

WHEREAS, on this 13th day of December, 1946, there has been presented to the Board of Directors of The Metropolitan Water District of Southern California, a copy of each of the following contracts, as executed by the respective parties thereto, each such copy having been certified by the City Clerk of the said City of San Diego to be a true and correct copy of the respective contract, as shown by said City's executed counterpart thereof on file in the office of said City Clerk, and copies of the authorizing resolutions of the governing bodies of the parties (other than the United States) executing the respective contract being attached to said copy, the said contracts being entitled as follows:

"Navy Department Bureau of Yards and Docks Contract NOY-13300 with The City of San Diego Construction and Lease of Aqueduct (Riverside and San Diego Counties, California)";

"NOy-13300 Supplemental Agreement No. 1 between United States of America The City of San Diego and San Diego County Water Authority";

"Navy Department Bureau of Yards and Docks Supplemental Agreement No. 2 Modification of Contract NOy-13300 with The City of San Diego, California";

"Contract Merging Rights of The City of San Diego and The Metropolitan Water District of Southern California Under Contracts with the United States Dated February 15, 1933, and April 24, 1930 (Amended September 28, 1931), Respectively";

NOW, THEREFORE, BE IT FOUND, DETERMINED, AND RESOLVED, by the Board of Directors of The Metropolitan Water District of Southern California, as follows:

1. That the governing body of San Diego County Water Authority has certified to this Board of Directors the result of the election held on November 5, 1946, in said San Diego County Water Authority, on the proposition to annex the corporate area of said San Diego County Water Authority to said The Metropolitan Water District of Southern California, subject to the terms and conditions fixed by the Board of Directors of said The Metropolitan Water District of Southern California;

2. That it appears from said certification by said governing body of said San Diego County Water Authority that said proposition for the annexation of the corporate area of said San Diego County Water Authority to said The Metropolitan Water District of Southern California received the affirmative vote of a majority of the electors of said San Diego County Water Authority voting thereon at said election;

3. That the governing body of said San Diego County Water Authority has certified to this Board of Directors the result of the election held on November 5, 1946, in said San Diego County Water Authority, concurrently with the aforesaid annexation election, on the proposition to authorize the acceptance of the rights and the assumption by said San Diego County Water Authority of the obligations transferred to said San Diego County Water Authority by the assignment by The City of San Diego of the contract dated October 17, 1945 (NOy-13300) between the United States of America and said City of San Diego, in accordance with the Assignment Contract designated "NOy-13300 Supplemental Agreement No. 1 between United States of America The City of San Diego and San Diego County Water Authority";

4. That it appears from said certification by said San Diego County Water Authority that said proposition in the next preceding paragraph hereof mentioned received the affirmative vote of a majority of the qualified electors of said San Diego County Water Authority voting thereon at said election;

5. That the Council of The City of San Diego has declared the results of the election held on November 5, 1946, in the said City of San Diego, concurrently with

the holding within said San Diego County Water Authority of the aforesaid annexation election: 1) on the proposition to authorize the transfer and assignment to The Metropolitan Water District of Southern California by The City of San Diego of its rights and obligations under the Water Delivery Contract between the United States and The City of San Diego dated February 15, 1933, relating to the waters of the Colorado River; and 2) on the proposition to authorize the transfer and assignment to the San Diego County Water Authority of the rights and obligations of The City of San Diego under the contract dated October 17, 1945 (NOy-13300) between the United States of America and The City of San Diego (the Lease-Contract), except said 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 non-discriminatory rates, and on condition that if the San Diego County Water Authority shall cease to be a portion of the corporate area of The Metropolitan Water District of Southern California, said Lease-Contract shall revert to the City, subject to all modifications, defaults or acts of the San Diego County Water Authority affecting said Lease-Contract;

6. That it appears from said declaration by said Council of said City of San Diego that each of said propositions in the next preceding paragraph hereof mentioned received the affirmative vote of a majority of the qualified electors of said City of San Diego voting thereon at said election;

7. That prior to the date, to wit: November 5, 1946, upon which the question of annexation of the corporate area of the San Diego County Water Authority to The Metropolitan Water District of Southern California, subject to the terms and conditions fixed by the Board of Directors of said The Metropolitan Water District of Southern California, was submitted to the electors of said San Diego County Water Authority, that certain contract entitled "Contract Merging Rights of The City of San Diego and The Metropolitan Water District of Southern California Under Contracts with the United States Dated February 15, 1933, and April 24, 1930 (Amended September 28, 1931), Respectively", was entered into and executed by the parties named therein and was approved by the Board of Supervisors of the County of San Diego;

8. That prior to the date, to wit: November 5, 1946, upon which the question of annexation of the corporate area of the San Diego County Water Authority to The Metropolitan Water District of Southern California, subject to the terms and conditions fixed by the Board of Directors of said The Metropolitan Water District of Southern California, was submitted to the electors of said San Diego County Water Authority, that certain contract entitled "NOy-13300 Supplemental Agreement No. 1 between United States of America The City of San Diego and San Diego County Water Authority", being the contract by which said The City of San Diego transferred and assigned to said San Diego County Water Authority the rights and

obligations of said City of San Diego under the Lease-Contract, as hereinbefore in this resolution recited, was entered into and executed by the parties named therein;

9. That all terms and conditions required to be met and satisfied prior to completion of the annexation to The Metropolitan Water District of Southern California of the corporate area of San Diego County Water Authority, as fixed by the Board of Directors of said The Metropolitan Water District of Southern California in granting the application of the governing body of said San Diego County Water Authority for consent to annex the corporate area of San Diego County Water Authority to The Metropolitan Water District of Southern California, have been met and satisfied; and

BE IT FURTHER RESOLVED, by the Board of Directors of The Metropolitan Water District of Southern California, as follows:

1. That the aforesaid "Certificate of the Proceedings of the San Diego County Water Authority" and the aforesaid certified copy of Resolution No. 84575 of the Council of The City of San Diego be, and the same hereby are, ordered filed in the office of the Secretary of this Board of Directors;

2. That the aforesaid copies of contracts be, and the same hereby are, ordered filed in the office of the Controller of The Metropolitan Water District of Southern California, to wit:

Copy of each of the following contracts as executed by the respective parties thereto, certified by the City Clerk of The City of San Diego to be a true and correct copy of the respective contract, as shown by said City's executed counterpart thereof on file in the office of said City Clerk, together with the copies of authorizing resolutions attached to said copy, the said contracts being entitled as follows:

"Navy Department Bureau of Yards and Docks Contract NOy-13300 with The City of San Diego Construction and Lease of Aqueduct (Riverside and San Diego Counties, California)";

"NOy-13300 Supplemental Agreement No. 1 between United States of America The City of San Diego and San Diego County Water Authority";

"Navy Department Bureau of Yards and Docks Supplemental Agreement No. 2 Modification of Contract NOy-13300 with The City of San Diego, California";

"Contract Merging Rights of The City of San Diego and The Metropolitan Water District of Southern California Under Contracts with the United States Dated February 15, 1933, and April 24, 1930 (Amended September 28, 1931), Respectively"; and

BE IT FURTHER RESOLVED, by the Board of Directors of The Metropolitan Water District of Southern California, that the Secretary of this Board of Directors, sometimes known as Secretary of The Metropolitan Water District of Southern California, be, and he hereby is, directed, to make and file with the Secretary of State of the State of California a Certificate of Proceedings for the annexation of the corporate area of San Diego County Water Authority to The Metropolitan Water District of Southern California, and to make and file with the respective public officials in the respective public offices, all further certificates, statements, and affidavits, necessary to make such annexation effectual for all purposes, as required by the statutes in such cases made and provided.