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WESTLANDS WATER DISTRICT  
DISTRIBUTION DISTRICT NO. 1

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**COUNTY OF FRESNO, CENTRAL DIVISION**

WESTLANDS WATER DISTRICT  
DISTRIBUTION DISTRICT NO. 1, a  
distribution district in a California Water  
District,

Plaintiff,

v.

ALL PERSONS INTERESTED IN THE  
MATTER OF THE CONTRACTS  
BETWEEN THE UNITED STATES AND  
WESTLANDS WATER DISTRICT  
DISTRIBUTION DISTRICT NO. 1  
PROVIDING FOR PROJECT WATER  
SERVICE AND FACILITIES REPAYMENT,

Defendants.

Case No. **20CECG01011**

**WESTLANDS WATER DISTRICT  
DISTRIBUTION DISTRICT NO. 1'S  
COMPLAINT FOR VALIDATION  
JUDGMENT**

[Code Civ. Proc. § 860, et seq.]

1 Plaintiff WESTLANDS WATER DISTRICT DISTRIBUTION DISTRICT NO. 1  
2 ("District") alleges as follows:

3 **Introduction**

4 1. The District files this action seeking a validation judgment, pursuant to Code of Civil  
5 Procedure section 860, et seq., Water Code sections 35855 and 36520, and Government Code  
6 section 53510, et seq., as to four separate contracts between the United States and Westlands Water  
7 District Distribution District No. 1 providing for Central Valley Project ("CVP" or "Project") water  
8 service and facilities repayment, which the District Board of Directors, on January 21, 2020,  
9 approved in substantially the form presented to it and authorized their execution and delivery as set  
10 forth in Resolution Nos. 101-20, 102-20, 103-20 and 104-20 (collectively "Converted Contracts").  
11 True and correct copies of Resolution Nos. 101-20, 102-20, 103-20 and 104-20 (collectively  
12 "Resolutions") and the Converted Contracts, as attached to the Resolutions, are attached hereto at  
13 Exhibits A through D, respectively, and are incorporated herein by this reference.

14 2. This validation action is brought in this Court under Code of Civil Procedure section  
15 860 as a special in rem proceeding for judicial examination, approval, and confirmation of the  
16 proceedings leading up to and including the adoption of the Resolutions and resulting approval of  
17 the Converted Contracts as set forth in the Resolutions. The terms of each of the Converted Contracts  
18 require the institution of this validation action.

19 3. All such proceedings by and for the District related to the approval of the Converted  
20 Contracts, as set forth herein, were, and are, in the best interests of the District and all interested  
21 parties, and were, and are, in all respects legal and valid, and the Converted Contracts are in all  
22 respects valid under applicable California law.

23 **Parties**

24 4. The District is, and at all times relevant has been, a public agency within the meaning  
25 of Code of Civil Procedure section 860.

26 5. The District is, and at all times relevant has been, a distribution district in a California  
27 Water District duly organized and existing under and by virtue of the California Water District Law  
28 (Part 6.5 of Division 13 of the California Water Code, at section 36460, et seq.). The District is

located within Fresno and Kings counties, California, and the District's principal office is located in Fresno, California.

6. The Defendants named herein as "ALL PERSONS INTERESTED IN THE MATTER OF THE CONTRACTS BETWEEN THE UNITED STATES AND WESTLANDS WATER DISTRICT DISTRIBUTION DISTRICT NO. 1 PROVIDING FOR PROJECT WATER SERVICE AND FACILITIES REPAYMENT" are all interested parties pursuant to Section 861 of the Code of Civil Procedure and are therefore sued by such designation.

## **Jurisdiction and Venue**

7. Jurisdiction resides in this Court pursuant to Code of Civil Procedure section 860, Water Code sections 35407, 35408, 35855 and 36520, and Government Code section 53510, et seq.

8. Venue resides in this Court pursuant to Code of Civil Procedure section 860 since the District's principal office is located in Fresno, California.

### **Publication of the Summons**

9. *The Business Journal* and the *Hanford Sentinel* are newspapers published, and are of general circulation, in the County of Fresno and the County of Kings, respectively, and publication of the Summons in these newspapers is consistent with the provisions of Code of Civil Procedure section 861. The Court should therefore order publication of the Summons in said newspapers pursuant to Code of Civil Procedure section 861. The District is informed and believes, and thereon alleges, that the proceedings held herein and the adoption of the Resolutions are of general knowledge to the persons affected thereby or interested therein. The other reasonably practicable manners of providing notice are: (1) notice mailed and/or emailed to District landowners and water users; and (2) notice posted on the Westlands Water District's website. Therefore, the Court should also order that the District mail and/or email the Summons to the District landowners and water users in the same manner the District customarily provides notice to landowners and water users regarding District activities, and order the District to post the Summons on the Westlands Water District's website.

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**Factual Background**

10. The United States constructed and operates the CVP for diversion, storage, carriage, distribution, and beneficial use, for flood control, irrigation, municipal, domestic, industrial, fish and wildlife mitigation, protection and restoration, generation and distribution of electric energy, salinity control, navigation, and other beneficial uses, of waters of the Sacramento River, the American River, the Trinity River, and the San Joaquin River and their tributaries.

**A. Mercy Springs Water District Contract**

11. On or about September 28, 1959, the Mercy Springs Water District ("MSWD") entered into a contract for water service with the United States, Contract No. 14-06-200-3365 ("MSWD Contract"), which provided for the delivery to the MSWD of water diverted through CVP facilities.

12. Upon the expiration of the original MSWD Contract, MSWD and the United States entered into successive interim renewal contracts providing for water service including Contract No. 14-06-200-3365A-IR8 ending on February 28, 2006.

13. On or about May 14, 1999, the District, MSWD, Santa Clara Valley Water District ("SCVWD") and Pajaro Valley Water Management Agency ("PVWMA") and the United States entered into an agreement for partial assignment (Assignment Contract 14-06-200-3365A-IR5-B) of MSWD's water service contract. Under this assignment, MSWD assigned its right, title and interest to 6,260 acre-feet of its water service contract to the District, SCVWD and PVWMA.

14. The District, SCVWD and PVWMA have entered into successive interim renewal contracts with the United States providing for water service, including most recently Contract No. 14-06-200-3365A-IR17-B, between the United States, the District and SCVWD, ending on February 28, 2022, or until the applicable Converted Contract is in place.

15. PVWMA is not included in the new converted contract authorized by the District through Resolution No. 101-20, pursuant to the terms of the assignment agreement, since it never exercised the rights PVWMA was accorded under the assignment agreement.

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1           **B.       Centinella Water District Contract**

2           16.     On or about July 8, 1977, the Centinella Water District ("CWD") entered into a  
3 contract for water service with the United States, Contract No. 7-07-20-W0055 ("CWD Contract"),  
4 which provided for the delivery to the CWD of water diverted through CVP facilities.

5           17.     Upon the expiration of the original 1977 Contract, CWD and the United States  
6 entered into successive interim renewal contracts providing for water service including Contract No.  
7 7-07-20-W0055-IR8 ending on February 28, 2006.

8           18.     On or about November 9, 2004, the District, CWD and the United States entered into  
9 an agreement for assignment (Assignment Contract 7-07-20-W0055-IR8-B) of CWD's water service  
10 contract. Under this assignment, CWD assigned its right, title and interest to 2,500 acre-feet of its  
11 water service contract to the District.

12          19.     The District has entered into successive interim renewal contracts with the United  
13 States for water service based upon the assignment of the CWD water service contract, including  
14 most recently Contract No. 07-07-20-W0055-IR17-B ending on February 28, 2022, or until the  
15 applicable Converted Contract is in place.

16           **C.       Widren Water District Contract**

17          20.     On or about June 21, 1967, the Widren Water District ("WWD") entered into a  
18 contract for water service with the United States, Contract No. 14-06-200-8018 ("WWD Contract"),  
19 which provided for the delivery to the WWD of water diverted through CVP facilities.

20          21.     Upon the expiration of the original WWD Contract, WWD and the United States  
21 entered into successive interim renewal contracts providing for water service including Contract No.  
22 14-06-200-8018-IR8 ending on February 28, 2006.

23          22.     On or about May 27, 2005, the District, WWD and the United States entered into an  
24 agreement for assignment (Assignment Contract 14-06-200-8018-IR8-B) of WWD's water service  
25 contract. Under this assignment, WWD assigned its right, title and interest to 2,990 acre-feet of its  
26 water service contract to the District.

27          23.     The District has entered into successive interim renewal contracts with the United  
28 States for water service based upon the assignment of the WWD contract, including most recently

Contract No. 14-06-200-8018-IR17-B ending on February 28, 2022, or until the applicable  
Converted Contract is in place.

**D. Broadview Water District**

24. On or about November 27, 1959, the Broadview Water District ("BWD") entered  
into a contract for water service with the United States, Contract No. 14-06-200-8092, as amended  
May 15, 1963 ("BWD Contract"), which provided for the delivery to the BWD of water diverted  
through CVP facilities.

25. Upon the expiration of the original 1959 Contract, as amended, BWD and the United  
States entered into successive interim renewal contracts providing for water service including  
Contract No. 14-06-200-8092-IR9 ending on February 28, 2007.

26. On or about March 1, 2007, the District, BWD and the United States entered into an  
agreement for assignment (Assignment Contract 14-06-200-8092-IR9) of BWD's water service  
contract. Under this assignment, WWD assigned its right, title and interest to 27,000 acre-feet of  
its water service contract to the District.

27. The District has entered into successive interim renewal contracts with the United  
States for water service based upon the assignment of the BWD contract, including most recently  
Contract No. 14-06-200-8092-IR17 ending on February 28, 2022, or until the applicable Converted  
Contract is in place.

**E. WIIN Act**

28. On or about December 16, 2016, the 114th Congress of the United States of America  
enacted the Water Infrastructure Improvements for the Nation Act (Pub. L. 114-322, 130 Stat. 1628)  
("WIIN Act"). Section 4011(a)(1) of the WIIN Act provides that: "upon request of the contractor,  
the Secretary of the Interior shall convert any water service contract in effect on the date of  
enactment of this subtitle and between the United States and a water users' association [Contractor]  
to allow for prepayment of the repayment contract pursuant to paragraph (2) under mutually  
agreeable terms and conditions."

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1           **F.       Converted Contracts**

2           29.       Pursuant to, and consistent with, the WIIN Act, the District requested that the United  
3 States convert the District's existing interim renewal contracts to repayment contracts. The United  
4 States and the District subsequently negotiated terms and conditions to convert the District's existing  
5 interim renewal contracts to repayment contracts, and those terms and conditions are reflected in  
6 the Converted Contracts. The Converted Contracts also reflect the current standard terms and  
7 conditions required by the Reclamation Manual, and continue water service to the District in the  
8 same scope and nature of the ongoing CVP and its existing facilities.

9           30.       The specific Converted Contracts are: (1) Contract No. 14-06-200-3365A-XXX-B,  
10 entitled "Contract Between the United States and Santa Clara Valley Water District and Westlands  
11 Water District Distribution District No. 1 Providing for Project Water Service and Facilities  
12 Repayment," based upon the water assigned under the MSWD Contract and the subject of  
13 Resolution No. 101-20 ("MSWD Assignment Converted Contract"); (2) Contract No. 7-02-30-  
14 W0055-XXX, entitled "Contract Between the United States and Westlands Water District  
15 Distribution District No. 1 Providing for Project Water Service and Facilities Repayment," based  
16 upon the water assigned under the CWD Contract and the subject of Resolution No. 102-20 ("CWD  
17 Assignment Converted Contract"); (3) Contract No. 14-06-200-8018-XXX, entitled "Contract  
18 Between the United States and Westlands Water District Distribution District No. 1 Providing for  
19 Project Water Service and Facilities Repayment," based upon the water assigned under the WWD  
20 Contract and the subject of Resolution No. 103-20 ("WWD Assignment Converted Contract"); and  
21 (4) Contract No. 14-06-200-8092-XXX, entitled "Contract Between the United States and  
22 Westlands Water District Distribution District No. 1 Providing for Project Water Service and  
23 Facilities Repayment," based upon water assigned under the BWD Contract and the subject of  
24 Resolution No. 104-20 ("BWD Assignment Converted Contract").

25           31.       Under the Converted Contracts, ongoing receipt and delivery of water to the District  
26 will continue with no expansion of service and no new facilities constructed because the District  
27 will deliver the water received under the Converted Contracts: (a) to lands within the District's  
28 boundaries for beneficial use and that have been in production, and (b) through existing facilities.

1           32.     Although the specific terms of the Converted Contracts are set forth within their text  
2 as incorporated herein, the following highlight some of the changes made:

3                   (a)     superfluous recitals in the existing interim renewal contracts were deleted and  
4 new recitals were added to explain the basis for the conversion;

5                   (b)     definitions were: (1) added to reflect new provisions required to convert the  
6 existing interim renewal contracts to repayment contracts, and (2) modified to reflect requirements  
7 of the Reclamation Manual;

8                   (c)     the terms of the existing interim renewal contracts were deleted and new text  
9 added that provides a new effective dates based upon the contract's execution, and for each of the  
10 contracts to continue so long as certain conditions are met;

11                   (d)     provisions, principally those related to rates, method of payment and  
12 repayment, were deleted, revised, and supplemented to reflect the payment obligation and mandates  
13 of the WIIN Act; and

14                   (e)     other provisions were deleted, revised, and supplemented to reflect text  
15 mandated by the Reclamation Manual.

16           33.     The District reviewed the terms and conditions of the Converted Contracts and found  
17 the form and content thereof to be acceptable to the District and appropriate for execution. The terms  
18 and conditions of the Converted Contracts are within the scope of the authority granted by the  
19 District's Board of Directors through the Resolutions, and consistent with, the District's powers and  
20 authorities under California Water District Law, including Water Code sections 35851, 35875 and  
21 36520.

22           34.     On January 21, 2020, at a duly noticed and regular meeting of the District's Board of  
23 Directors, the Board of Directors adopted the Resolutions. Prior to and at this meeting, the District  
24 complied with the Ralph M. Brown Act, Government Code section 54950, et seq. Prior to this  
25 meeting and in accord with the provisions of the Brown Act, the District, among other actions,  
26 timely posted on January 16, 2020, at its Fresno office, 3130 North Fresno Street, Fresno, CA  
27 93703, and at its 5-Points office, 23050 W. Mt. Whitney Avenue, Five Points, CA 93624, a written  
28 agenda for the January 21, 2020 meeting. This agenda described the Board of Directors' intent to

1 consider the adoption of the Resolutions, and provided interested parties with the opportunity to  
2 review and comment upon the proposed Resolutions and Converted Contracts. On January 16,  
3 2020, the District also timely distributed copies of the agenda and posted a copy of the agenda  
4 through a prominent direct link, on the Westlands Water District's website, at <https://wwd.ca.gov>,  
5 all in conformance with the provisions of the Ralph M. Brown Act, Government Code section  
6 54950, et seq. A true and correct copy of the agenda, as posted and distributed by the District, is  
7 attached hereto at Exhibit E, and is incorporated herein by reference.

8 35. Through the Board's adoption of the Resolutions, the Board: (a) authorized the filing  
9 of notices of statutory exemption and categorical exemption from the California Environmental  
10 Quality Act for approval of and authorization to execute the Converted Contracts; (b) authorized the  
11 approval, execution, and delivery of the Converted Contracts; and (c) authorized additional actions  
12 in furtherance thereof.

13 36. No case has been filed challenging the District's actions under the California  
14 Environmental Quality Act, and the time for filing any such action has now passed.

15 **First Cause of Action**

16 (Validation Action as to all Defendants re MSWD Assignment Converted Contract)

17 37. The District incorporates by reference, as though fully set forth herein, each and  
18 every paragraph alleged in this Complaint.

19 38. The District and the United States have agreed upon the terms of the MSWD  
20 Assignment Converted Contract, and the District's Board of Directors has duly approved and  
21 authorized the execution of the MSWD Assignment Converted Contract pursuant to Resolution No.  
22 101-20.

23 39. Such entry into and execution of the MSWD Assignment Converted Contract is  
24 authorized and consistent with the District's rights and powers under California Water District Law  
25 in order to help assure and safeguard an adequate water supply for the District and its landowners  
26 and water users.

27 40. The District therefore seeks a decree, pursuant to Code of Civil Procedure section  
28 860, et seq., determining that: (a) the District has, and at all times relevant has had, the authority to

1 enter into said MSWD Assignment Converted Contract, including as set forth in Water Code  
2 sections 35851, 35875 and 36520; (b) all of the proceedings of the District's approval of the MSWD  
3 Assignment Converted Contract were in all respects legal and valid and that the same are approved  
4 and confirmed; and (c) said MSWD Assignment Converted Contract, and each and every provision  
5 thereof, is in all respects valid under applicable California law.

6 **Second Cause of Action**

7 (Validation Action as to all Defendants re CWD Assignment Converted Contract)

8 41. The District incorporates by reference, as though fully set forth herein, each and  
9 every paragraph alleged in this Complaint.

10 42. The District and the United States have agreed upon the terms of the CWD  
11 Assignment Converted Contract, and the District's Board of Directors has duly approved and  
12 authorized the execution of the CWD Assignment Converted Contract pursuant to Resolution No.  
13 102-20.

14 43. Such entry into and execution of the CWD Assignment Converted Contract is  
15 authorized and consistent with the District's rights and powers under California Water District Law  
16 in order to help assure and safeguard an adequate water supply for the District and its landowners  
17 and water users.

18 44. The District therefore seeks a decree, pursuant to Code of Civil Procedure section  
19 860, et seq., determining that: (a) the District has, and at all times relevant has had, the authority to  
20 enter into said CWD Assignment Converted Contract, including as set forth in Water Code sections  
21 35851, 35875 and 36520; (b) all of the proceedings of the District's approval of the CWD  
22 Assignment Converted Contract were in all respects legal and valid and that the same are approved  
23 and confirmed; and (c) said CWD Assignment Converted Contract, and each and every provision  
24 thereof, is in all respects valid under applicable California law.

25 **Third Cause of Action**

26 (Validation Action as to all Defendants re WWD Assignment Converted Contract)

27 45. The District incorporates by reference, as though fully set forth herein, each and  
28 every paragraph alleged in this Complaint.

46. The District and the United States have agreed upon the terms of the WWD Assignment Converted Contract, and the District's Board of Directors has duly approved and authorized the execution of the WWD Assignment Converted Contract pursuant to Resolution No. 103-20.

47. Such entry into and execution of the WWD Assignment Converted Contract is authorized and consistent with the District's rights and powers under California Water District Law in order to help assure and safeguard an adequate water supply for the District and its landowners and water users.

48. The District therefore seeks a decree, pursuant to Code of Civil Procedure section 860, et seq., determining that: (a) the District has, and at all times relevant has had, the authority to enter into said WWD Assignment Converted Contract, including as set forth in Water Code sections 35851, 35875 and 36520; (b) all of the proceedings of the District's approval of the WWD Assignment Converted Contract were in all respects legal and valid and that the same are approved and confirmed; and (c) said WWD Assignment Converted Contract, and each and every provision thereof, is in all respects valid under applicable California law.

### **Fourth Cause of Action**

(Validation Action as to all Defendants re BWD Assignment Converted Contract)

49. The District incorporates by reference, as though fully set forth herein, each and every paragraph alleged in this Complaint.

50. The District and the United States have agreed upon the terms of the BWD Assignment Converted Contract, and the District's Board of Directors has duly approved and authorized the execution of the BWD Assignment Converted Contract pursuant to Resolution No. 104-20.

51. Such entry into and execution of the BWD Assignment Converted Contract is authorized and consistent with the District's rights and powers under California Water District Law in order to help assure and safeguard an adequate water supply for the District and its landowners and water users.

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1           52.     The District therefore seeks a decree, pursuant to Code of Civil Procedure section  
2 860, et seq., determining that: (a) the District has, and at all times relevant has had, the authority to  
3 enter into said BWD Assignment Converted Contract, including as set forth in Water Code sections  
4 35851, 35875 and 36520; (b) all of the proceedings of the District's approval of the BWD  
5 Assignment Converted Contract were in all respects legal and valid and that the same are approved  
6 and confirmed; and (c) said BWD Assignment Converted Contract, and each and every provision  
7 thereof, is in all respects valid under applicable California law.

8           WHEREFORE, the District prays for judgment as follows:

9           1.     That this action is properly brought under Code of Civil Procedure section 860, et  
10 seq., Water Code sections 35407, 35408, 35855 and 36520, and Government Code section 53510,  
11 et seq., and is a proper procedure to determine the validity of the Converted Contracts, and each of  
12 them, and all of the other proceedings described in this Complaint;

13           2.     That the District is a distribution district in a California water district, duly organized  
14 and existing under, and by virtue of, the California Water District Law (Part 6.5 of Division 13 of  
15 the California Water Code, at section 36460, et seq.), lying within the counties of Fresno and Kings,  
16 State of California, and is a public agency of the State of California;

17           3.     That judgment be entered determining that all persons having, or claiming to have,  
18 any interest in the Converted Contracts, and each of them, and the proceedings leading up to and  
19 including the making and approval of said Converted Contracts, and each of them, and the validity  
20 of the provisions thereof, and any landowner or water user in said District and any interested person,  
21 have each and all been duly served with process and summoned to appear and answer the complaint  
22 of the District herein by the publication of the Summons pursuant to Code of Civil Procedure section  
23 861 and Government Code section 6063, and other means found reasonably practicable by the  
24 Court, all in compliance with the law and pursuant to the order of the Court, that said publication  
25 was for the time and in the form and manner in all respects as required by law;

26           4.     That judgment be entered determining that: (a) that the District has, and at all times  
27 relevant has had, the authority to enter into said Converted Contracts, and each of them, under  
28 California Water District Law, including Water Code sections 35851, 35875 and 36520; (b) that all



1 of the proceedings to the District's approval of said Converted Contracts, and each of them, were in  
2 all respects legal and valid and the same are hereby approved and confirmed; and (c) that said  
3 Converted Contracts, and each of them, are in all respects valid under applicable California law;

4         5.       That, pursuant to Code of Civil Procedure section 870, the Court finds that the  
5 judgment as entered in this action be forever binding and conclusive as to all matters herein  
6 adjudicated and as to all matters which could have been adjudicated herein as to the validity and  
7 binding nature of the Converted Contracts, and each of them, against the District and against all  
8 other parties to this action, related to the matters described in paragraphs 1 through 4 hereof;

9         6.       That the Court provide in its judgment an appropriate injunction permanently  
10 enjoining and restraining each and every person from instituting any action or proceeding raising  
11 any issues as to the validity and binding nature of the Converted Contracts, and each of them, as to  
12 which the judgment is binding and conclusive pursuant to Code of Civil Procedure section 870; and

13         7.       For such other and further relief as the Court deems just and proper.  
14

15 Dated: March 18, 2020

KRONICK, MOSKOVITZ, TIEDEMANN & GIRARD  
A Professional Corporation

17  
18 By: \_\_\_\_\_



Daniel J. O'Hanlon  
William T. Chisum  
Attorneys for Plaintiff  
WESTLANDS WATER DISTRICT

**INDEX OF EXHIBITS**

- Exhibit A      Resolution No. 101-20, Westlands Water District Distribution District No. 1, A Resolution of the Board of Directors: Authorizing the Filing of Notices of Statutory Exemption and Categorical Exemption from the California Environmental Quality Act for Approval of and Authorization to Execute the Contract Between the United States and Westlands Water District Distribution District No. 1 Providing for Project Water Service and Facilities Repayment, Authorizing Approval, Execution, and Delivery of the Contract Between the United States and Westlands Water District Distribution District No. 1 Providing for Project Water Service and Facilities Repayment, and Authorizing Actions in Furtherance Thereof including attached Contract No.14-06-200-3365A-XXX-B, entitled "Contract Between the United States and Santa Clara Valley Water District and Westlands Water District Distribution District No. 1 Providing for Project Water Service and Facilities Repayment".
- Exhibit B      Resolution No. 102-20, Westlands Water District Distribution District No. 1, A Resolution of the Board of Directors: Authorizing the Filing of Notices of Statutory Exemption and Categorical Exemption from the California Environmental Quality Act for Approval of and Authorization to Execute the Contract Between the United States and Westlands Water District Distribution District No. 1 Providing for Project Water Service and Facilities Repayment, Authorizing Approval, Execution, and Delivery of the Contract Between the United States and Westlands Water District Distribution District No. 1 Providing for Project Water Service and Facilities Repayment, and Authorizing Actions in Furtherance Thereof including attached Contract No. Contract No. 7-02-30-W0055-XXX, entitled "Contract Between the United States and Westlands Water District Distribution District No. 1 Providing for Project Water Service and Facilities Repayment".
- Exhibit C      Resolution No. 103-20, Westlands Water District Distribution District No. 1, A Resolution of the Board of Directors: Authorizing the Filing of Notices of Statutory Exemption and Categorical Exemption from the California Environmental Quality Act for Approval of and Authorization to Execute the Contract Between the United States and Westlands Water District Distribution District No. 1 Providing for Project Water Service and Facilities Repayment, Authorizing Approval, Execution, and Delivery of the Contract Between the United States and Westlands Water District Distribution District No. 1 Providing for Project Water Service and Facilities Repayment, and Authorizing Actions in Furtherance Thereof including attached Contract No. 14-06-200-8018-XXX, entitled "Contract Between the United States and Westlands Water District Distribution District No. 1 Providing for Project Water Service and Facilities Repayment".
- Exhibit D      Resolution No. 104-20, Westlands Water District Distribution District No. 1, A Resolution of the Board of Directors: Authorizing the Filing of Notices of Statutory Exemption and Categorical Exemption from the California Environmental Quality Act for Approval of and Authorization to Execute the Contract Between the United States and Westlands Water District Distribution District No. 1 Providing for Project Water Service and Facilities Repayment, Authorizing Approval, Execution, and Delivery of the Contract Between the United States and Westlands Water District Distribution District No. 1 Providing for Project Water Service and Facilities Repayment, and Authorizing Actions in Furtherance Thereof including attached Contract No. 14-06-200-8092-XXX, entitled "Contract Between the United States and Westlands Water District Distribution District No. 1 Providing for Project Water Service and Facilities Repayment".

1 Exhibit E Westlands Water District Notice of Regular Meeting and Agenda Notice re  
2 January 21, 2020 meeting.  
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# **EXHIBIT A**

**RESOLUTION NO. 101-20**

**WESTLANDS WATER DISTRICT DISTRIBUTION DISTRICT NO. 1**

**A RESOLUTION OF THE BOARD OF DIRECTORS:**

**AUTHORIZING THE FILING OF NOTICE OF CATEGORICAL EXEMPTION FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FOR APPROVAL OF AND AUTHORIZATION TO EXECUTE THE CONTRACT BETWEEN THE UNITED STATES AND WESTLANDS WATER DISTRICT DISTRIBUTION DISTRICT NO. 1 PROVIDING FOR PROJECT WATER SERVICE AND FACILITIES REPAYMENT,**

**AUTHORIZING APPROVAL, EXECUTION, AND DELIVERY OF THE CONTRACT BETWEEN THE UNITED STATES AND WESTLANDS WATER DISTRICT DISTRIBUTION DISTRICT NO. 1 PROVIDING FOR PROJECT WATER SERVICE AND FACILITIES REPAYMENT, AND**

**AUTHORIZING ACTIONS IN FURTHERANCE THEREOF**

WHEREAS, Mercy Springs Water District (MSWD) entered into a contract for water service with the United States on September 28, 1959, Contract No. 14-06-200-3365 (the "Original Contract"), which provided for the delivery of up to 13,300 acre feet of water diverted through Central Valley Project facilities. Upon expiration of the Original Contract, MSWD entered into successive interim renewal contracts with the United States of America providing for water service, including Contract No. 14-06-200-3365A-IR8 ending on February 28, 2006; and

WHEREAS, on May 14, 1999, Pajaro Valley Water Management Agency, Santa Clara Valley Water District, Westlands Water District Distribution District No.1 (District), MSWD and the United States through the Bureau of Reclamation entered into an agreement for partial assignment (Assignment Contract 14-06-200-3365A-IR5-B) of MSWD's water service contract. Under this Assignment Contract, MSWD assigned its right, title and interest to 6,260 acre-feet of its water service contract to the District, Pajaro Valley Water Management Agency, and Santa Clara Valley Water District; and

WHEREAS, Pajaro Valley Water Management Agency, Santa Clara Valley Water District, and the District entered into successive interim renewal contracts with the United States of America providing for water service, including the current Contract No. 14-06-200-3365A-IR16-B (Existing Interim Renewal Contract) ending on February 29, 2020; and

WHEREAS, the United States has tendered a form of an interim renewal contract to the District, Renewal Contract No. 14-06-200-3365A-IR17-B, (Interim Renewal Contract) which provides for the delivery of water diverted through Central Valley Project facilities under terms that are substantially the same as the Existing Interim Renewal Contract, which if executed, would remain in effect through February 28, 2022; and

WHEREAS, on December 16, 2016, the 114th Congress of the United States of America enacted the Water Infrastructure Improvements for the Nation Act (Pub. L. 114-322, 130 Stat. 1628) (WIIN Act); and

WHEREAS, Section 4011(a)(1) of the WIIN Act provides that "upon request of the contractor, the Secretary of the Interior shall convert any water service contract in effect on the date of enactment of this subtitle and between the United States and a water users' association [Contractor] to allow for prepayment of the repayment contract pursuant to paragraph (2) under mutually agreeable terms and conditions."; and

WHEREAS, Section 4011(a)(1) further provides that "the manner of conversion under this paragraph shall be as follows: (A) Water service contracts that were entered into under section (e) of the Act of August 4, 1939 (53 Stat. 1196), to be converted under this section shall be converted to repayment contracts under section 9(d) of that Act (53 Stat. 1195)"; and "(B) Water service contracts that were entered under subsection (c)(2) of section 9 of the Act of August 4, 1939 (53 Stat. 1194), to be converted under this section shall be converted to a contract under subsection (c)(1) of section 9 of that Act (53 Stat. 1195)."; and

WHEREAS, Section 4011(a)(4)(C) provides all contracts entered into pursuant to Section 4011(a)(1), (2), and (3) shall "not modify other water service, repayment, exchange and transfer contractual rights between the water users' association [Contractor], and the Bureau of Reclamation, or any rights, obligations, or relationships of the water users' association [Contractor] and their landowners as provided under State law."; and

WHEREAS, Section 4011(d)(3) and (4) of the WIIN Act provides that "implementation of the provisions of this subtitle shall not alter... (3) the priority of a water service or repayment contractor to receive water; or (4) except as expressly provided in this section, any obligations under the Federal Reclamation law, including the continuation of Restoration Fund charges pursuant to section 3407(d) (Pub. L. 102-575), of the water service and repayment contractors making prepayments pursuant to this section."; and

WHEREAS, on or about April 23, 2018, pursuant to WIIN Act, 4011(a)(1), the District requested that United States Bureau of Reclamation initiate the process to convert its water service contract to a repayment contract.

WHEREAS, pursuant to and consistent with the WIIN Act, the United States, Santa Clara Valley Water District and the District negotiated terms and conditions that convert the Existing Interim Renewal Contract to a repayment contract, and those terms and conditions are reflected in the attached Converted Contract between the United States, Santa Clara Valley Water District and Westlands Water District Distribution District No. 1

providing for Project Water Service and Facilities Repayment, which is incorporated herein by this reference (Converted Contract); and

WHEREAS, the Converted Contract also reflects the current standard terms and conditions required by the Reclamation Manual; and

WHEREAS, the Converted Contract continues water service to the District and Santa Clara Valley Water District within established parameters, in the same scope and nature of the ongoing Central Valley Project and its existing facilities; and

WHEREAS, the United States has determined that the District and Santa Clara Valley Water District have fulfilled all of their obligations under the Existing Interim Renewal Contract; and

WHEREAS, the District and Santa Clara Valley Water District have demonstrated to the satisfaction of the Contracting Officer that they have utilized the Project Water supplies available to them for reasonable and beneficial use and expects to utilize fully for reasonable and beneficial use the quantity of Project Water to be made available to them pursuant to the Converted Contract; and

WHEREAS, water obtained from the Project has been relied upon by urban and agricultural areas within California for more than 50 years, and is considered by the District as an essential portion of its water supply; and

WHEREAS, the economies of regions within the Project, including the District's, depend upon the continued availability of water, including water service from the Project; and

WHEREAS, it is imperative to the District and its landowners that the District continue water service to lands within the District for beneficial use, and the District therefore proposes to enter into the Converted Contract; and

WHEREAS, under the Converted Contract, ongoing receipt and delivery of water will continue with no expansion of service and no new facilities constructed because the District will deliver the water received under the Converted Contract: (1) to lands within the District's boundaries for beneficial use and that have been in production, and (2) through existing facilities; and

WHEREAS, the District has reviewed the terms and conditions of the Converted Contract and finds the form and content thereof to be acceptable to the District and appropriate for execution; and

WHEREAS, the District maintains in its records copies of contracts, water delivery reports, crop information and other data supporting these factual findings.

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED as follows:

1. The facts set forth in the recitals above and in the documents referenced therein are true and correct, and the Board so finds and determines.
2. The Converted Contract will not create any effects specified in Title 14 of the California Code of Regulations, Section 15300.2.
3. Executing the Converted Contract is exempt from the California Environmental Quality Act based on its record of proceedings showing that the Converted Contract continues water service to the District within established parameters, in the same scope and nature of the ongoing Central Valley Project and its existing facilities; it involves no increase in existing service; and no new construction, expansion, or any modification to the existing distribution system; nor any change in the source of water to be delivered, or the uses to which such supplies will be put.
4. Execution of the Converted Contract is categorically exempt from compliance with the California Environmental Quality Act as provided in Title 14 of the California Code of Regulations, Section 15300 through 15333, with particular reference to Section 15301, because it merely provides for continued operation of existing facilities.
5. The District shall prepare and file a Notice of Exemption with the Clerks of Fresno and Kings Counties and the Office of Planning and Research (State Clearinghouse) as provided for in Title 14 of the California Code of Regulations, Section 15062(b), in substantially the forms attached hereto as Exhibit A.
6. The Converted Contract in substantially the form presented to the Board and on file with the Secretary is hereby approved.
7. The President of the District is hereby authorized to execute and deliver the Converted Contract in substantially the form attached hereto, with such additional changes and/or modifications as are approved by the President of the District, its General Manager, and its General Counsel.
8. The District's officers, staff, and consultants are authorized and directed to take all additional actions they deem necessary or appropriate in order to carry out the intent of this resolution.



9. A certified copy of this resolution shall be prepared and transmitted by the District's Secretary to the United States Bureau of Reclamation.

Adopted at a regular meeting of the Board of Directors, at Fresno, California, this 21st day of January, 2020.

AYES: Directors Anderson, Bourdeau, Coelho, Errotabere, Enos, Ferguson,  
Neves, Nunn and Peracchi

NOES: None

ABSENT: None



Bobbie Ormonde, District Secretary

## Notice of Exemption

## Appendix E

To: Office of Planning and Research  
P.O. Box 3044, Room 113  
Sacramento, CA 95812-3044

County Clerk

County of: Fresno

2221 Kern Street

Fresno, CA 93721

From: (Public Agency): Westlands Water District

P.O. Box 6056

Fresno, CA 93703-6056

(Address)

Project Title: Westlands Water District Distribution District No. 1 Central Valley Project Water Repayment Contract #14-06-200-3365A-XXX-B (Mercy Springs 2-way Partial Assignment Conversion to Repayment)

Project Applicant: Westlands Water District - Distribution District No. 1

Project Location - Specific:

Within the boundaries of the Westlands Water District

Project Location - City: Not Applicable Project Location - County: Fresno and Kings

Description of Nature, Purpose and Beneficiaries of Project:

The project is the execution of Contract #14-06-200-3365A-XXX-B (Mercy Springs 2-way Partial Assignment), which would convert Westlands Water District Distribution District No. 1's (District) existing water service contract to a repayment contract that provides the terms and conditions for water service with the United States Bureau of Reclamation (USBR) for the purpose of continuing delivery of Central Valley Project water within established parameters to lands within the District's existing service area boundary. The beneficiaries of the project are the District, its landowners, and water users. The USBR is a party to the tripartite agreement and as such is a recipient of the District's approval (Pub. Resources Code, §§21065, 21167.6.5). The project is entirely administrative in scope.

Name of Public Agency Approving Project: Westlands Water District - Distribution District No. 1

Name of Person or Agency Carrying Out Project: Westlands Water District - Distribution District No. 1

Exempt Status: **(check one):**

- ☐ Ministerial (Sec. 21080(b)(1); 15268);
- ☐ Declared Emergency (Sec. 21080(b)(3); 15269(a));
- ☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- ☒ Categorical Exemption. State type and section number: CEQA Guidelines, §15301
- ☐ Statutory Exemptions. State code number: \_\_\_\_\_

Reasons why project is exempt:

The project is also exempt under 14 CCR 15301 as it provides for the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use. The Project is wholly administrative in scope as the project involves no construction, alteration, or expansion of an existing use.

Lead Agency

Contact Person: Jose Gutierrez Area Code/Telephone/Extension: (559) 241-6215

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? ☒ Yes ☐ No

Signature: \_\_\_\_\_ Date: January 22, 2020 Title: Chief Operating Officer

☒ Signed by Lead Agency ☐ Signed by Applicant

Authority cited: Sections 21083 and 21110, Public Resources Code.  
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.

Date Received for filing at OPR: \_\_\_\_\_

## NOTICE OF EXEMPTION

Appendix E

To: ☒ Office of Planning and Research/State Clearinghouse  
P.O. Box 3044, 1400 Tenth Street, Room 222  
Sacramento, CA 95812-3044

☐ County Clerk/County Recorder  
County of Fresno  
2220 Tulare Street  
Fresno, CA 93721

☒ County Clerk/County Recorder  
County of Kings  
County Government Center  
1400 West Lacey Boulevard  
Hanford, CA 93230

From: ☒ Westlands Water District  
P.O. Box 6056  
Fresno, CA 93703

**Project Title:** Westlands Water District Distribution District No. 1 Central Valley Project Water Repayment Contract #14-06-200-3365A-XXX-B (Mercy Springs 2-way Partial Assignment Conversion to Repayment).

**Project Applicant:** Westlands Water District - Distribution District No. 1

**Project Location – Specific:** Within the boundaries of the Westlands Water District.

**Project Location – City:** Not Applicable

**Project Location – County:** Fresno and Kings

### Description of Nature, Purpose and Beneficiaries of Project:

The project is the execution of Contract #14-06-200-3365A-XXX-B (Mercy Springs 2-way Partial Assignment), which would convert Westlands Water District Distribution District No. 1's (District) existing water service contract to a repayment contract that provides the terms and conditions for water service with the United States Bureau of Reclamation (USBR) for the purpose of continuing delivery of Central Valley Project water within established parameters to lands within the District's existing service area boundary. The beneficiaries of the project are the District, its landowners, and water users. The USBR is a party to the trilateral agreement and as such is a recipient of the District's approval (Pub. Resources Code, §§21065, 21167.6.5). The project is entirely administrative in scope.

**Name of Public Agency Approving Project:** Westlands Water District - Distribution District No. 1

**Name of Person or Agency Carrying Out Project:** Westlands Water District - Distribution District No. 1

**Exempt Status:** (check one)

- ☐ Ministerial (Sec. 21080(b)(1); 15268);
- ☐ Declared Emergency (Sec. 21080(b)(3); 15269(a));
- ☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- ☒ Categorical Exemption. State type and section number: CEQA Guidelines, §15301
- ☐ Statutory Exemptions. State code number: \_\_\_\_\_

**Reasons why project is exempt:**

The project is also exempt under 14 CCR 15301 as it provides for the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use. The Project is wholly administrative in scope as the project involves no construction, alteration, or expansion of an existing use.

**Lead Agency**

**Contact Person:** Jose Gutierrez

**Area Code/Telephone/Extension:** (559) 241-6215

**If filed by applicant:**

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? ☒ YES ☐ NO

**Signature:** \_\_\_\_\_ **Date:** January 22, 2020 **Title:** Chief Operating Officer

☒ Signed by Lead Agency   ☒ Signed by Applicant

Authority cited: Sections 21083 and 21110, Public Resources Code.

Date Received for filing at OPR: \_\_\_\_\_

Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.

Revised 2011

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF RECLAMATION  
Central Valley Project, California

CONTRACT BETWEEN THE UNITED STATES  
AND  
SANTA CLARA VALLEY WATER DISTRICT AND  
WESTLANDS WATER DISTRICT DISTRIBUTION DISTRICT NO. 1  
PROVIDING FOR PROJECT WATER SERVICE  
AND FACILITIES REPAYMENT

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UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF RECLAMATION  
Central Valley Project California

CONTRACT BETWEEN THE UNITED STATES  
AND  
SANTA CLARA VALLEY WATER DISTRICT AND  
WESTLANDS WATER DISTRICT DISTRIBUTION DISTRICT NO. 1  
PROVIDING FOR PROJECT WATER SERVICE  
AND FACILITIES REPAYMENT

1        THIS CONTRACT, made this \_\_\_\_ day of \_\_\_\_\_ 20\_\_, in pursuance generally of  
2        the Act of June 17, 1902 (32 Stat. 388), and acts amendatory or supplementary thereto,  
3        including, but not limited to, the Acts of August 26, 1937 (50 Stat. 844), as amended and  
4        supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented, July 2, 1956 (70  
5        Stat. 483), June 21, 1963 (77 Stat. 68), October 12, 1982 (96 Stat. 1263), October 27, 1986 (100  
6        Stat. 3050), as amended Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706), as  
7        amended, and the Water Infrastructure Improvements for the Nation Act (Public Law 114-322,  
8        130 Stat. 1628), Section 4011 (a-d) and (f) ("WIIN Act"), all collectively hereinafter referred to  
9        as Federal Reclamation law, between THE UNITED STATES OF AMERICA, hereinafter  
10       referred to as the United States, and SANTA CLARA VALLEY WATER DISTRICT AND  
11       WESTLANDS WATER DISTRICT DISTRIBUTION DISTRICT NO. 1, hereinafter referred to  
12       as the Contractors, public agencies of the State of California, duly organized, existing, and acting  
13       pursuant to the laws thereof;

14       WITNESSETH, That:



EXPLANATORY RECITALS

[1<sup>st</sup>] WHEREAS, the United States has constructed and is operating the Central Valley Project, California, for diversion, storage, carriage, distribution, and beneficial use, for flood control, irrigation, municipal, domestic, industrial, fish and wildlife mitigation, protection and restoration, generation and distribution of electric energy, salinity control, navigation, and other beneficial uses, of waters of the Sacramento River, the American River, the Trinity River, and the San Joaquin River and their tributaries; and

[2<sup>nd</sup>] WHEREAS, the United States constructed the Delta-Mendota Canal and related facilities, hereinafter collectively referred to as the Delta Division facilities, which will be used in part for the furnishing of water to the Contractors pursuant to the terms of this Contract; and

[3<sup>rd</sup>] WHEREAS, the Mercy Springs Water District (District) and the United States entered into Contract No. 14-06-200-3365A, dated June 21, 1967, which provided the District, Central Valley Project water from the Delta-Mendota Canal from June 21, 1967 to February 28, 1995; and

[4<sup>th</sup>] WHEREAS, the United States and the District entered into Contracts No. 14-06-200-3365A-IR1 and 14-06-200-3365A-IR2, which provided for the continued water service to the District from March 1, 1995, through February 29, 2000; and

[5<sup>th</sup>] WHEREAS, the District assigned to the Contractors and Pajaro Valley Water Management Agency on May 14, 1999, the right, title, and interest in that portion of Contract No. 14-06-200-3365A-IR2 consisting of 6,260 acre-feet of the entitlement of the Project Water including any rights to renew Contract No. 14-06-200-3365A-IR2 for the entitlement; and

[6<sup>th</sup>] WHEREAS, the Contractors and Pajaro Valley Water Management Agency entered into a separate agreement on May 14, 1999, stating their terms and conditions for sharing the assigned Project Water supply; and



[7<sup>th</sup>] WHEREAS, the United States and the Contractors and Pajaro Valley Water Management Agency entered into Contract Number 14-06-200-3365A-IR3-B and subsequent Interim Renewal Contracts 14-06-200-3365A-IR4-B through 14-06-200-3365A-IR16-B, the last of which is hereinafter referred to as the “Existing Contract”, which established terms for the delivery of Project Water to the Contractors from the Delta Division, and which was in effect the date the WIIN Act was enacted; and

[8<sup>th</sup>] WHEREAS, Project Water has never been delivered to Pajaro Valley Water Management Agency pursuant to the Existing Contract, and on July 26, 2019, the Contracting Officer received a letter (Exhibit C) from the General Manager of Pajaro Valley Water Management Agency withdrawing its interest in Contract No. 14-06-200-3365A-IR3-B and all successive renewals; and

[9<sup>th</sup>] WHEREAS, on December 16, 2016, the 114th Congress of the United States of America enacted the WIIN Act; and

[10<sup>th</sup>] WHEREAS, Section 4011(a)(1) provides that “upon request of the contractor, the Secretary of the Interior shall convert any water service contract in effect on the date of enactment of this subtitle and between the United States and a water users’ association [Contractors] to allow for prepayment of the repayment contract pursuant to paragraph (2) under mutually agreeable terms and conditions.”; and

[11<sup>th</sup>] WHEREAS, Section 4011(a)(1) further provides that “the manner of conversion under this paragraph shall be as follows: (A) Water service contracts that were entered into under section (e) of the Act of August 4, 1939 (53 Stat. 1196), to be converted under this section shall be converted to repayment contracts under section 9(d) of that Act (53 Stat. 1195)”; and “(B) Water service contracts that were entered under subsection (c)(2) of section 9 of the Act of

August 4, 1939 (53 Stat. 1194), to be converted under this section shall be converted to a contract under subsection (c)(1) of section 9 of that Act (53 Stat. 1195).”; and

[12<sup>th</sup>] WHEREAS, Section 4011(a)(4)(C) further provides all contracts entered into pursuant to Section 4011(a)(1), (2), and (3) shall “not modify other water service, repayment, exchange, and transfer contractual rights between the water users’ association [Contractors], and the Bureau of Reclamation, or any rights, obligations, or relationships of the water users’ association [Contractors] and their landowners as provided under State law.”; and

[13<sup>th</sup>] WHEREAS, Section 4011(d)(3) and (4) of the WIIN Act provides that “implementation of the provisions of this subtitle shall not alter...(3) the priority of a water service or repayment contractor to receive water; or (4) except as expressly provided in this section, any obligations under the Federal Reclamation law, including the continuation of Restoration Fund charges pursuant to section 3407(d) (Pub. L. 102-575), of the water service and repayment contractors making prepayments pursuant to this section.”; and

[14<sup>th</sup>] WHEREAS, upon the request of the Contractors, the WIIN Act directs the Secretary to convert irrigation water service contracts and Municipal and Industrial (M&I) water service contracts into repayment contracts, amend existing repayment contracts, and allow contractors to prepay their construction cost obligations pursuant to applicable Federal Reclamation law; and

[15<sup>th</sup>] WHEREAS, the United States has determined that the Contractors have to date fulfilled all of its obligations under the Existing Contract; and

[16<sup>th</sup>] WHEREAS, the Contracting Officer has determined that the Contractors have the capability to fully utilize for reasonable and beneficial use, or shown projected future reasonable

and beneficial use for, the quantity of Project Water to be made available to it pursuant to this Contract; and

[17<sup>th</sup>] WHEREAS, the Contracting Officer and the Contractors agree that this Contract complies with Section 4011 of the WIIN Act; and

[18<sup>th</sup>] WHEREAS, the Contracting Officer and the Contractors agree to amend and convert the Existing Contract pursuant to section 4011 of the WIIN Act and other Federal Reclamation law on the terms and conditions set forth below;

NOW, THEREFORE, in consideration of the mutual and dependent covenants herein contained, it is hereby mutually agreed by the parties hereto as follows:

DEFINITIONS

1. When used herein unless otherwise distinctly expressed, or manifestly incompatible with the intent of the parties as expressed in this Contract, the term:

(a) "Additional Capital Obligation" shall mean construction costs or other capitalized costs incurred after the effective date of Contract or not reflected in the Existing Capital Obligation as defined herein and in accordance with Section 4011, subsection (a)(2)(B) and (a)(3)(B) of the Water Infrastructure Improvements for the Nation Act (Pub. L. 114-322, 130 Stat. 1628) ("WIIN Act");

(b) "Calendar Year" shall mean the period January 1 through December 31, both dates inclusive;

(c) "Charges" shall mean the payments required by Federal Reclamation law in addition to the Rates and Tiered Pricing Component specified in this Contract as determined annually by the Contracting Officer pursuant to this Contract;

(d) "Contractors' Boundaries" shall mean the area to which the Contractors are permitted to provide Project Water under this Contract;

(e) "CVPIA" shall mean the Central Valley Project Improvement Act, Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706);

(f) "Delivered Water" or "Water Delivered" shall mean Project Water made available to the Contractors and diverted at the point(s) of delivery approved by the Contracting Officer;

(g) "Eligible Lands" shall mean all lands to which Irrigation Water may be delivered in accordance with Section 204 of the Reclamation Reform Act of October 12, 1982 (96 Stat. 1263), as amended;

(h) "Excess Lands" shall mean all lands defined as excess in Section 204 of the Reclamation Reform Act of 1982, other than those lands exempt from acreage limitation under Federal Reclamation law;

(i) "Existing Capital Obligation" shall mean the remaining amount of construction costs or other capitalized costs allocable to the Contractors as described in section 4011, subsections (a)(2)(A) and (a)(3)(A) of the WIIN Act, and as identified in the Central Valley Project Irrigation Water Rates and/or Municipal and Industrial Water Rates, respectively, dated Month/Day/Year [specify ratebook year for all contractors.] [contractor specific to address the intertie], as adjusted to reflect payments not reflected in such schedule. The Contracting Officer has computed the Existing Capital Obligation and such amount is set forth in Exhibit B, which is incorporated herein by reference;

(j) "Full Cost Rate" shall mean that water rate described in Sections 205(a)(3) or 202(3) of the Reclamation Reform Act of 1982, whichever is applicable;

129                   (k)    "Ineligible Lands" shall mean all lands to which Irrigation Water may not  
130 be delivered in accordance with Section 204 of the Reclamation Reform Act of 1982;

131                   (l)    "Irrigation Water" shall mean the use of Project Water to irrigate lands  
132 primarily for the production of commercial agricultural crops or livestock, and domestic and  
133 other uses that are incidental thereto;

134                   (m)    "Landholder" shall mean an individual or entity attributed with the total  
135 irrigable acreage of one or more tracts of land situated in one or more districts owned and/or  
136 operated under a lease which is served with Irrigation Water pursuant to a contract with the  
137 United States;

138                   (n)    "Municipal and Industrial (M&I) Water" shall mean the use of Project  
139 Water for municipal, industrial, and miscellaneous other purposes not falling under the definition  
140 of "Irrigation Water" or within another category of water use under an applicable Federal  
141 authority;

142                   (o)    "Operation and Maintenance" or "O&M" shall mean normal and  
143 reasonable care, control, operation, repair, replacement and maintenance of Project facilities;

144                   (p)    "Operating Non-Federal Entity" shall mean a Non-Federal entity which  
145 has the obligation to operate and maintain all or a portion of the Delta Division facilities pursuant  
146 to an agreement with the United States;

147                   (q)    "Project" shall mean the Central Valley Project owned by the United  
148 States and operated by the Department of the Interior, Bureau of Reclamation;

149                   (r)    "Project Contractors" shall mean all parties who have contracts for water  
150 service for Project Water from the Project with the United States pursuant to Federal  
151 Reclamation law;

152                   (s)    "Project Water" shall mean all water that is developed, diverted, stored, or  
153 delivered by the United States in accordance with the statutes authorizing the Project and in



accordance with the terms and conditions of applicable water rights permits and licenses acquired by and/or issued to the United States pursuant to California law;

(t) "Rates" shall mean the payments determined annually by the Contracting Officer in accordance with the then current applicable water ratesetting policies for the Project;

(u) "Repayment Obligation" for Water Delivered as Irrigation Water shall mean the Existing Capital Obligation discounted by  $\frac{1}{2}$  of the Treasury rate, which shall be the amount due and payable to the United States, pursuant to section 4011(a)(2)(A) of the WIIN Act; and for Water Delivered as M&I Water shall mean the amount due and payable to the United States, pursuant to section 4011(a)(3)(A) of the WIIN Act;

(v) "Secretary" or "Contracting Officer" shall mean the Secretary of the United States Department of the Interior or his duly authorized representative;

(w) "Tiered Pricing Component" shall be the incremental amount to be paid for each acre-foot of Water Delivered as described in Article 7 of this Contract and as provided for in Exhibit A;

(x) "Water Made Available" shall mean the estimated amount of Project Water that can be delivered to the Contractors for the upcoming Year as declared by the Contracting Officer, pursuant to subdivision (a) of Article 4 of this Contract;

(y) "Year" shall mean the period from and including March 1 of each Calendar Year through the last day of February of the following Calendar Year;

TERM OF CONTRACT – RIGHT TO USE OF WATER

2. (a) This Contract shall be effective March 1, 2020, hereinafter known as the "Effective Date", and shall continue so long as the Contractors pay applicable Rates and Charges

under this Contract, consistent with Section 9(d) or 9(c)(1) of the Act of August 4, 1939 (53 Stat. 1195) as applicable, and applicable law;

(1) Provided, That the Contracting Officer shall not seek to terminate this Contract for failure to fully or timely pay applicable Rates and Charges by the Contactor, unless the Contracting Officer has first provided at least sixty (60) calendar days written notice to the Contractors of such failure to pay and the Contractors have failed to cure such failure to pay, or to diligently commence and maintain full curative payments satisfactory to the Contracting Officer within the sixty (60) calendar days' notice period;

(2) Provided, further, That the Contracting Officer shall not seek to suspend making water available or declaring Water Made Available pursuant to this Contract for non-compliance by the Contractors with the terms of this Contract or Federal law, unless the Contracting Officer has first provided at least thirty (30) calendar days written notice to the Contractors and the Contractors have failed to cure such non-compliance, or to diligently commence curative actions satisfactory to the Contracting Officer for a non-compliance that cannot be fully cured within the thirty (30) calendar days' notice period. If the Contracting Officer has suspended making water available pursuant to this paragraph, upon cure of such non-compliance satisfactory to the to the Contracting Officer, the Contracting Officer shall resume making water available and declaring Water Made Available pursuant to this Contract;

(3) Provided, further, That this Contract may be terminated at any time by mutual consent of the parties hereto.

(b) Upon complete payment of the Repayment Obligation by the Contractors, and notwithstanding any Additional Capital Obligation that may later be established, the acreage limitations, reporting, and Full Cost pricing provisions of the Reclamation Reform Act of 1982,

and subdivisions (g) Eligible Lands, (h) Excess Lands, and (k) Ineligible Lands of Article 1 of this Contract shall no longer be applicable.

(c) Notwithstanding any provision of this Contract, the Contractors reserve and shall have all rights and benefits under the Act of July 2, 1956 (70 Stat. 483), to the extent allowed by law.

(d) Notwithstanding any provision of this Contract, the Contractors reserve and shall have all rights and benefits under the Act of June 21, 1963 (77 Stat. 68), to the extent allowed by law.

WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTORS

3. (a) Subject to the provisions set forth in Articles 11 and 12 of this Contract, and consistent with applicable State water rights, permits, and licenses, the Contractors are entitled to, and the Contracting Officer shall be obligated to make available to the Contractors up to 6,260 acre-feet of Project Water for Irrigation and/or Municipal and Industrial purposes during the term of this Contract. The quantity of Project Water delivered to the Contractors in accordance with this subdivision of this Article 3 in any Year shall be scheduled and paid for pursuant to the provisions of Articles 4 and 7 of this Contract, and shall not exceed the quantity of Project Water the Contractors intend to put to reasonable beneficial use within the Contractors' Boundaries or sold, transferred, or exchanged pursuant to Article 9 of this Contract during the term of this Contract.

(b) The Contractors shall utilize the Project Water made available to the Contractors pursuant to this Contract in accordance with all applicable requirements of any Biological Opinion addressing the execution of this Contract developed pursuant to Section 7 of the Endangered Species Act of 1973 as amended, and in accordance with environmental



222 documentation as may be required for specific activities, including conversion of Irrigation  
223 Water to M&I Water.

224 (c) The Contractors shall make reasonable and beneficial use of Project Water  
225 or other water furnished pursuant to this Contract. In addition, use of Project Water in a  
226 groundwater recharge program shall be permitted under this Contract to the extent that it is  
227 carried out in accordance with California law: Provided, however, That such groundwater  
228 recharge program cannot be undertaken unless and until the Contractors submit a groundwater  
229 management plan pursuant to California law that demonstrates that such groundwater recharge  
230 program will result in a reasonable and beneficial use of such water.

231 (d) If the Contracting Officer determines that Project Water, or other water  
232 available to the Project, can be made available to the Contractors in addition to the quantity of  
233 Project Water made available to the Contractors pursuant to subdivision (a) of this Article, the  
234 Contracting Officer shall so notify the Contractors. If the Contractors request the delivery of any  
235 quantity of such water, the Contracting Officer shall make such water available to the  
236 Contractors in accordance with applicable statutes, regulations, guidelines, and policies.

237 (e) If the Contractors request permission to reschedule for use during the  
238 subsequent Year some or all of the Project Water made available to the Contractors during the  
239 current Year or to use, during the current Year, that quantity of Project Water the United States  
240 has agreed to make available to the Contractors during the subsequent Year, the Contracting  
241 Officer may permit such uses in accordance with applicable statutes, regulations, guidelines, and  
242 policies.

243 (f) The Contractors' rights pursuant to Federal Reclamation law and  
244 applicable State law to the beneficial use of water furnished pursuant to this Contract shall not be

disturbed so long as the Contractors shall fulfill all of their obligations under this Contract.

Nothing in the preceding sentence shall affect the Contracting Officer's ability to impose shortages under subdivision (b) of Article 12 of this Contract.

(g) Notwithstanding subdivisions (l) and (n) of Article 1 of this Contract, Project Water furnished to the Contractors pursuant to this Contract may be delivered for purposes other than those described in subdivisions (l) and (n) of Article 1 of this Contract upon written approval by the Contracting Officer in accordance with the terms and conditions of such approval.

(h) The Contractors' right pursuant to Federal Reclamation law and applicable State law to the reasonable and beneficial use of the Water Delivered pursuant to this Contract shall not be disturbed, and this Contract shall continue so long as the Contractors pay applicable Rates and Charges under this Contract consistent with Section 9(d) or 9(c)(1) of the Act of August 4, 1939 (53 Stat. 1195) as applicable, and applicable law. Nothing in the preceding sentence shall affect the Contracting Officer's ability to impose shortages under Article 11 or subdivision (b) of Article 12 of this Contract.

#### TIME FOR DELIVERY OF WATER

4. (a) On or about February 20, of each Calendar Year, the Contracting Officer shall declare the amount of Project Water estimated to be made available to the Contractors pursuant to this Contract for the upcoming Year. The declaration will be updated monthly, as necessary, based on current hydrologic conditions. The Contracting Officer shall make available the forecast of Project operations, with relevant supporting information, upon the written request of the Contractors or their representatives. Upon written request of the Contractors, the Contracting Officer shall provide the basis of the estimate which shall include, but not be limited to, a monthly pumping forecast for the O'Neill Pumping Plant, the projected carryover of Project

reservoirs, projected CVPIA impacts, projected Endangered Species Act and all other regulatory impacts.

(b) On or before each March 1, the Contractors shall submit to the Contracting Officer and at such other times as necessary, a written schedule, satisfactory to the Contracting Officer, showing the times and quantities of Project Water to be delivered by the United States to the Contractors during the upcoming year pursuant to this Contract, and consistent with subdivision (a) of Article 3 of this Contract.

(c) Subject to the conditions set forth in subdivision (a) of Article 3 of this Contract, the United States shall deliver Project Water to the Contractors in accordance with the initial schedule submitted by the Contractors pursuant to subdivision (b) of this Article, or any revision(s) thereto submitted within a reasonable time prior to the date(s) on which the requested change(s) is(are) to be implemented.

POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

5. (a) The Project Water to be furnished to the Contractors pursuant to this Contract shall be made available to the Contractors a point or points of delivery either on Project facilities or another location or locations mutually agreed to in writing by the Contracting Officer and the Contractors

(b) The Contracting Officer shall make all reasonable efforts to maintain sufficient flows and levels of water in the Delta-Mendota Canal to furnish Project Water to the Contractors at the full design capacity of the turnout(s) established as a delivery point(s) pursuant to subdivision (a) of this Article.

(c) Irrigation Water furnished to the Contractors pursuant to this Contract shall be delivered by the Contractors in accordance with any applicable land classification provisions of Federal Reclamation law and the associated regulations. Project Water shall not be

delivered to land outside the Contractors' Boundaries unless approved in advance by the Contracting Officer.

(d) All Project Water delivered to the Contractors pursuant to this Contract shall be measured and recorded with equipment furnished, installed, operated, and maintained by the United States or the responsible Operating Non-Federal Entity at the point or points of delivery established pursuant to subdivision (a) of this Article. Upon the request of any party to this Contract, the Contracting Officer shall investigate the accuracy of such measurements and shall take any necessary steps to adjust any errors appearing therein. The Contractors shall advise the Contracting Officer on or before the 10th calendar day of each month of the quantity of M&I Water taken during the preceding month.

(e) Neither the United States nor any Operating Non-Federal Entity shall be responsible for the control, carriage, handling, use, disposal, or distribution of Project Water made available to the Contractors pursuant to this Contract beyond the delivery points specified in subdivision (a) of this Article. The Contractors shall indemnify the United States its officers, employees, agents, and assigns on account of damage or claim of damage of any nature whatsoever for which there is legal responsibility, including property damage, personal injury, or death arising out of or connected with the control, carriage, handling, use, disposal, or distribution of such Project Water beyond such delivery points, except for any damage or claim arising out of (i) acts performed by the United States or any of its officers, employees, agents, or assigns, including any responsible Operating Non-Federal Entity, with the intent of creating the situation resulting in any damage or claim; (ii) willful misconduct of the United States or any of its officers, employees, agents, or assigns, including any responsible Operating Non-Federal

Entity, or (iii) negligence of the United States or any of its officers, employees, agents, or assigns, including any responsible Operating Non-Federal Entity.

MEASUREMENT OF WATER WITHIN THE DISTRICT

6. (a) The Contractors shall ensure that, unless the Contractors establish an alternative measurement program satisfactory to the Contracting Officer, all surface water delivered for irrigation purposes within the Contractors' Boundaries is measured at each agricultural turnout and such water delivered for Municipal and Industrial purposes is measured at each Municipal and Industrial service connection. All water measuring devices or water measuring methods of comparable effectiveness must be acceptable to the Contracting Officer. The Contractors shall be responsible for installing, operating, and maintaining and repairing all such measuring devices and implementing all such water measuring methods at no cost to the United States. The Contractors shall use the information obtained from such water measuring devices or water measuring methods to ensure proper management of the water; to bill water users for water delivered by the Contractors; and, if applicable, to record water delivered for Municipal and Industrial purposes by customer class as defined in their water conservation plan. Nothing herein contained in this Article, however, shall preclude the Contractors from establishing and collecting any charges, assessments or other revenues authorized by California law. The Contractors shall include a summary of their annual surface water deliveries in the annual report described in subdivision (d) of Article 25 of this Contract.

(b) Omitted.

(c) All new surface water delivery systems installed within the Contractors' Boundaries after the effective date of this Contract shall also comply with the measurement provisions described in subdivision (a) of this Article.



(d) The Contractors shall inform the Contracting Officer and the State of California in writing by April 30 of each Year of the monthly volume of surface water delivered within the Contractors' Boundaries during the previous Year.

RATES, METHOD OF PAYMENT FOR WATER AND ACCELERATED REPAYMENT OF FACILITIES

7. (a) Notwithstanding the Contractors' full prepayment of the Repayment Obligation pursuant to section 4011, subsection (a)(2)(A) and subsection (a)(3)(A) of the WIIN Act, as set forth in Exhibit B, and any payments required pursuant to section 4011, subsection (b) of the WIIN Act, to reflect the adjustment for the final cost allocation as described in this Article, subsection (b), the Contractors' Project construction and other obligations shall be determined in accordance with: (i) the Secretary's ratesetting policy for Irrigation Water adopted in 1988 and the Secretary's then-existing ratesetting policy for M&I Water, consistent with the WIIN Act; and such ratesetting policies shall be amended, modified, or superseded only through a public notice and comment procedure; (ii) applicable Federal Reclamation law and associated rules and regulations, or policies, and (iii) other applicable provisions of this Contract. Payments shall be made by cash transaction, electronic funds transfers, or any other mechanism as may be agreed to in writing by the Contractors and the Contracting Officer. The Rates, Charges, and Tiered Pricing Component applicable to the Contractors upon execution of this Contract are set forth in Exhibit "A," as may be revised annually.

(1) The Contractors shall pay the United States as provided for in this Article of this Contract for all Delivered Water at Rates, Charges, and Tiered Pricing Component in accordance with policies for Irrigation Water and M&I Water. The Contractors' Rates shall be established to recover their estimated reimbursable costs included in the operation and

361 maintenance component of the Rate and amounts established to recover deficits and other  
362 charges, if any, including construction costs as identified in the following subdivisions.

363 (2) In accordance with the WIIN Act, the Contractors' allocable share  
364 of Project construction costs will be repaid pursuant to the provisions of this Contract.

365 (A) The amount due and payable to the United States, pursuant  
366 to the WIIN Act, shall be the Repayment Obligation. The Repayment Obligation has been  
367 computed by the Contracting Officer in a manner consistent with the WIIN Act and is set forth  
368 as a lump sum payment (M&I and Irrigation) and as four (4) approximately equal annual  
369 installments (Irrigation Only) to be repaid no later than three (3) years after the effective date of  
370 this Contract as set forth in Exhibit B. [There could be one or two exhibits in most cases due to  
371 more than one service area (For Irrigation contractors and M&I contractors)] The Repayment  
372 Obligation is due in lump sum by [Month, Day, Year] as provided by the WIIN Act. The  
373 Contractors must provide appropriate notice to the Contracting Officer in writing no later than  
374 thirty (30) days prior to [Month, Day, Year] [Division Level: consider the effective date of the  
375 contract being converted] if electing to repay the amount due using the lump sum alternative. If  
376 such notice is not provided by such date, the Contractors shall be deemed to have elected the  
377 installment payment alternative, in which case, the first such payment shall be made no later than  
378 [Month, Day, Year] [Division Level: consider the effective date of the contract being  
379 converted]. The second payment shall be made no later than the first anniversary of the first  
380 payment date. The third payment shall be made no later than the second anniversary of the first  
381 payment date. The final payment shall be made no later than [Month, Day, Year] [no later than  
382 the third anniversary of the effective date of the contract]. If the installment payment option is  
383 elected by the Contractors, the Contractors may pre-pay the remaining portion of the Repayment

Obligation by giving the Contracting Officer sixty (60) days written notice, in which case, the Contracting Officer shall re-compute the remaining amount due to reflect the pre-payment using the same methodology as was used to compute the initial annual installment payment amount, which is illustrated in Exhibit B. Notwithstanding any Additional Capital Obligation that may later be established, receipt of the Contractors' payment of the Repayment Obligation to the United States shall fully and permanently satisfy the Existing Capital Obligation.

(B) Additional Capital Obligations that are not reflected in, the schedules referenced in Exhibit B and properly assignable to the Contractors, shall be repaid as prescribed by the WIIN Act without interest except as required by law. Consistent with Federal Reclamation law, interest shall continue to accrue on the M&I portion of the Additional Capital Obligation assigned to the Contractors until such costs are paid. Increases or decreases in the Additional Capital Obligation assigned to the Contractors caused solely by annual adjustment of the Additional Capital Obligation assigned to each Project contractor by the Secretary shall not be considered in determining the amounts to be paid pursuant to this subdivision (a)(2)(B), however, will be considered under subdivision (b) of this Article. A separate agreement shall be established by the Contractors and the Contracting Officer to accomplish repayment of the Additional Capital Obligation assigned to the Contractors within the timeframe prescribed by the WIIN Act, subject to the following:

(1) If the collective Additional Capital Obligation properly assignable to the contractors exercising conversion under section 4011 of the WIIN Act is less than five million dollars (\$5,000,000), then the portion of such costs properly assignable to the Contractors shall be repaid not more than five (5)-years after the Contracting Officer



notifies the Contractors of the Additional Capital Obligation; Provided, That the reference to the amount of five million dollars (\$5,000,000) shall not be a precedent in any other context.

(2) If the collective Additional Capital Obligation properly assignable to the contractors exercising conversion under section 4011 of the WIIN Act is equal to or greater than five million dollars (\$5,000,000), then the portion of such costs properly assignable to the Contractors shall be repaid as provided by applicable Federal Reclamation law and Project ratesetting policy; Provided, That the reference to the amount of five million dollars (\$5,000,000) shall not be a precedent in any other context.

(b) In the event that the final cost allocation referenced in Section 4011(b) of the WIIN Act determines that the costs properly assignable to the Contractors are greater than what has been paid by the Contractors, the Contractors shall be obligated to pay the remaining allocated costs. The term of such additional repayment contract shall be not less than one (1) year and not more than ten (10) years, however, mutually agreeable provisions regarding the rate of repayment of such amount may be developed by the Contractors and Contracting Officer. In the event that the final cost allocation indicates that the costs properly assignable to the Contractors are less than what the Contractors have paid, the Contracting Officer shall credit such overpayment as an offset against any outstanding or future obligations of the Contractors, with the exception of Restoration Fund charges pursuant to section 3407(d) of Pub. L. 102-575.

(c) The Contracting Officer shall notify the Contractors of the Rates, Charges, and Tiered Pricing Component as follows:

(1) Prior to July 1, of each Calendar Year, the Contracting Officer shall provide the Contractors the preliminary calculation of the Charges that will be applied for the period October 1, of the current Calendar Year, through September 30, of the following

Calendar Year, and identify the statutes, regulations and guidelines used as the basis for such calculations. On or before September 15, of each Calendar Year, the Contracting Officer shall notify the Contractors in writing of the Charges to be in effect during the period October 1, of the current Calendar Year, through September 30, of the following Calendar Year, and such notification shall revise Exhibit "A."

(2) Prior to October 1 of each Calendar Year, the Contracting Officer shall make available to the Contractors an estimate of the Rates and Tiered Pricing Component for Project Water for the following Year and the computations and cost allocations upon which those Rates are based. The Contractors shall be allowed not less than two (2) months to review and comment on such computations and cost allocations. By December 31 of each Calendar Year, the Contracting Officer shall provide the Contractors with the final Rates and Tiered Pricing Component to be in effect for the upcoming Year, and such notification shall revise Exhibit "A."

(d) At the time the Contractors submit the initial schedule for the delivery of Project Water for each Year pursuant to subdivision (b) of Article 4 of this Contract, the Contractors shall pay the United States the total amount payable pursuant to the applicable Rate(s) for all Project Water scheduled to be delivered pursuant to this Contract during the first two (2) calendar months of the Year. Before the end of the first month or part thereof of the Year, and before the end of each calendar month thereafter, the Contractors shall pay pursuant to the applicable Rate(s) for all Project Water scheduled to be delivered pursuant to this Contract during the second month immediately following. Adjustments between the payments for the scheduled amount of Project Water and the appropriate payments for quantities of Delivered Water furnished pursuant to this Contract each month shall be made before the end of the

following month: Provided, That any revised schedule submitted by the Contractors pursuant to Article 4 of this Contract, which increases the amount of Project Water to be delivered pursuant to this Contract during any month shall be accompanied with appropriate payment for Rates to assure that Project Water is not furnished to the Contractors in advance of such payment. In any month in which the quantity of Delivered Water furnished to the Contractors pursuant to this Contract equals the quantity of Project Water scheduled and paid for by the Contractors, no additional Project Water shall be made available to the Contractors unless and until payment of Rates for such additional Project Water is made. Final adjustment between the payments of Rates for the Project Water scheduled and the quantities of Delivered Water furnished during each Year pursuant to this Contract shall be made as soon as possible but no later than April 30th of the following Year.

(e) The Contractor shall also make a payment in addition to the Rate(s) in subdivision (d) of this Article to the United States for Water Delivered, at the Charges and appropriate Tiered Pricing Component then in effect, before the end of the month following the month of delivery; Provided, That the Contractor may be granted an exception from the Tiered Pricing Component pursuant to subdivision (k)(2) of this Article. The payments shall be consistent with the quantities of Irrigation Water and M&I Water Delivered as shown in the water delivery report for the subject month prepared by the Operating Non-Federal Entity or, if there is no Operating Non-Federal Entity, by the Contracting Officer. The water delivery report shall be deemed a bill for the payment of Charges and applicable Tiered Pricing Component for Water Delivered. Adjustment for overpayment or underpayment of Charges and the Tiered Pricing Component shall be made through the adjustment of payments due to the United States

for Charges for the next month. Any amount to be paid for past due payment of Charges shall be computed pursuant to Article 18 of this Contract.

(f) The Contractors shall pay for any Project Water provided under subdivision (d) or (e) of Article 3 of this Contract as determined by the Contracting Officer pursuant to applicable statutes, regulations, guidelines, and policies.

(g) Payments to be made by the Contractors to the United States under this Contract may be paid from any revenues available to the Contractors.

(h) Revenues received by the United States pursuant to this Contract shall be allocated and applied in accordance with Federal Reclamation law, including but not limited to, subsection 3 of Section 1 of the Act of July 2, 1956 (70 Stat. 483), and subsection (f) of Section 3405, subsection (c)(1) of Section 3406 and subsection (d)(2)(A) of Section 3407 of the CVPIA, and the associated regulations, including but not limited to, the Project Irrigation Water ratesetting policy and the Project M&I Water ratesetting policy promulgated pursuant to the Administrative Procedures Act.

(i) At the Contractors' request, the Contracting Officer shall provide to the Contractors an accounting of all of the expenses allocated and the disposition of all revenues received pursuant to this Contract in sufficient detail to allow the Contractors to determine that the allocation of expenses and disposition of all revenues received was accomplished in conformance with Federal Reclamation law and the associated regulations. The Contracting Officer and the Contractors shall enter into good faith negotiations to resolve any discrepancies or disputes arising out of said accounting of the Contractors' review thereof.

(j) The parties acknowledge and agree that the efficient administration of this Contract is their mutual goal. Recognizing that experience has demonstrated that mechanisms,

507 policies, and procedures used for establishing Rates, Charges, and Tiered Pricing Component,  
508 and/or for making and allocating payments, other than those set forth in this Article would be in  
509 the mutual best interest of the parties, it is expressly agreed that the parties may enter into  
510 agreements to modify the mechanisms, policies and procedures for any of those purposes while  
511 this Contract is in effect without amending this Contract.

512 (k) 1. Beginning at such time as deliveries of Project Water in a Year  
513 exceed 80 percent of the Contract Total, then before the end of the month following the month of  
514 delivery the Contractor shall make an additional payment to the United States equal to the  
515 applicable Tiered Pricing Component. The Tiered Pricing Component for the amount of Water  
516 Delivered in excess of 80 percent of the Contract Total, but less than or equal to 90 percent of the  
517 Contract Total, shall equal one-half of the difference between the Rate established under  
518 subdivision (a) of this Article and the Irrigation Full Cost Water Rate or M&I Full Cost Water  
519 Rate, whichever is applicable. The Tiered Pricing Component for the amount of Water  
520 Delivered which exceeds 90 percent of the Contract Total shall equal the difference between (i)  
521 the Rate established under subdivision (a) of this Article and (ii) the Irrigation Full Cost Water  
522 Rate or M&I Full Cost Water Rate, whichever is applicable. For all Water Delivered pursuant to  
523 subdivision (a) of Article 3 of this Contract which is in excess of 80 percent of the Contract  
524 Total, this increment shall be deemed to be divided between Irrigation Water and M&I Water in  
525 the same proportion as actual deliveries of each bear to the cumulative total Water Delivered.

526 2. Subject to the Contracting Officer's written approval, the  
527 Contractor may request and receive an exemption from such Tiered Pricing Component for  
528 Project Water delivered to produce a crop which the Contracting Officer determines will provide  
529 significant and quantifiable habitat values for waterfowl in fields where the water is used and the



crops are produced; Provided, That the exemption from the Tiered Pricing Component for Irrigation Water shall apply only if such habitat values can be assured consistent with the purposes of the CVPIA through binding agreements executed with or approved by the Contracting Officer prior to use of such water.

3. For purposes of determining the applicability of the Tiered Pricing Component pursuant to this Article, Water Delivered shall include Project Water that the Contractor transfers to others but shall not include Project Water transferred to the Contractor, nor shall it include the additional water provided to the Contractor under the provisions of subdivision (d) of Article 3 of this Contract.

NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICITS

8. The Contractors and the Contracting Officer concur that at the time of execution of this Contract, the Contractors have no non-interest bearing operation and maintenance deficits and shall have no further liability therefor.

TRANSFERS OR EXCHANGES OF WATER

9. The right to Project Water provided for in this Contract may be sold, transferred, or exchanged to others for beneficial uses within the State of California if such sale, transfer, or exchange is authorized by applicable Federal laws, State laws, and applicable guidelines or regulations then in effect. The right to sell, transfer, or exchange Project Water shall include, and the Contracting Officer shall apply this Article in a manner that does not impede or restrict, lawful short-term sales, transfers, or exchanges of the type the District and Contractors historically carried out with approval of the Contracting Officer under Contract No. 14-06-200-3365A, as amended, assigned, and renewed. No sale, transfer, or exchange of the right to Project Water under this Contract may take place without the prior written approval of the Contracting Officer.

APPLICATION OF PAYMENTS AND ADJUSTMENTS

10. (a) The amount of any overpayment by the Contractors shall be applied first to any accrued indebtedness arising out of this Contract then due and payable by the Contractors. Any amount of such overpayment then remaining shall, at the option of the Contractors, be refunded to the Contractors or credited upon amounts to become due to the United States from the Contractors under the provisions of this Contract in the following months. With respect to overpayment, such adjustment shall constitute the sole remedy of the Contractors or anyone having or claiming to have the right to the use of any of the water supply provide for in this Contract.

(b) All advances for miscellaneous costs incurred for work requested by the Contractors pursuant to Article 23 of this Contract shall be adjusted to reflect the actual costs when the work has been completed. If the advances exceed the actual costs incurred, the difference will be refunded to the Contractors. If the actual costs exceed the Contractors' advances, the Contractors will be billed for the additional costs pursuant to Article 23 of this Contract.

TEMPORARY REDUCTIONS – RETURN FLOWS

11. (a) Subject to: (i) the authorized purposes and priorities of the Project; and (ii) the obligations of the United States under existing contracts, or renewals thereof, providing for water deliveries from the Project, the Contracting Officer shall make all reasonable efforts to optimize Project Water deliveries to the Contractors as provided in this Contract.

(b) The United States may temporarily discontinue or reduce the quantity of Project Water to be delivered to the Contractors as herein provided for the purposes of investigation, inspection, maintenance, repair, or replacement of any of the Project facilities or any part thereof necessary for the delivery of Project Water to the Contractors, but so far as

feasible the Contracting Officer will give the Contractors due notice in advance of such temporary discontinuance or reduction, except in case of emergency, in which case no notice need be given: Provided, That the United States shall use its best efforts to avoid any discontinuance or reduction in such service. Upon resumption of service after such reduction or discontinuance, and if requested by the Contractors, the United States will, if possible, deliver the quantity of Project Water which would have been delivered hereunder in the absence of such discontinuance or reduction: Provided, further, That with respect to any quantity of Project Water not delivered after a discontinuance or reduction the Contractors shall be relieved of their scheduling and payment obligations for such quantity of Project Water.

(c) The United States reserves the right to all seepage and return flow water derived from water delivered to the Contractors under this Contract which escapes or is discharged beyond the Contractors' Boundaries: Provided, That this shall not be construed as claiming for the United States any right to seepage or return flow being put to reasonable and beneficial use pursuant to this Contract within the Contractors' Boundaries by the Contractors or those claiming by, through, or under the Contractors.

#### CONSTRAINTS ON THE AVAILABILITY OF WATER

12. (a) In its operation of the Project, the Contracting Officer will use all reasonable means to guard against a Condition of Shortage in the quantity of Project Water to be made available to the Contractors pursuant to this Contract. In the event the Contracting Officer determines that a Condition of Shortage appears probable, the Contracting Officer will notify the Contractors of said determination as soon as practicable.

(b) If there is a Condition of Shortage because of inaccurate runoff forecasting or other similar operational errors affecting the Project; drought and other physical or natural causes beyond the control of the Contracting Officer; or actions taken by the Contracting Officer to meet current and future legal obligations, then, except as provided in subdivision (a) of Article 17 of this Contract, no liability shall accrue against the United States or any of its officers, agents, or employees for any damage, direct or indirect, arising therefrom.



(c) In any Year in which there may occur a shortage for any of the reasons specified in subdivision (b) of this Article, the Contracting Officer shall apportion the available Project Water supply among the Contractors and others entitled, under existing contracts and future contracts (to the extent such future contracts are permitted under subsections (a) and (b) of Section 3404 of the CVPIA) and renewals thereof, to receive Project Water consistent with the contractual obligations of the United States.

(d) Subject to subdivision (c) of this Article, in any Year in which here may occur a shortage for any of the reasons specified in subdivision (b) of this Article, the Contracting Officer shall apportion the available Project Water among the Contractors and others entitled to receive Project Water from the Delta-Mendota Canal as follows:

(1) A determination shall be made of the total quantity of water scheduled to be delivered during the respective Year under all contracts then in force for the delivery of water from the Delta-Mendota Canal, the quantity so determined being herein referred to as the contractual commitments from the Delta-Mendota Canal.

(2) The total quantity of water scheduled to be delivered to the Contractors from the Delta-Mendota Canal during the respective Year under subdivision (a) of Article 3 of this Contract shall be divided by the contractual commitments, the quotient thus obtained being herein referred to as the Contractors' contractual entitlement from the Delta-Mendota Canal.

(3) The supply determined by the Contracting Officer to be available from the Delta-Mendota Canal shall be multiplied by the Contractors' contractual entitlement and the result shall be the quantity of water required to be delivered by the United States to the Contractors for the respective Year from the Delta-Mendota Canal.

UNAVOIDABLE GROUNDWATER PERCOLATION

13. (a) The Contractors shall not be deemed to have furnished Irrigation Water to Excess Lands or Ineligible Lands within the meaning of this Contract if such lands are irrigated with groundwater that reaches the underground strata as an unavoidable result of the furnishing of Irrigation Water by the Contractors to Eligible Lands.

(b) Upon complete payment of the Repayment Obligation by the Contractors, this Article 13 shall no longer be applicable.

COMPLIANCE WITH FEDERAL RECLAMATION LAWS

14. The parties agree that the delivery of Irrigation Water or use of Federal facilities pursuant to this Contract is subject to Federal Reclamation law, including but not limited to, the Reclamation Reform Act of 1982 (43 U.S.C. 390aa et seq.), as amended and supplemented, and the rules and regulations promulgated by the Secretary of the Interior under Federal Reclamation law.

PROTECTION OF WATER AND AIR QUALITY

15. (a) Omitted

(b) The United States will care for, operate and maintain reserved works in a manner that preserves the quality of the water at the highest level possible as determined by the Contracting Officer. The United States does not warrant the quality of the water delivered to the Contractors and is under no obligation to furnish or construct water treatment facilities to maintain or improve the quality of water delivered to the Contractors.

(c) The Contractors will comply with all applicable water and air pollution laws and regulations of the United States and the State of California; and will obtain all required permits or licenses from the appropriate Federal, State, or local authorities necessary for the delivery of water by the Contractors; and shall be responsible for compliance with all Federal, State, and local water quality standards applicable to surface and subsurface drainage and/or discharges generated through the use of Federal or Contractors facilities or Project Water provided by the Contractors within their Service Areas.

(d) This Article shall not affect or alter any legal obligations of the Secretary to provide drainage or other discharge services.

WATER ACQUIRED BY THE CONTRACTORS OTHER THAN FROM THE UNITED STATES

16. (a) Water or water rights now owned or hereafter acquired by the Contractors other than from the United States and Irrigation Water furnished pursuant to the terms of this Contract may be simultaneously transported through the same distribution facilities of the Contractors subject to the following: (i) if the facilities utilized for commingling Irrigation Water and non-Project water were constructed without funds made available pursuant to Federal Reclamation law, the provisions of Federal Reclamation law will be applicable only to the Landholders of lands which receive Irrigation Water; (ii) the eligibility of land to receive Irrigation Water must be established through the certification requirements as specified in the Acreage Limitation Rules and Regulations (43 CFR Part 426); (iii) the water requirements of Eligible Lands within the Contractors' Boundaries can be established and the quantity of Irrigation Water to be utilized is less than or equal to the quantity necessary to irrigate such Eligible Lands; and (iv) if the facilities utilized for commingling Irrigation Water and non-Project water are constructed with funds made available pursuant to Federal Reclamation law, the non-Project water will be subject to Federal Reclamation law, until such funds have been repaid.

(b) Upon complete payment of the Repayment Obligation by the Contractors, this Article 16 shall no longer be applicable.

OPINIONS AND DETERMINATIONS

17. (a) Where the terms of this Contract provide for actions to be based upon the opinion or determination of any party to this Contract, said terms shall not be construed as permitting such action to be predicated upon arbitrary, capricious, or unreasonable opinions or determinations. All parties, notwithstanding any other provisions of this Contract, expressly

reserve the right to relief from and appropriate adjustment, including monetary damages, for any such arbitrary, capricious, or unreasonable opinion or determination. Each opinion or determination by any party shall be provided in a timely manner.

(b) The Contracting Officer shall have the right to make determinations necessary to administer this Contract that are consistent with the expressed and implied provisions of this Contract, the laws of the United States and the State of California, and the rules and regulations promulgated by the Secretary. Such determinations shall be made in consultation with the Contractors to the extent reasonably practicable.

#### CHARGES FOR DELINQUENT PAYMENTS

18. (a) The Contractors shall be subject to interest, administrative, and penalty charges on delinquent payments. If a payment is not received by the due date, the Contractors shall pay an interest charge on the delinquent payment for each day the payment is delinquent beyond the due date. If a payment becomes 60 days delinquent, the Contractors shall pay, in addition to the interest charge, an administrative charge to cover additional costs of billing and processing the delinquent payment. If a payment is delinquent 90 days or more, the Contractors shall pay, in addition to the interest and administrative charges, a penalty charge for each day the payment is delinquent beyond the due date, based on the remaining balance of the payment due at the rate of 6 percent per year. The Contractors shall also pay any fees incurred for debt collection services associated with a delinquent payment.

(b) The interest rate charged shall be the greater of either the rate prescribed quarterly in the Federal Register by the Department of the Treasury for application to overdue payments, or the interest rate of 0.5 percent per month. The interest rate charged will be determined as of the due date and remain fixed for the duration of the delinquent period.

(c) When a partial payment on a delinquent account is received, the amount received shall be applied first to the penalty charges, second to the administrative charges, third to the accrued interest, and finally to the overdue payment.

#### EQUAL EMPLOYMENT OPPORTUNITY

19. During the performance of this Contract, the Contractors agree as follows:

(a) The Contractors will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractors will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include,



but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractors agree to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of this nondiscrimination clause.

(b) The Contractors will, in all solicitations or advertisements for employees placed by or on behalf of the Contractors, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(c) The Contractors will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractors' legal duty to furnish information.

(d) The Contractors will send to each labor union or representative of workers with which the Contractors have a collective bargaining agreement or other contract or understanding, a notice, to be provided by the Contracting Officer, advising the labor union or workers' representative of the Contractors' commitments under section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(e) The Contractors will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(f) The Contractors will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to their books, records, and accounts by the Contracting Agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(g) In the event of the Contractors' noncompliance with the nondiscrimination clauses of this Contract or with any of such rules, regulations, or orders, this Contract may be canceled, terminated or suspended in whole or in part and the Contractors may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(h) The Contractors will include the provisions of paragraphs (a) through (g) in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractors will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event the Contractors become involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractors may request the United States to enter into such litigation to protect the interests of the United States.

GENERAL OBLIGATION – BENEFITS CONDITIONED UPON PAYMENT

20. (a) The obligation of the Contractors to pay the United States as provided in this Contract is a general obligation of the Contractors notwithstanding the manner in which the obligation may be distributed among the Contractors' water users and notwithstanding the default of individual water users in their obligation to the Contractors.

(b) The payment of charges becoming due pursuant to this Contract is a condition precedent to receiving benefits under this Contract. The United States shall not make water available to the Contractors through Project facilities during any period in which the Contractors are in arrears in the advance payment of water rates due the United States. The Contractors shall not deliver water under the terms and conditions of this Contract for lands or parties that are in arrears in the advance payment of water rates as levied or established by the Contractors.

COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

21. (a) The Contractors shall comply with Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352; 42 U.S.C. § 2000d), the Rehabilitation Act of 1973 (Pub. L. 93-112, Title V, as amended; 29 U.S.C. § 791, et seq.), the Age Discrimination Act of 1975 (Pub. L. 94-135, Title III; 42 U.S.C. 6101, et seq.), Title III of the Americans with Disabilities Act of 1990 (Pub. L. 101-336; 42 U.S.C. § 12181, et seq.), and any other applicable civil rights laws, and with the applicable implementing regulations and any guidelines imposed by the U.S. Department of the Interior and/or Bureau of Reclamation.

(b) These statutes prohibit any person in the United States from being excluded from participation in, being denied the benefits of, or being otherwise subjected to discrimination under any program or activity receiving financial assistance from the Bureau of Reclamation on the grounds of race, color, national origin, disability, or age. By executing this Contract, the Contractors agree to immediately take any measures necessary to implement this obligation, including permitting officials of the United States to inspect premises, programs, and documents.

(c) The Contractors make this Contract in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property discounts, or other Federal financial assistance extended after the date hereof to the Contractors by the Bureau of

Reclamation, including installment payments after such date on account of arrangements for Federal financial assistance which were approved before such date. The Contractors recognize and agrees that such Federal assistance will be extended in reliance on the representations and agreements made in this Article and that the United States reserves the right to seek judicial enforcement thereof.

(d) Complaints of discrimination against the Contractors shall be investigated by the Contracting Officer's Office of Civil Rights.

#### PRIVACY ACT COMPLIANCE

22. (a) The Contractors shall comply with the Privacy Act of 1974 (Privacy Act) (5 U.S.C. § 552a) and the Department of the Interior rules and regulations under the Privacy Act (43 C.F.R. § 2.45, et seq.) in maintaining Landholder certification and reporting records required to be submitted to the Contractors for compliance with Sections 206, 224(c), and 228 of the Reclamation Reform Act of 1982 (43 U.S.C. §§ 390ff, 390ww, and 390zz), and pursuant to 43 C.F.R. § 426.18.

(b) With respect to the application and administration of the criminal penalty provisions of the Privacy Act (5 U.S.C. § 552a(i)), the Contractors and the Contractors' employees who are responsible for maintaining the certification and reporting records referenced in paragraph (a) above are considered to be employees of the Department of the Interior. See 5 U.S.C. § 552a(m).

(c) The Contracting Officer or a designated representative shall provide the Contractors with current copies of the Department of the Interior Privacy Act regulations and the Bureau of Reclamation Federal Register Privacy Act System of Records Notice (Interior/WBR-31, Acreage Limitation) which govern the maintenance, safeguarding, and disclosure of information contained in the Landholders' certification and reporting records.

(d) The Contracting Officer shall designate a full-time employee of the Bureau of Reclamation to be the System Manager responsible for making decisions on denials pursuant to 43 C.F.R. §§ 2.61 and 2.64 and amendment requests pursuant to 43 C.F.R. § 2.72. The Contractors are authorized to grant requests by individuals for access to their own records.

(e) The Contractors shall forward promptly to the System Manager each proposed denial of access under 43 C.F.R. § 2.64 and each request for amendment of records filed under 43 C.F.R. § 2.71; notify the requester accordingly of such referral; and provide the System Manager with information and records necessary to prepare an appropriate response to the requester. These requirements do not apply to individuals seeking access to their own certification and reporting forms filed with the Contractors pursuant to 43 C.F.R. § 426.18 unless the requester elects to cite the Privacy Act as an authority for the request.

(f) Upon complete payment of the Repayment Obligation by the Contractors, this Article 22 will no longer be applicable.

CONTRACTORS TO PAY CERTAIN MISCELLANEOUS COSTS

23. In addition to all other payments to be made by the Contractors pursuant to this Contract, the Contractors shall pay to the United States, within sixty (60) days after receipt of a bill and detailed statement submitted by the Contracting Officer to the Contractors for such specific items of direct cost incurred by the United States for work requested by the Contractors associated with this Contract plus a percentage of such direct costs for administrative and general overhead in accordance with applicable Bureau of Reclamation policy and procedures. All such amounts referred to in this Article shall not exceed the amount agreed to in writing in advance by the Contractors. This Article shall not apply to costs for routine contract administration.

WATER CONSERVATION

24. (a) Prior to the delivery of water provided from or conveyed through Federally constructed or Federally financed facilities pursuant to this Contract, the Contractors shall develop a water conservation plan, as required by subsection 210(b) of the Reclamation Reform Act of 1982 and 43 C.F.R. 427.1 (Water Conservation Rules and Regulations). Additionally, an effective water conservation and efficiency program shall be based on the Contractors' water conservation plan that has been determined by the Contracting Officer to meet the conservation and efficiency criteria for evaluating water conservation plans established under Federal law. The water conservation and efficiency program shall contain definite water conservation objectives, appropriate economically feasible water conservation measures, and time schedules for meeting those objectives.

(b) Should the amount of M&I Water delivered pursuant to subdivision (a) Article 3 of this Contract equal or exceed 2,000 acre-feet per Year, the Contractors shall implement the Best Management Practices identified by and the time frames issued by the Mid-Pacific Region's then-existing conservation and efficiency criteria for such M&I Water unless



any such practice is determined by the Contracting Officer to be inappropriate for the Contractors.

(c) As part of the water conservation program, the Contractors shall develop and be implementing a tiered block water pricing program that promotes conservation and the efficient management of Project Water during the term of this Contract. Such pricing program for Project Water shall take into account all relevant circumstances, including without limitation, water shortages imposed under this Contract and the availability and cost of the Contractors' and individual water user's non-Project alternative sources of supply, including groundwater and other non-Project water supplies, so that the Contractors' pricing structure provides incentives for conservation and the efficient management of overall water supply available to water users served by the Contractors. Provided, That no such tiered block water pricing program need be implemented by the Contractors if the Contracting Officer determines, based on information provided by the Contractors, that (i) such a pricing structure will not result in significant conservation of water available for use within the Contractors' Boundaries, including groundwater or (ii) other pricing program, conservation, or management measures are more appropriate and/or will result in comparable or better conservation of the water supplies available within the Contractors' Boundaries. Provided, further, That if the Contractors fail to, or elect not to, comply with this subdivision of this Article 24, then any subsequent Contract shall contain a tiered pricing contractual provision pursuant to subsection (d) of Section 3405 of the CVPIA.

(d) The Contractors shall submit to the Contracting Officer by December 31, of each Calendar Year, an annual report on the status of their implementation of the water conservation program.

(e) At five (5)-year intervals, the Contractors shall revise their water conservation plan to reflect the then-existing conservation and efficiency criteria for evaluating water conservation plans established under Federal law and submit such revised water management plan to the Contracting Officer for review and evaluation. The Contracting Officer will then determine if the water conservation plan meets the Bureau of Reclamation's then-existing conservation and efficiency criteria for evaluating water conservation plans established under Federal law.

(f) Upon complete payment of the Repayment Obligation by the Contractors, and notwithstanding any Additional Capital Obligation that may later be established, subsection (c) of this Article 24 of this Contract shall no longer be applicable.

#### EXISTING OR ACQUIRED WATER OR WATER RIGHTS

25. Except as specifically provided in Article 16 of this Contract, the provisions of this Contract shall not be applicable to or affect water or water rights now owned or hereafter acquired by the Contractors or any user of such water within the Contractors' Boundaries from other than the United States by the Contractors. Any such water shall not be considered Project Water under this Contract. In addition, this Contract shall not be construed as limiting or curtailing any rights which the Contractors or any water user within the Contractors' Boundaries acquires or has available under any other contract pursuant to the Federal Reclamation law.

#### OPERATION AND MAINTENANCE BY THE OPERATING NON-FEDERAL ENTITY

26. (a) The responsibility for performing and, in some cases, funding the O&M of all or any portion of the Delta Division facilities may be transferred to an Operating Non-Federal Entity by one or more separate agreements between the United States and the Operating Non-Federal Entity. Any such agreement(s) shall require the Operating Non-Federal Entity to

perform the O&M in compliance with the provisions of this Contract and shall not interfere with the rights and obligations of the Contractors and the United States under this Contract.

(b) The Contracting Officer has previously notified the Contractors in writing that the Operation and Maintenance of a portion of the Project facilities which serve the Contractors have been transferred to the Operating Non-Federal Entity, and therefore, the Contractors shall pay directly to the Operating Non-Federal Entity, or to any successor approved by the Contracting Officer under the terms and conditions of the separate agreement between the United States and the Operating Non-Federal Entity described in subdivision (a) of this Article, all rates, charges, or assessments of any kind, including any assessment for reserve funds, which the Operating Non-Federal Entity or such successor determines, sets, or establishes for the Operation and Maintenance of the portion of the Project facilities operated and maintained by the Operating Non-Federal Entity or such successor. Such direct payments to Operating Non-Federal Entity or such successor shall not relieve the Contractors of their obligation to pay directly to the United States the Contractors' share of the Project Rates, Charges, and Tiered Pricing Component except to the extent the Operating Non-Federal Entity collects payments on behalf of the United States in accordance with the separate agreement identified in subdivision (a) of this Article.

(c) In the event the Operation and Maintenance of the Project facilities operated and maintained by the Operating Non-Federal Entity is re-assumed by the United States during the term of this Contract, the Contracting Officer shall so notify the Contractors, in writing, and present to the Contractors a revised Exhibit "A" which shall include the portion of the Rates to be paid by the Contractors for Project Water under this Contract representing the Operation and Maintenance costs of the portion of such Project facilities which have been

reassumed. The Contractors shall, thereafter, in the absence of written notification from the Contracting Officer to the contrary, pay the Rates and Charges specified in the revised Exhibit "A" directly to the United States in compliance with Article 7 of this Contract.

CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

27. The expenditure or advance of any money or the performance of any obligation of the United States under this Contract shall be contingent upon appropriation or allotment of funds. Absence of appropriation or allotment of funds shall not relieve the Contractors from any obligations under this Contract. No liability shall accrue to the United States in case funds are not appropriated or allotted.

BOOKS, RECORDS, AND REPORTS

28. The Contractors shall establish and maintain accounts and other books and records pertaining to administration of the terms and conditions of this Contract, including the Contractors' financial transactions; water supply data; project operations, maintenance, and replacement logs; project land and rights-of-way use agreements; the water users' land-use (crop census), land-ownership, land-leasing, and water-use data; and other matters that the Contracting Officer may require. Reports shall be furnished to the Contracting Officer in such form and on such date or dates as the Contracting Officer may require. Subject to applicable Federal laws and regulations, each party to this Contract shall have the right during office hours to examine and make copies of the other party's books and records relating to matters covered by this Contract.

ASSIGNMENT LIMITED – SUCCESSORS AND ASSIGNS OBLIGATED

29. (a) The provisions of this Contract shall apply to and bind the successors and assigns of the parties hereto, but no assignment or transfer of this Contract or any right or interest therein by either party shall be valid until approved in writing by the other party.

(b) The assignment of any right or interest in this Contract by either party shall not interfere with the rights or obligations of the other party to this Contract absent the written concurrence of said other party.

SEVERABILITY

30. In the event that a person or entity who is neither (i) a party to a Project Contract, nor (ii) a person or entity that receives Project Water from a party to a Project Contract, nor (iii) an association or other form of organization whose primary function is to represent parties to

Project Contracts, brings an action in a court of competent jurisdiction challenging the legality or enforceability of a provision included in this Contract and said person, entity, association, or organization obtains a final court decision holding that such provision is legally invalid or unenforceable and the Contractors have not intervened in that lawsuit in support of the plaintiff(s), the parties to this Contract shall use their best efforts to (i) within thirty (30) days of the date of such final court decision identify by mutual agreement the provisions in this Contract which must be revised, and (ii) within three (3) months thereafter promptly agree on the appropriate revision(s). The time periods specified above may be extended by mutual agreement of the parties. Pending the completion of the actions designated above, to the extent it can do so without violating any applicable provisions of law, the United States shall continue to make the quantities of Project Water specified in this Contract available to the Contractors pursuant to the provisions of this Contract which were not found to be legally invalid or unenforceable in the final court decision.

OFFICIALS NOT TO BENEFIT

31. No Member of or Delegate to the Congress, Resident Commissioner, or official of the Contractors shall benefit from this Contract other than as a water user or landowner in the same manner as other water users or landowners.

CHANGES IN CONTRACTORS' ORGANIZATION AND/OR SERVICE AREA

32. While this Contract is in effect, no change may be made in the Contractors' Service Areas or organizations, by inclusion or exclusion of lands or by any other changes which may affect the respective rights, obligations, privileges, and duties of either the United States or the Contractors under this Contract, including, but not limited to, dissolution, consolidation, or merger, except upon the Contracting Officer's written consent.

RECLAMATION REFORM ACT OF 1982

33. (a) Upon the Contractors' compliance with and discharge of the Repayment Obligation pursuant to this Contract, subsections (a) and (b) of Section 213 of the Reclamation Reform Act of 1982 (96 Stat. 1269) shall apply to affected lands.



(b) The obligation of the Contractors to pay the Additional Capital Obligation shall not affect the Contractors' status as having repaid all of the construction costs assignable to the Contractors or the applicability of subsections (a) and (b) of section 213 of the Reclamation Reform Act of 1982 (96 Stat. 1269) once the Repayment Obligation is paid.

CERTIFICATION OF NONSEGREGATED FACILITIES

34. The Contractors hereby certify that the Contractors do not maintain or provide for their employees any segregated facilities at any of their establishments and that the Contractors do not permit their employees to perform their services at any location under the Contractors control where segregated facilities are maintained. The Contractors certify further that the Contractors will not maintain or provide for their employees any segregated facilities at any of their establishments and that the Contractors will not permit its employees to perform their services at any location under the Contractors control where segregated facilities are maintained. The Contractors agree that a breach of this certification is a violation of the Equal Employment Opportunity clause in this Contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, creed, color, or national origin, because of habit, local custom, disability, or otherwise. The Contractors further agree that (except where the Contractors have obtained identical certifications from proposed subcontractors for specific time periods) the Contractors will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Employment Opportunity clause; that the Contractors will retain such certifications in their files; and that the Contractors will forward the following notice to such proposed subcontractors (except where the proposed subcontractors have submitted identical certifications for specific time periods):

NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR  
CERTIFICATIONS OF NONSEGREGATED FACILITIES

A Certification of Nonsegregated Facilities must be submitted prior to the award of a subcontract exceeding \$10,000 which is not exempt from the provisions of the Equal Employment Opportunity clause. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semiannually, or annually). Note: The penalty for making false statements in offers is prescribed in 18 U.S.C. § 1001.

MEDIUM FOR TRANSMITTING PAYMENT

35. (a) All payments from the Contractors to the United States under this Contract shall be by the medium requested by the United States on or before the date payment is due. The required method of payment may include checks, wire transfers, or other types of payment specified by the United States.

(b) Upon execution of this Contract, the Contractors shall furnish the Contracting Officer with the Contractors' taxpayer's identification number (TIN). The purpose for requiring the Contractors' TIN is for collecting and reporting any delinquent amounts arising out of the Contractors' relationship with the United States.

TERMINATION OF PAJARO VALLEY WATER MANAGEMENT AGENCY INTEREST

36. (a) Pajaros interest in Contract No. 14-06-200-3365A-IR3-B and all successive renewals is hereby terminated by mutual agreement.

(b) This termination shall relieve the United States from its obligation to provide Pajaro with use of water in accordance with the agreement dated May 14, 1999 (Exhibit D).

NOTICES

37. Any notice, demand, or request authorized or required by this Contract shall be deemed to have been given, on behalf of the Contractors, when mailed, postage prepaid, or delivered to the Area Manager, South-Central California Area Office, 1243 N Street, Fresno, California 93721, Bureau of Reclamation, and on behalf of the United States, when mailed, postage prepaid, or delivered to the Board of Directors of Santa Clara Valley Water District, 5750 Almaden Expressway, San Jose, California 95118-3686, and the Board of Directors of Westlands Water District Distribution District No. 1, P.O. Box 6056, Fresno, California 93703-6056. The designation of the addressee or the address may be changed by notice given in the same manner as provided in this Article for other notices.

CONTRACT DRAFTING CONSIDERATIONS

38. This amended Contract has been negotiated and reviewed by the parties hereto, each of whom is sophisticated in the matters to which this amended Contract pertains. The double-spaced Articles of this amended Contract have been drafted, negotiated, and reviewed by the parties, and no one party shall be considered to have drafted the stated Articles. Single-spaced Articles are standard Articles pursuant to Bureau of Reclamation policy.

CONFIRMATION OF CONTRACT

39. Promptly after the execution of this amended Contract, the Contractors will provide to the Contracting Officer a certified copy of a final decree of a court of competent jurisdiction in the State of California, confirming the proceedings on the part of the Contractors for the authorization of the execution of this amended Contract. This amended Contract shall not be binding on the United States until the Contractors secure a final decree.

1041 IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the day  
1042 and year first above written.

1043 UNITED STATES OF AMERICA

1044 By: \_\_\_\_\_  
1045 Regional Director  
1046 Mid-Pacific Region  
1047 Bureau of Reclamation

1048 WESTLANDS WATER DISTRICT DISTRIBUTION  
1049 DISTRICT NO. 1  
1050 (SEAL)

1051 By: \_\_\_\_\_  
1052 President of the Board of Directors

1053 Attest:

1054 By: \_\_\_\_\_  
1055 Secretary of the Board of Directors

1056 SANTA CLARA VALLEY WATER DISTRICT  
1057 (SEAL)

1058 By: \_\_\_\_\_  
1059 Chief Executive Officer

1060 Attest:

1061 By: \_\_\_\_\_  
1062 Secretary of the Board of Directors



UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF RECLAMATION  
Central Valley Project, California

CONTRACT BETWEEN THE UNITED STATES  
AND  
SANTA CLARA VALLEY WATER DISTRICT AND  
WESTLANDS WATER DISTRICT DISTRIBUTION DISTRICT NO. 1  
PROVIDING FOR PROJECT WATER SERVICE  
AND FACILITIES REPAYMENT

Exhibits

Exhibit A – Rates and Charges

*This Exhibit template is unchanged from current Contract and is updated annually. Rate Schedules may be found at: <https://www.usbr.gov/mp/cvpwaterrates/ratebooks/index.html>*

Exhibit B – Repayment Obligation

*This Exhibit template was developed during the WIIN Act Negotiations. Relevant data will be incorporated upon contract execution.*

Exhibit C – Pajaro Valley Water Management Agency Letter

Exhibit D – 1999 Partial Assignment Agreement

**EXHIBIT A**  
**PAJARO VALLEY WATER MANAGEMENT AGENCY, WESTLANDS WATER DISTRICT**  
**& SANTA CLARA VALLEY WATER DISTRICT**  
**2019 Rates and Charges**  
**(Per Acre-Foot)**

	Westlands WD		Santa Clara Valley WD	
	Irrigation Water	M&I Water	Irrigation Water	M&I Water
<b>COST-OF-SERVICE (COS) RATE</b>				
Construction Costs	\$68.25	\$9.26	\$36.48	\$1.94
DMC Aqueduct Intertie	\$1.11	\$0.00	\$0.52	
O&M Components				
Water Marketing	\$7.07	\$7.34	\$7.07	\$7.34
Storage	\$14.52	\$15.90	\$14.41	\$14.70
Credit for other PUE Remittance	(\$9.74)	(\$3.14)	(\$13.94)	(\$4.96)
Conveyance				
Conveyance Pumping				
Direct Pumping				
Deficit Cost Component(American Recovery and Reinvestment Act (ARRA)included)	\$0.00		\$0.00	\$0.00
<b>TOTAL COS RATE (Tier 1 Rate)</b>	<b>\$81.21</b>	<b>\$29.36</b>	<b>\$44.54</b>	<b>\$19.02</b>
Project Use Energy Payment				
Direct Pumping	\$12.63	\$11.44	\$18.08	\$18.08
Other PUE Remittance	\$9.74	\$3.14	\$13.94	\$4.96
<b>IRRIGATION FULL-COST RATE</b>				
Section 202(3) Rate is applicable to a Qualified Recipient or to a Limited Recipient receiving irrigation water on or before October 1, 1981.	\$117.71		\$72.94	
Section 205(a)(3) Rate is applicable to a Limited Recipient that did not receive irrigation water on or before October 1, 1981.	\$151.30		\$93.69	
<b>M&amp;I FULL COST RATE (Schedule FC-2)</b>				
		\$32.25		\$19.64
<b>TIERED PRICING COMPONENTS (In Addition to Total COS Rate Above)</b>				
<b>Irrigation</b>				
Tier 2 Rate: >80% <=90% of Contract Total [Section 202(3) Irrigation Full Cost Rate - Irrigation COS Rate]/2 (Amount	\$18.25		\$14.20	
Tier 3 Rate: >90 of Contract Total [Section 202(3) Irrigation Full Cost Rate - Irrigation COS Rate] (Amount to be added to Tier 1 Rate)	\$36.50		\$28.40	
<b>M&amp;I</b>				
Tier 2 Rate: >80% <=90% of Contract Total [M&I Full Cost Rate - M&I COS Rate]/2 (Amount to be added to Tier 1 Rate)		\$1.45		\$0.31
Tier 3 Rate: >90% of Contract Total [M&I Full Cost Rate - M&I COS Rate] (Amount to be added to Tier 1) Rate)		\$2.89		\$0.62
<b>CHARGES AND ASSESSMENTS (Payments in addition to Rates)</b>				
P.L. 102-575 Surcharge (Restoration Fund Payment) [Section 3407(d)(2)(A)]	\$10.63	\$21.26	\$10.63	\$21.26
P.L. 106-377 Assessment (Trinity Public Utilities District) [Appendix B, Section 203]	\$0.30	\$0.30	\$0.30	\$0.30
<b>TOTAL INCLUSIVE RATE (All costs included not including full cost and tiered pricing)</b>	<b>\$114.51</b>	<b>\$65.50</b>	<b>\$87.49</b>	<b>\$63.62</b>

Additional detail of rate components is available on the Internet at:  
<http://www.usbr.gov/mp/cvowaterrates/ratebooks/index.html>

Irrigation and M&I  
Contract No. 14-06-200-3365A-XXX-B  
Exhibit C Template

Repayment Obligation - Current Calculation under the WIIN Act, Section 4011 (a) (2)

Represents an Example of Cost to Repay Construction Based on Unpaid Construction (From 2018 or 2019 of the Water Rate Books\*\*)

Contractor: Contractor A  
Facility: San Luis Canal (This does not include Delta-Mendota Pool or Canal)  
Contract: Contract Number #:

Irrigation Construction Cost (2018 or 2019 Irrigation Ratebook, Schedule A-2Ba and A-2Bc)			
	Unpaid Cost	Discount	
Construction Cost (Excludes Intertie):	\$ 2,000,000	\$ 1,860,792	
Intertie Construction Cost:	\$ 50,000	\$ 36,962	
<b>Total</b>	<b>\$ 2,050,000</b>	<b>\$ 1,897,754</b>	
If Paid in Installments (1/2 of 20 yr CMT)			
	Due		
Payment 1	1-Jan-20	\$ 492,663	
Payment 2	1-Jan-21	\$ 492,663	
Payment 3	1-Jan-22	\$ 492,663	
Payment 4	1-Jan-23	\$ 492,663	
<b>Total Installment Payments</b>		<b>\$ 1,970,653</b>	
20 yr CMT Rates - 4/23/2018		3.050%	
Discount Rate: 1/2 of 20 yr CMT (WIIN Act, Section 4011(a)(2)(A) & f)		1.525%	

M&I Construction Cost (2018 or 2019 M&I Ratebook, Schedule A-2Ba)	
Construction Cost *:	\$ 300,000
* Excludes interest to payment date as interest will be computed as an annual expense as usual	

Calculation Support: Irrigation lump sum or first payment due date 1-Jan-20  
Days Until End of Fiscal Year: 273

Fiscal Yr	Unpaid Allocated Construction Cost			Unpaid Intertie Construction Cost			Total
	Beginning Balance	Straight Line Repayment	Present Value	Beginning Balance	Straight Line Repayment	Present Value	Present Values
2018	\$ 2,000,000	\$ 153,846	\$ 153,846	\$ 50,000	\$ 1,087	\$ 1,087	\$ 154,933
2019	\$ 1,846,154	\$ 153,846	\$ 153,846	\$ 48,913	\$ 1,087	\$ 1,087	\$ 154,933
2020	\$ 1,692,308	\$ 153,846	\$ 152,116	\$ 47,826	\$ 1,087	\$ 1,075	\$ 153,191
2021	\$ 1,538,462	\$ 153,846	\$ 149,831	\$ 46,739	\$ 1,087	\$ 1,059	\$ 150,890
2022	\$ 1,384,615	\$ 153,846	\$ 147,580	\$ 45,652	\$ 1,087	\$ 1,043	\$ 148,623
2023	\$ 1,230,769	\$ 153,846	\$ 145,364	\$ 44,565	\$ 1,087	\$ 1,027	\$ 146,391
2024	\$ 1,076,923	\$ 153,846	\$ 143,180	\$ 43,478	\$ 1,087	\$ 1,012	\$ 144,192
2025	\$ 923,077	\$ 153,846	\$ 141,029	\$ 42,391	\$ 1,087	\$ 996	\$ 142,026
2026	\$ 769,231	\$ 153,846	\$ 138,911	\$ 41,304	\$ 1,087	\$ 981	\$ 139,892
2027	\$ 615,385	\$ 153,846	\$ 136,824	\$ 40,217	\$ 1,087	\$ 967	\$ 137,791
2028	\$ 461,538	\$ 153,846	\$ 134,769	\$ 39,130	\$ 1,087	\$ 952	\$ 135,721
2029	\$ 307,692	\$ 153,846	\$ 132,745	\$ 38,043	\$ 1,087	\$ 938	\$ 133,683
2030	\$ 153,846	\$ 153,846	\$ 130,751	\$ 36,957	\$ 1,087	\$ 924	\$ 131,675
2031-63				\$ 35,870	\$ 35,870	\$ 23,815	\$ 23,815
<b>Total, Lump Sum Payment</b>			<b>\$ 1,860,792</b>			<b>\$ 36,962</b>	<b>\$ 1,897,754</b>
Amount of Reduction, Lump Sum			\$ 139,208			\$ 13,038	\$ 152,246

\*\* Water Rate Charges and payments are a requirement under the existing and amendatory contract. If at a later date charges are updated based on Regional and Area Office reviews, any unpaid charges are still due.

***PAJARO VALLEY WATER MANAGEMENT AGENCY***

36 BRENNAN STREET • WATSONVILLE, CA 95076

TEL: (831) 722-9292 FAX: (831) 722-3139

<https://www.pvwater.org>

July 26, 2019

Bureau of Reclamation - SCCAO  
Attn: Michael Jackson, P.E.  
1243 N. Street  
Fresno, CA 93721-1813

**SUBJECT:** Partial Assignment from Mercy Springs

Dear Mr. Jackson,

Pajaro Valley Water Management Agency is withdrawing its interest in the Existing Contract and current renewal, titled "Interim Renewal Contract Among The United States and Pajaro Valley Water Management Agency, Santa Clara Valley Water District, and Westlands Water District Distribution District No. 1 Providing For Project Water Service From The San Luis Unit And Delta Division the Partial Assignment Water Service Contract" Contract No. 14-06-200-3365A-IR-B (Partial Assignment from Mercy Springs).

Should you have any questions, or if you need additional information, please do not hesitate to contact me at (831) 722-9292, or [lockwood@pvwater.org](mailto:lockwood@pvwater.org).

Sincerely,

Brian Lockwood  
General Manager

**AGREEMENT FOR PARTIAL  
ASSIGNMENT OF WATER SERVICE CONTRACT**

THIS AGREEMENT is made this 14th day of May 1999, by and among Mercy Springs Water District ("Mercy Springs"), Pajaro Valley Water Management Agency ("Pajaro Valley"), Westlands Water District ("Westlands"), Santa Clara Valley Water District ("Santa Clara") and the United States of America through the United States Bureau of Reclamation ("Reclamation").

**RECITALS**

A. On June 21, 1967, Mercy Springs and the United States entered into Contract No. 14-06-200-3365A providing for the annual delivery of up to Thirteen Thousand Three Hundred (13,300) acre feet of water from the Central Valley Project ("CVP"). On February 27, 1995, Mercy Springs and the United States entered into Interim Renewal Contract No. 14-06-200-3365A-IR1, which was effective through February 28, 1998, and on February 20, 1998, Mercy Springs and the United States entered into Interim Renewal contract No. 14-06-200-3365A-IR2 (the "Existing Contract"), which expires February 28, 2000; and thereafter shall, upon the request, be renewed for successive interim periods of not more than Two (2) years in length, and thereafter upon final completion of certain environmental documentation, and upon the request, shall be renewed for a term of Twenty-five (25) years, which may thereafter be renewed for terms not to exceed Twenty-five (25) years.

B. Article 30(a) of the Existing Contract provides for assignment of the Contract upon written approval of the Contracting Officer acting on behalf of the United States.

C. Upon execution of this Agreement, Mercy Springs will assign to Pajaro Valley, Westlands and Santa Clara all Mercy Springs' right, title, and interest in that portion of the Existing Contract as it relates to, and is for the benefit of, the One Thousand Six Hundred Five (1,605) acres of lands within Mercy Springs [more particularly described in Exhibit "A" (the "Subject Lands") and consisting of Six Thousand Two Hundred Sixty (6,260) annual acre-feet of entitlement under the Existing Contract (that portion referred to hereafter as the "Subject Water Supply"), including any rights to renew the Existing Contract for the Subject Water Supply.

D. Mercy Springs, Pajaro Valley, Westlands and Santa Clara have also entered into a separate agreement entitled "Agreement Relating to Partial Assignment of Water Service Contract" (hereafter referred to as the "Four-Party Agreement"), whereby the Subject Water Supply from this assignment will be provided to Westlands and Santa Clara for a period of at least ten (10) years. The Four-Party Agreement provides that if conditions specified therein do not occur within twenty (20) years of the effective date of this Agreement, all of Pajaro Valley's interest in the Existing Contract or a renewal thereof shall terminate.

E. The Subject Water Supply has been determined to be included in the average annual quantity of CVP water actually delivered to Mercy Springs under Contract No. 214-06-200-3365A during the last three years of normal water delivery prior to enactment of the Central Valley Project Improvement Act.

#### **AGREEMENT**

#### **IT IS THEREFORE AGREED AMONG THE BELOW PARTIES:**

1. Incorporation of Recitals. Each of the above RECITALS is hereby incorporated as a part of this Agreement.



2. Terms and Conditions. Subject to the terms of the terms of the Four-Party Agreement, upon execution of this Agreement, Pajaro Valley, Westlands, and Santa Clara accept all terms and conditions included in the Existing Contract, as may be modified upon renewal thereof, and as may be modified or supplemented herein, and those parties to this Agreement acknowledge and accept their proportionate share of the CVP capital obligation incurred under Contract Nos. 14006-200-3365A or 14-06-200-3365A-IR1, or the Existing Contract.
3. Payment of Existing Operation and Maintenance Deficit. Prior to delivery of any of the Subject Water Supply pursuant to this assignment, Mercy Springs shall have paid in full to the United States any operation and maintenance deficit that may be owed by Mercy Springs to the United States as a result of the delivery of CVP Water to Mercy Springs pursuant to Contract Nos. 14006-200-3365A or 14-06-200-3365A-IR1, or the Existing Contract delivered prior to the effective date of the Agreement.
4. Change in Service Area. The Existing Contract is hereby modified to include in the contract service area, the service areas of Westlands and Santa Clara, where the Subject Water Supply can be used.
5. Water Rates and Charges. The Subject Water Supply shall be subject to the applicable Rates, Charges, and Crediting determined annually in accordance with Federal law, associated regulations and the then current CVP ratesetting policies. To enable Reclamation to compute appropriate Rates, Charges, and Crediting, Westlands, Santa Clara, and/or Pajaro Valley shall submit water delivery schedules required by the Existing contract, as may be amended,

supplemented, or renewed, to Reclamation identifying to whom the Subject Water Supply will be delivered.

6. Use of Water By Pajaro Valley. The delivery to Pajaro Valley of any of the Subject Water Supply shall be contingent upon appropriate environmental review and modification of the contract service area described in the Existing Contract or the renewal thereof. In addition to the terms and conditions on the use of CVP water in the Existing Contract, as may be amended or supplemented, the delivery of any of the Subject Water Supply for M&I purposes to the Pajaro Valley service area is conditioned upon the prior written approval of the Contracting Officer.

7. Allocation of Water Shortages. Irrespective of actual use, the Subject Water Supply shall be acknowledged by the parties and treated by the United States as irrigation water for the purposes of allocating water shortages among CVP water service contractors.

8. Place of Use and Land Classification Requirements. The delivery of any of the Subject Water Supply to Pajaro Valley shall also be contingent upon inclusion, if not previously accomplished, of the lands in the permitted place of use for the CVP water rights by the California State Water Resources Control Board. The use of any of the Subject Water Supply for irrigation purposes must be preceded, if not previously completed, by appropriate Federal land classification and shall be consistent with Federal Reclamation law.

9. Retention of Rights. Upon execution of this Agreement, Mercy Springs will retain all right, title, and interest in that portion of the Existing Contract exclusive of the Subject Water Supply for the Subject Lands.

10. Applicability of the Reclamation Reform Act of 1982. The Subject Water Supply when used for irrigation purposes shall only be delivered to lands held by landholders who have elected to be subject to the provisions of the Reclamation Reform Act of 1982, 43 U.S.C. Sections 390aa *et seq.*, 96 Stat. 1263, by executing an irrevocable election or within a district subject to said Act.

11. Existing Contract Renewal Rights. All parties to this agreement acknowledge and understand that this agreement does not afford any of the parties any contractual rights to any renewal of the Existing Contract beyond that provided pursuant to the Existing Contract.

12. Effective Date. The effective date of this Agreement shall be the date on which it is approved by the United States.

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IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

MERCY SPRINGS WATER DISTRICT

By [Signature]  
Title General Manager

WESTLANDS WATER DISTRICT

By [Signature]  
Title General Manager

SANTA CLARA VALLEY DISTRICT

Reference SCVWD Agreement # A2263

By [Signature]  
Title CEO

PAJARO VALLEY WATER  
MANAGEMENT AGENCY

By [Signature]  
Title vice Chairman  
By [Signature]  
Title General Manager

The foregoing Agreement for Partial Assignment of the Existing Contract and the terms detailed above are hereby approved and accepted by the United States of America.

Dated: 10/22/99

By [Signature]  
Acting Regional Director, Mid-Pacific  
Region, Bureau of Reclamation

APPROVED AS TO LEGAL  
FORM AND SUFFICIENCY  
[Signature]  
OFFICE OF REGIONAL SOLICITOR  
DEPARTMENT OF THE INTERIOR



**PAJARO VALLEY WATER MANAGEMENT AGENCY**

36 BRENNAN STREET • WATSONVILLE, CA 95076

TEL: (831) 722-9292 • FAX: (831) 722-3139

email: [info@pvwma.dst.ca.us](mailto:info@pvwma.dst.ca.us) • <http://www.pvwma.dst.ca.us>

Board of Directors Meeting

May 7, 1999

**MINUTES**

1. **Call to Order and Roll Call of PVWMA Directors:** The Regular Board meeting of Pajaro Valley Water Management Agency was called to order at 1:33 p.m. by Vice Chair Howard Mauthe.

Board Members Present: Frank Capurro, Gwen Carroll, Warren Koenig, Howard Mauthe, Joe Roediger

Board Members Absent: Brad Bennett, Rosemarie Imazio

Staff Members Present: Charles McNiesh, General Manager (GM)  
Barbara Jordan, Administrative Services Officer (ASO)  
Sharon Chapple, Administrative Assistant (AA)

Others Present: Lyndel Melton, Consultant  
David Lindow, Consultant

2. **Closed Session (1:00 - 1:30 p.m.):** Pursuant to Government Code section 54956.8 - Real property negotiations: Mercy Springs Water District property and water contract assignment; negotiating parties: PVWMA, Mercy Springs Water District/Sloan/Sagouspe, Santa Clara Valley Water District, and Westlands Water District.
3. **Open Session will begin at 1:30 p.m.** Report on closed session. The closed session was not held and there is therefore, no report.
4. **Action Item:**  
A. Execute Mercy Springs contract assignment document, execute water district agreement Supplementing the contract assignment document, and approve related escrow instructions. GM stated that escrow has been extended to May 14, 1999. Title company needs more time to secure signatures. After a short discussion, the following action was taken.


**ACTION:** Motion by Director Koenig to authorize the General Manager and the appropriate Board Member to negotiate and execute the final Mercy Springs documents unless there are substantial changes from the current document drafts. Motion carried by unanimous Aye vote, with Director Roediger abstaining.

5. **Oral Communications:** None

Director Imazio present at 1:36 p.m.

I hereby certify that this is a true copy of the approved minutes of the May 7, 1999 meeting of the Board of Directors of the Pajaro Valley Water Management Agency.

ATTEST:

  
Sharon A. Chappellear  
Acting Secretary/Board of Directors

Date: September 28, 1999



**RESOLUTION NO. 5-96**

**MERCY SPRINGS WATER DISTRICT**

**RESOLUTION APPROVING THE ASSIGNMENT OF  
A PORTION OF THE WATER SERVICE CONTRACT BETWEEN  
THE UNITED STATES OF AMERICA AND MERCY SPRINGS WATER  
DISTRICT AND PROVIDING FOR THE COOPERATION OF  
DISTRICT TO CARRY OUT THE ASSIGNMENT**

WHEREAS, the Mercy Springs Water District ("District") entered into a "Contract Between the United States and Mercy Springs Water District Providing for Water Service" dated February 27, 1965, Contract No. 14-06-200-3365A IR1 ("Bureau Contract"); and

WHEREAS, the District has adopted a policy entitled "Program Requirements for District Approval of Landowner Requests Relating to Partial Assignments/Long Term Transfers Affecting Central Valley Project Water Supply, dated December 10, 1996 ("District Policy"); and

WHEREAS, said District Policy is consistent with Water Code Section 382 which authorizes a local agency such as this District to transfer water outside of its boundaries, the use of which is voluntarily foregoing by water users within the agency; and

WHEREAS, certain landowners (the "Landowners") within the District have entered into an Agreement dated October 9, 1996 (the "Letter of Intent") with Pajaro Valley Water Management Agency ("Agency"), a copy of which is attached as Exhibit "A", participation in which Letter of Intent was offered to all District Landowners, which provides for the sale of Landowners of certain lands within the District and the right to receive water from the District under the Bureau contract related to such lands, and the assignment of a portion of the District Bureau Contract to the Agency for delivery of water to the Agency; and

WHEREAS, District has reviewed the terms and conditions of the Letter of Intent; and

WHEREAS, District desires to help facilitate the carrying out of the assignment of a portion of the Bureau Contract as set out in the Letter of Intent and is satisfied with its provisions, subject to compliance with the District Policy; and

WHEREAS, District will complete all actions necessary for compliance with the California Environmental Quality Act with respect to the Letter of Intent and its provisions for a sale of lands within the District, and assignment of a portion of the District Bureau Contract to Agency; the Bureau of Reclamation will comply with the National Environmental Policy Act; and

WHEREAS, although each member of the Board of Directors may participate in the partial assignment provided by the Letter of Intent, this Board has been advised action on such matter would not be a violation of Government Code §1090 in that the program provided for

under the District Policy and Letter of Intent is offered to all Landowners under the same term and conditions regardless of whether they are members of the Board of Directors; furthermore, members of the Board voting upon this resolution were drawn by lot after first disqualifying all directors from voting on the matter.

NOW, THEREFORE, BE IT RESOLVED by this Board of Directors as follows:

1. The facts set forth in the recitals above are true and correct, and the Board so finds and determines.
2. The District shall cooperate with and facilitate implementing the partial assignment provided for in the Letter of Intent, consistent with the District Policy, and the District's officers and staff are authorized and directed to do all things necessary and appropriate to carry out the foregoing, and
3. The District or the Agency will act as lead agency in carrying out the California Environmental Quality Act ("CEQA");
4. Subject to compliance with CEQA and any other applicable laws, it is the District's intent to execute the partial assignment and other necessary documents to carry out the Letter of Intent, consistent with the District Policy.

ALL THE FOREGOING, being on motion of Director Sloan  
seconded by Director Sas sps, was authorized by the following vote, namely:

AYES: Director Sloan, Director Ed Koda, Director Sagouspe

NOES: None

ABSTAIN: Director Devine, Director Tama Koda

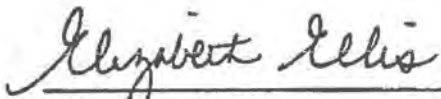
ABSENT: None

I HEREBY CERTIFY that the foregoing is a true copy of the resolution of the Board of Directors of Mercy Springs Water District as duly passed and adopted by said Board of Directors at an adjourned meeting held this 10th day of December, 1966.

  
Secretary

1 33  
I hereby certify that this is a true copy of the approved minutes of the  
December 15, 1998, meeting of the Board of Directors of the Santa Clara  
Valley Water District.

ATTEST:



Elizabeth A. Ellis  
Deputy Clerk/Board of Directors

Date: May 14, 1999

7 ii). Ms. Maher reviewed the staff report regarding the Central Valley Project Dry-Year Option Agreement and responded to Board members' questions.

It was moved by Director Sanchez, seconded by Director Zlotnick, and unanimously carried that the Board authorize the General Manager to execute a joint assignment contract for Central Valley Project water, consistent with terms and conditions described in the agenda memorandum, pending completion of environmental documentation and review of the final form of agreement by the District's General Counsel; and that a budget adjustment from the Water Enterprise Supplemental Water Appropriation account be approved in an amount sufficient to pay the District's share of costs to complete the joint assignment contract, as well as the District's share of debt service costs for the first year, not to exceed \$250,000. Directors Estremera and Judge were absent.

*April 21 Assignment  
Contr for CVP  
Wtr*

Director Zlotnick requested a CALFED update from Ms. Amy C. Fowler, Special Programs Engineer, Project Management Group.

Chairperson Gross moved the agenda to Item 21 i).

**RESOLUTION NO. 116-89****WESTLANDS WATER DISTRICT****A RESOLUTION OF THE BOARD OF DIRECTORS  
DESIGNATING THE DISTRICT'S REPRESENTATIVES FOR  
NEGOTIATIONS WITH THE BUREAU OF RECLAMATION FOR THE  
RENEWAL OF THE ASSIGNED PORTION OF THE MERCY SPRINGS WATER  
DISTRICT INTERIM AND LONG-TERM WATER SERVICE CONTRACTS**

WHEREAS, Section 3404(c) of the Central Valley Project Improvement Act (P.L. 102-575) provides for the long-term renewal of water services contracts following completion of the environmental review established for long-term contract renewals by said Act; and

WHEREAS, Contract No. 14-06-200-3385A-IR1 has been partially assigned, with the approval of the United States, to the Westlands Water District (the "District"); and

WHEREAS, Contract No. 14-06-200-3385A-IR1 will expire on February 29, 2000; and

WHEREAS, the Bureau of Reclamation has notified the District that it anticipates commencing contract negotiations for interim renewal contracts on September 29, 1999, long-term renewal contracts in mid-October, 1999, and has requested that each district designate those individuals authorized to represent and negotiate on behalf of the district during the negotiation process; and

WHEREAS, the Board has determined that it is in the best interest of the District to designate its General Manager David Orth, two members of its Board of Directors, C.A. Dingle and Thomas Hurlbutt, and District counsel Thomas W. Birmingham, to represent the District in these negotiations.

NOW, THEREFORE, BE IT RESOLVED, AS FOLLOWS:

Section 1. The matters stated in the recitals above are true and correct, and the Board so finds and determines.

Section 2. The General Manager, David Orth, two members of its Board of Directors, C.A. Dingle and Thomas Hurlbutt, and District counsel Thomas W. Birmingham, are hereby authorized to negotiate the interim and long-term renewal contracts for and on behalf of the District, and the General Manager is authorized to so notify the Bureau of Reclamation.

Section 3. The authorities granted hereby are for coordination and negotiation purposes only, and the terms of any interim and long-term renewal contract resulting from such negotiations shall be subject to final approval by the Board of Directors.



Section 4. The General Manager and any other District employee or consultant designated by the General Manager is hereby authorized and directed to take such additional actions as may be necessary or convenient to carry out the intention of this Resolution.

Section 5. This Resolution shall take effect immediately,

PASSED AND ADOPTED THIS 20<sup>th</sup> Day of September, 1999



C.A. Dingle, President

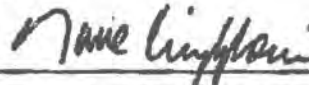
Attest:



Dave Ciapponi, Secretary



.....  
I hereby certify that the foregoing is a true and correct copy of a resolution duly adopted  
by Westlands Water District, a California water district, at a meeting of the Board of  
Directors thereof duly called and held at the office of the district on the 20<sup>th</sup> day of  
September, 1999.



Dave Ciapponi, Secretary

AGREEMENT RELATING TO  
PARTIAL ASSIGNMENT OF  
WATER SERVICE CONTRACT

THIS AGREEMENT is made this 14th day of May 1999, by and among Mercy Springs Water District ("Mercy Springs"), Westlands Water District ("Westlands"), Santa Clara Valley Water District ("Santa Clara"), and Pajaro Valley Water Management Agency ("Pajaro Valley").

RECITALS

A. On June 21, 1967, Mercy Springs and the United States entered into Contract No. 14-06-200-3365A providing for Project water service for the annual delivery of up to Thirteen Thousand Three Hundred (13,300) acre feet of water from the Central Valley Project ("CVP"). On February 27, 1995, Mercy Springs and the United States entered into Interim Renewal Contract No. 14-06-200-3365A-IR1, which was effective through February 28, 1998, and on February 20, 1998, Mercy Springs and the United States entered into Interim Renewal Contract No. 14-06-200-3365A-IR2 (the "Existing Contract"), which by its terms will be effective through February 28, 2000; and thereafter shall, upon the request of Mercy Springs, be renewed for successive interim periods of not more than Two (2) years in length, and thereafter upon final completion of certain environmental documentation, and upon the request of Mercy Springs, shall be renewed for a term of Twenty-five (25) years, which may thereafter be renewed

for terms not to exceed Twenty-five (25) years.

B. The Existing Contract at Article 30(a) provides for assignment of the Contract upon written approval of the Contracting Officer acting on behalf of the United States.

C. Mercy Springs by this Agreement intends to assign to Westlands, Santa Clara, and Pajaro Valley a portion of the Existing Contract to provide for delivery of water to Westlands, Santa Clara, and Pajaro Valley pursuant to the terms and conditions set forth herein.

D. Upon the United States' approval of the Agreement for Partial Assignment of Water Service Contract ("Assignment Agreement"), Mercy Springs will assign to Westlands, Santa Clara, and Pajaro Valley all its right, title, and interest in and to that portion of the Existing Contract as it relates to and is for the benefit of the One Thousand Six Hundred Five (1,605) acres of lands within Mercy Springs more particularly described in Exhibit "A" (the "Subject Lands") and consisting of Six Thousand Two Hundred Sixty (6,260) annual acre feet of entitlement under the Existing Contract (the "Subject Water Supply"). Including any rights to renew the Existing Contract for the Subject Water Supply; and Westlands, Santa Clara, and Pajaro Valley shall assume that portion of the Existing Contract as it relates to the Subject Water Supply.

E. Westlands, Santa Clara, and Pajaro Valley will renew that portion of the Existing Contract for the Subject Water Supply under the provisions of the Central Valley Project Improvement Act, Title XXXIV of Public Law 102-575 for the annual delivery of up to

Six Thousand Two Hundred Sixty (6,260) acre feet of CVP water for irrigation, municipal, and industrial uses.

F. It is the intent of Westlands, Santa Clara, and Pajaro Valley, that the Subject Water Supply is being acquired for use within their respective service areas, and subject to the terms of this Agreement, if Westlands, Santa Clara or Pajaro Valley is unwilling or unable to take delivery of some or all of the Subject Water Supply for beneficial use within its service area, the unused supply will be made available to the other assignees of the Existing Contract.

G. Approval of this Agreement by Santa Clara is based, in part, on the desire to develop a right as provided in Paragraph 4 herein for Pajaro Valley to use the Subject Water Supply for protection and restoration of its groundwater basin. It is Pajaro Valley's intention to exercise its rights under this Agreement only upon the development of the physical capability to take delivery of the Subject Water Supply to its service area within approximately twenty (20) years following the effective date of this Agreement.

H. The Agreement for Purchase and Sale and Joint Escrow Instructions with Alan L. Sagouspe, Tamara M. Sagouspe, Stephen W. Sloan, Charlene A. Sloan, and the Sloan Living Trust Dated August 25, 1981, between Pajaro Valley and certain landowners within Mercy Springs is in full force and effect between the parties thereto, to which Mercy Springs is not a party, and will have no involvement as to matters therein mentioned, except as to delivery of the this Agreement executed by Mercy Springs to the escrow agent therein designated, and closing of the transaction under said Purchase Agreement being a prerequisite to the

implementation of the this Agreement. In the event of a dispute between the parties to the Purchase Agreement, Mercy Springs will not be named or made a party to any dispute or proceeding.

### AGREEMENT

#### IT IS THEREFORE AGREED AMONG THE PARTIES AS FOLLOWS:

1. Incorporation of Recitals: Each of the Recitals herein before set forth is hereby incorporated as a part of this Agreement and shall be performed to the best of the ability of the parties hereto to perform the same.
2. Payment for Assignment: Upon approval of the Assignment Agreement by the United States, Westlands will pay \$5,617,500.00 (the "Capital Expenditure") into the escrow described in the Agreement for Purchase and Sale and Joint Escrow Instructions between Pajaro Valley and Alan L. Sagouspe, Tamara M. Sagouspe, Stephen W. Sloan, Charlene A. Sloan, and the Sloan Living Trust Dated August 25, 1981, on behalf of Pajaro Valley.
3. Partial Assignment: Mercy Springs hereby assigns to Westlands, Santa Clara, and Pajaro Valley its right, title, and interest in and to Six Thousand Two Hundred Sixty (6,260) annual acre feet of Project water under the Existing Contract previously delivered to the Subject Lands, and as setout in paragraph 6 herein, Westlands, Santa Clara, and Pajaro Valley shall be subject to the rights and duties under the Existing Contract associated therewith.

4. Right to Receive Water: For a period of Twenty (20) years following the effective date of this Agreement, Westlands and/or Santa Clara shall be entitled to receive the Subject Water Supply; provided, that between the expiration of the Tenth (10) year and the Twentieth (20) year following the effective date of this Agreement, Pajaro Valley may assume Westlands' entitlement to receive the Subject Water Supply for use in Pajaro Valley's service area; and provided further, that during the first Ten (10) years following the effective date of this Agreement, the total quantity of the water delivered to Santa Clara shall not exceed Twenty-five (25) percent of the total Subject Water Supply provided by the United States during said Ten (10) year period, and the total quantity of the water delivered to Santa Clara during said Twenty (20) year period shall not exceed Twenty-five (25) percent of the total Subject Water Supply provided by the United States during said period or 20,000 acre-feet, whichever is greater.

Pajaro Valley's assumption of Westlands' entitlement to receive the Subject Water Supply shall become effective on the first day of the contract year (March 1 through February 28) following the date of Pajaro Valley provides notice to Westlands and Santa Clara that it will assume those rights.

If Pajaro Valley fails to assume Westlands' entitlement to receive the Subject Water Supply prior to the expiration of said Twenty (20) year period, Westlands and Santa Clara shall thereafter have the exclusive right to receive the Subject Water Supply; provided, that the maximum quantity of water Santa Clara shall have the right to receive in each successive Ten (10) year period shall be Twenty-five percent (25%) of the Subject Water Supply delivered by the United States during such period. In the event the quantity of water received by Santa Clara exceeds Twenty-five percent (25%) of the Subject Water Supply delivered by the United States



during the subject Ten (10) year period, Santa Clara shall transfer or reallocate to Westlands the difference between the actual quantity of water received by Santa Clara and Twenty-five percent (25%) of the Subject Water Supply delivered by the United States during said period. Such transfer or reallocation shall occur in a year when Santa Clara receives none of the Subject Water Supply.

Subject to the limitations herein, during any year prior to the expiration of the twentieth (20th) year, Santa Clara shall, at its discretion, have a first priority to the Subject Water Supply or any portion thereof; provided that in any year Santa Clara anticipates that it will receive water under this Agreement, Santa Clara shall notify Westlands or Pajaro Valley in writing of the quantity of the Subject Water Supply which it will take no later than April 25th or five (5) days after the Bureau of Reclamation's April water supply announcement, whichever is earlier. In the absence of such notice, Westlands, or Pajaro Valley if it has assumed Westlands' entitlement to receive the Subject Water Supply, shall be entitled to receive the Subject Water Supply during that year.

For a period of thirty (30) years following the effective date of this Agreement, Westlands and Santa Clara shall have a right of first refusal to acquire from Pajaro Valley, at an annual cost of Fifty-four dollars and thirty cents (\$54.30) per acre-foot, the Subject Water Supply, or any portion thereof, if Pajaro Valley enters into any agreement to transfer or assign the Subject Water Supply, or any portion thereof. Westlands and/or Santa Clara shall exercise said right within ninety (90) days from the date Pajaro Valley provides notice of the transfer or assignment to them, which notice shall be effective five (5) days after it is sent via first class mail. If both Westlands and Santa Clara exercise said right, Seventy-five percent (75%) of the subject water shall be transferred or assigned to Westlands and Twenty-five percent (25%) of the

subject water shall be transferred or assigned to Santa Clara. A water exchange, or banking agreement that results in alternative water supplies being made available for use within Pajaro Valley's service area shall not constitute a transfer giving rise to this right of first refusal.

5. Payments Among the Parties: For a period of Thirty (30) years following the effective date of this Agreement or, until any indebtedness incurred by Westlands to finance the acquisition of the Subject Water Supply has been refinanced or defeased pursuant to any defeasance instrument accompanying the debt, Santa Clara shall reimburse Westlands an amount equal to one-half of the annual net debt service costs incurred by Westlands to finance or refinance the acquisition of the Subject Water Supply; provided, that Westlands shall not refinance the debt incurred to acquire the Subject Water Supply without the written consent of Santa Clara. Payments from Santa Clara shall be made to Westlands twice per year, on a date not less than ninety (90) days prior to the date on which Westlands is obligated to pay principal and interest on the debt.

In the event assumes Westlands' entitlement to receive the Subject Water Supply, Pajaro Valley shall pay to Westlands an amount equal to fifty-four dollars and thirty cents (\$54.30) times 6,260 acre-feet per year for the number of years remaining until the end of the thirtieth (30th) year following the effective date of this Agreement times a reliability factor of seventy percent (70%). Thereafter, Westlands shall be relieved of any further obligation or duty under this Agreement and the Existing Contract or any renewal thereof. Until the expiration of the Twenty (20) year period describe in paragraph 4, Santa Clara shall make payments to Pajaro Valley in amounts equal to what would have been paid by Santa Clara to Westlands had Pajaro Valley not exercised its option. In the event Pajaro Valley has assumed Westlands' rights under

this Agreement, it shall have the exclusive right to receive the Subject Water-Supply for use in its service area after the expiration of the Twenty (20) year period described in paragraph 4, above, and Santa Clara shall be relieved of any further obligation or duty under this Agreement and the Existing Contract or any renewal thereof.

6. Assumption of Obligations: Westlands and Santa Clara hereby accept all rights and assume all duties contained in the Existing Contract or any renewal thereof applicable to the Subject Water Supply, subject to the remaining obligations of Mercy Springs under the balance of the Existing Contract or renewal thereof. In particular, Westlands and Santa Clara shall be responsible for all financial obligations under the Existing Contract applicable to the Subject Water Supply owed to the United States by Mercy Springs as it relates to the Subject Water Supply delivered after the effective date of this Agreement. The balance of the Existing Contract or renewal thereof not assigned hereby shall continue to be held by Mercy Springs for the benefit of land within Mercy Springs.

In the event Pajaro Valley assumes Westlands' entitlement to receive the Subject Water Supply, Pajaro Valley will accept and assume all of the duties contained in the Existing Contract or any renewal thereof applicable to the Subject Water Supply assumed by Westlands pursuant to this Agreement, and Westlands shall have no further obligations under this Agreement or the Existing Contract or a renewal thereof. Upon the expiration of said Twenty (20) year period, all rights accepted and duties assumed hereby shall be Pajaro Valley's exclusively, and Santa Clara shall have no further obligations under this Agreement or the Existing Contract or a renewal thereof.

7. Payment of Costs of Approval: Westlands, Santa Clara and Pajaro Valley shall pay all costs associated with processing and seeking approval of the Assignment Agreement, including, but not limited to, compliance under the National Environmental Policy Act ("NEPA") and the California Environmental Quality Act ("CEQA"), and related processes.

8. Obligation to Defend and Indemnify: In the event any action is brought challenging the propriety of this Agreement by a landowner or resident within the boundaries of one of the parties hereto, that party shall defend, indemnify and hold harmless the other parties from any such action.

9. Entire Agreement: This Agreement contains the entire agreement and understanding between the parties to it with respect to the matters covered by it and supercedes all prior agreements, negotiations, and discussions.

10. Amendment: This Agreement may be amended only by a writing signed by the party against whom enforcement of the change is sought.

11. Effective Date: The effective date of this Agreement shall be the date on which the United States approves the Assignment Agreement.

12. Multiple Originals: This Agreement may be executed in counterparts, each of which shall be deemed an original.

IN WITNESS WHEREOF, the parties have executed this Agreement Relating to  
Partial Assignment of Water Service Contract as of the day and year first above written.

MERCY SPRINGS WATER DISTRICT

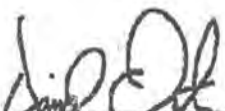
SANTA CLARA VALLEY WATER  
DISTRICT


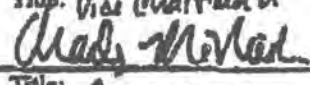
By \_\_\_\_\_  
Title:

By \_\_\_\_\_  
Title:

WESTLANDS WATER DISTRICT

PAJARO VALLEY WATER  
MANAGEMENT AGENCY

By   
Title: General Manager

By   
Title: Vice Chairman  
By:   
Title: General Manager

IN WITNESS WHEREOF, the parties have executed this Agreement Relating to  
Partial Assignment of Water Service Contract as of the day and year first above written.

MERCY SPRINGS WATER DISTRICT

SANTA CLARA VALLEY WATER  
DISTRICT

By \_\_\_\_\_  
Title:

By *Stanley Williams*  
Title: *General Manager*

WESTLANDS WATER DISTRICT

PAJARO VALLEY WATER  
MANAGEMENT AGENCY

By \_\_\_\_\_  
Title:

By \_\_\_\_\_  
Title:

By: \_\_\_\_\_  
Title:



IN WITNESS WHEREOF, the parties have executed this Agreement Relating to  
Partial Assignment of Water Service Contract as of the day and year first above written.

MERCY SPRINGS WATER DISTRICT

SANTA CLARA VALLEY WATER  
DISTRICT

By [Signature]  
Title: Mayor

By \_\_\_\_\_  
Title: \_\_\_\_\_

WESTLANDS WATER DISTRICT

PAJARO VALLEY WATER  
MANAGEMENT AGENCY

By \_\_\_\_\_  
Title: \_\_\_\_\_

By \_\_\_\_\_  
Title: \_\_\_\_\_

By \_\_\_\_\_  
Title: \_\_\_\_\_

# **EXHIBIT B**

**RESOLUTION NO. 102-20**

**WESTLANDS WATER DISTRICT DISTRIBUTION DISTRICT NO. 1**

**A RESOLUTION OF THE BOARD OF DIRECTORS:**

**AUTHORIZING THE FILING OF NOTICES OF STATUTORY EXEMPTION AND CATEGORICAL EXEMPTION FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FOR APPROVAL OF AND AUTHORIZATION TO EXECUTE THE CONTRACT BETWEEN THE UNITED STATES AND WESTLANDS WATER DISTRICT DISTRIBUTION DISTRICT NO. 1 PROVIDING FOR PROJECT WATER SERVICE AND FACILITIES REPAYMENT,**

**AUTHORIZING APPROVAL, EXECUTION, AND DELIVERY OF THE CONTRACT BETWEEN THE UNITED STATES AND WESTLANDS WATER DISTRICT DISTRIBUTION DISTRICT NO. 1 PROVIDING FOR PROJECT WATER SERVICE AND FACILITIES REPAYMENT, AND**

**AUTHORIZING ACTIONS IN FURTHERANCE THEREOF**

WHEREAS, Centinella Water District (CWD) entered into a contract for water service with the United States on July 8, 1977, Contract No. 7-07-20-W0055 (the "Original Contract"), which provided for the delivery of up to 2,500 acre feet of water diverted through Central Valley Project facilities. Upon expiration of the Original Contract, CWD entered into successive interim renewal contracts with the United States of America providing for water service, including Contract No. 7-07-20-W0055-IR8 ending on February 28, 2006; and

WHEREAS, on November 9, 2004, Westlands Water District Distribution District No. 1 (District), CWD and the United States through the Bureau of Reclamation entered into an agreement for assignment (Assignment Contract 7-07-20-W0055-IR8-B) of CWD's water service contract. Under this Assignment Contract, CWD assigned its right, title and interest to 2,500 acre-feet of its water service contract to the District; and

WHEREAS, the District entered into successive interim renewal contracts with the United States of America providing for water service, including the current Contract No. 7-07-20-W0055-IR16-B (Existing Interim Renewal Contract) ending on February 29, 2020; and

WHEREAS, the United States has tendered a form of an interim renewal contract to the District, Renewal Contract No. 7-07-20-W0055-IR17-B, (Interim Renewal Contract) which provides for the delivery of water diverted through Central Valley Project facilities under terms that are substantially the same as the Existing Interim Renewal Contract, which if executed, would remain in effect through February 28, 2022; and

WHEREAS, on December 16, 2016, the 114th Congress of the United States of America enacted the Water Infrastructure Improvements for the Nation Act (Pub. L. 114-322, 130 Stat. 1628) (WIIN Act); and

WHEREAS, Section 4011(a)(1) of the WIIN Act provides that "upon request of the contractor, the Secretary of the Interior shall convert any water service contract in effect on the date of enactment of this subtitle and between the United States and a water users' association [Contractor] to allow for prepayment of the repayment contract pursuant to paragraph (2) under mutually agreeable terms and conditions."; and

WHEREAS, Section 4011(a)(1) further provides that "the manner of conversion under this paragraph shall be as follows: (A) Water service contracts that were entered into under section (e) of the Act of August 4, 1939 (53 Stat. 1196), to be converted under this section shall be converted to repayment contracts under section 9(d) of that Act (53 Stat. 1195)"; and "(B) Water service contracts that were entered under subsection (c)(2) of section 9 of the Act of August 4, 1939 (53 Stat. 1194), to be converted under this section shall be converted to a contract under subsection (c)(1) of section 9 of that Act (53 Stat. 1195)."; and

WHEREAS, Section 4011(a)(4)(C) provides all contracts entered into pursuant to Section 4011(a)(1), (2), and (3) shall "not modify other water service, repayment, exchange and transfer contractual rights between the water users' association [Contractor], and the Bureau of Reclamation, or any rights, obligations, or relationships of the water users' association [Contractor] and their landowners as provided under State law."; and

WHEREAS, Section 4011(d)(3) and (4) of the WIIN Act provides that "implementation of the provisions of this subtitle shall not alter... (3) the priority of a water service or repayment contractor to receive water; or (4) except as expressly provided in this section, any obligations under the Federal Reclamation law, including the continuation of Restoration Fund charges pursuant to section 3407(d) (Pub. L. 102-575), of the water service and repayment contractors making prepayments pursuant to this section."; and

WHEREAS, on or about April 23, 2018, pursuant to WIIN Act, 4011(a)(1), the District requested that United States Bureau of Reclamation initiate the process to convert its water service contract to a repayment contract.

WHEREAS, pursuant to and consistent with the WIIN Act, the United States and the District negotiated terms and conditions that convert the Existing Interim Renewal Contract to a repayment contract, and those terms and conditions are reflected in the attached Converted Contract between the United States and Westlands Water District Distribution District No. 1 providing for Project Water Service and Facilities Repayment, which is incorporated herein by this reference (Converted Contract); and

WHEREAS, the Converted Contract also reflects the current standard terms and conditions required by the Reclamation Manual; and

WHEREAS, the Converted Contract continues water service to the District within established parameters, in the same scope and nature of the ongoing Central Valley Project and its existing facilities; and

WHEREAS, the United States has determined that the District has fulfilled all of its obligations under the Existing Interim Renewal Contract; and

WHEREAS, the District has demonstrated to the satisfaction of the Contracting Officer that the District has utilized the Project Water supplies available to it for reasonable and beneficial use and expects to utilize fully for reasonable and beneficial use the quantity of Project Water to be made available to it pursuant to the Converted Contract; and

WHEREAS, water obtained from the Project has been relied upon by urban and agricultural areas within California for more than 50 years, and is considered by the District as an essential portion of its water supply; and

WHEREAS, the economies of regions within the Project, including the District's, depend upon the continued availability of water, including water service from the Project; and

WHEREAS, it is imperative to the District and its landowners that the District continue water service to lands within the District for beneficial use, and the District therefore proposes to enter into the Converted Contract; and

WHEREAS, under the Converted Contract, ongoing receipt and delivery of water will continue with no expansion of service and no new facilities constructed because the District will deliver the water received under the Converted Contract: (1) to lands within the District's boundaries for beneficial use and that have been in production, and (2) through existing facilities; and

WHEREAS, the District has reviewed the terms and conditions of the Converted Contract and finds the form and content thereof to be acceptable to the District and appropriate for execution; and

WHEREAS, the District maintains in its records copies of contracts, water delivery reports, crop information and other data supporting these factual findings.

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED as follows:

1. The facts set forth in the recitals above and in the documents referenced therein are true and correct, and the Board so finds and determines.

2. The Converted Contract will not create any effects specified in Title 14 of the California Code of Regulations, Section 15300.2.

3. Executing the Converted Contract is statutorily exempt from compliance with the California Environmental Quality Act as provided in the California Public Resources Code and implemented through Title 14 of the California Code of Regulations, Sections 15260 through 15285, with particular reference to Section 15261, because it is merely a continuation of a project approved, funded and fully operated prior to November 23, 1970, and no modification or alteration in the Central Valley Project or the amount of water delivered is proposed.

4. Execution of the Converted Contract is exempt from the California Environmental Quality Act based on its record of proceedings showing that the Converted Contract continues water service to the District within established parameters, in the same scope and nature of the ongoing Central Valley Project and its existing facilities; it involves no increase in existing service; and no new construction, expansion, or any modification to the existing distribution system; nor any change in the source of water to be delivered, or the uses to which such supplies will be put.

5. Execution of the Converted Contract is categorically exempt from compliance with the California Environmental Quality Act as provided in Title 14 of the California Code of Regulations, Section 15300 through 15333, with particular reference to Section 15301, because it merely provides for continued operation of existing facilities.

6. The District shall prepare and file a Notice of Exemption with the Clerks of Fresno and Kings Counties and the Office of Planning and Research (State Clearinghouse) as provided for in Title 14 of the California Code of Regulations, Section 15062(b), in substantially the forms attached hereto as Exhibit A.

7. The Converted Contract in substantially the form presented to the Board and on file with the Secretary is hereby approved.

8. The President of the District is hereby authorized to execute and deliver the Converted Contract in substantially the form attached hereto, with such additional changes and/or modifications as are approved by the President of the District, its General Manager, and its General Counsel.

9. The District's officers, staff, and consultants are authorized and directed to take all additional actions they deem necessary or appropriate in order to carry out the intent of this resolution.



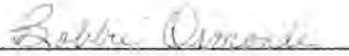
10. A certified copy of this resolution shall be prepared and transmitted by the District's Secretary to the United States Bureau of Reclamation.

Adopted at a regular meeting of the Board of Directors, at Fresno, California, this 21st day of January, 2020.

AYES: Directors Anderson, Bourdeau, Coelho, Errotabere, Enos, Ferguson, Neves, Nunn and Peracchi

NOES: None

ABSENT: None

  
Bobbie Ormonde, District Secretary

## Notice of Exemption

## Appendix E

To: Office of Planning and Research  
P.O. Box 3044, Room 113  
Sacramento, CA 95812-3044

County Clerk

County of: Fresno

2221 Kern Street

Fresno, CA 93721

From: (Public Agency): Westlands Water District

P.O. Box 6056

Fresno, CA 93703-6056

(Address)

Project Title: Westlands Water District Distribution District No. 1 Central Valley Project Water Repayment Contract #7-07-20-W0055-XXX (Centinella Assignment Conversion to Repayment)

Project Applicant: Westlands Water District - Distribution District No. 1

Project Location - Specific:

Within the boundaries of the Westlands Water District

Project Location - City: Not Applicable Project Location - County: Fresno and Kings

Description of Nature, Purpose and Beneficiaries of Project:

The project is the execution of Contract #7-07-20-W0055-XXX (Centinella Assignment), which would convert Westlands Water District Distribution District No. 1's (District) existing water service contract to a repayment contract that provides the terms and conditions for water service with the United States Bureau of Reclamation (USBR) for the purpose of continuing delivery of Central Valley Project water within established parameters to lands within the District's existing service area boundary. The beneficiaries of the project are the District, its landowners, and water users. The USBR is a party to the bilateral agreement and as such is a recipient of the District's approval (Pub. Resources Code, §§21065, 21167.6.5). The project is entirely administrative in scope.

Name of Public Agency Approving Project: Westlands Water District - Distribution District No. 1

Name of Person or Agency Carrying Out Project: Westlands Water District - Distribution District No. 1

Exempt Status: **(check one):**

- ☐ Ministerial (Sec. 21080(b)(1); 15268);
- ☐ Declared Emergency (Sec. 21080(b)(3); 15269(a));
- ☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- ☒ Categorical Exemption. State type and section number: CEQA Guidelines, §15301
- ☒ Statutory Exemptions. State code number: CEQA Guidelines, §15261

Reasons why project is exempt:

The project is statutorily exempt from compliance with the California Environmental Quality Act as provided in Title 14 of the California Code of Regulations, Section 15261, because it is merely a continuation of a project approved, funded and fully operated prior to November 23, 1970 and no modification or alteration in the Central Valley Project or the amount of water delivered is proposed.

The project is also exempt under 14 CCR 15301 as it provides for the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use. The Project is wholly administrative in scope as the project involves no construction, alteration, or expansion of an existing use.

Lead Agency

Contact Person: Jose Gutierrez Area Code/Telephone/Extension: (559) 241-6215

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? ☒ Yes ☐ No

Signature: \_\_\_\_\_ Date: January 22, 2020 Title: Chief Operating Officer

☒ Signed by Lead Agency ☐ Signed by Applicant

Authority cited: Sections 21083 and 21110, Public Resources Code.  
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.

Date Received for filing at OPR: \_\_\_\_\_

## NOTICE OF EXEMPTION

Appendix E

To: ☒ Office of Planning and Research/State Clearinghouse  
P.O. Box 3044, 1400 Tenth Street, Room 222  
Sacramento, CA 95812-3044

☐ County Clerk/County Recorder  
County of Fresno  
2220 Tulare Street  
Fresno, CA 93721

☒ County Clerk/County Recorder  
County of Kings  
County Government Center  
1400 West Lacey Boulevard  
Hanford, CA 93230

From: ☒ Westlands Water District  
P.O. Box 6056  
Fresno, CA 93703

**Project Title:** Westlands Water District Distribution District No. 1 Central Valley Project Water Repayment Contract #7-07-20-W0055-XXX (Centinella Assignment Conversion to Repayment).

**Project Applicant:** Westlands Water District - Distribution District No. 1

**Project Location – Specific:** Within the boundaries of the Westlands Water District.

**Project Location – City:** Not Applicable

**Project Location – County:** Fresno and Kings.

### Description of Nature, Purpose and Beneficiaries of Project:

The project is the execution of Contract #7-07-20-W0055-XXX (Centinella Assignment), which would convert Westlands Water District Distribution District No. 1's (District) existing water service contract to a repayment contract that provides the terms and conditions for water service with the United States Bureau of Reclamation (USBR) for the purpose of continuing delivery of Central Valley Project water within established parameters to lands within the District's existing service area boundary. The beneficiaries of the project are the District, its landowners, and water users. The USBR is a party to the bilateral agreement and as such is a recipient of the District's approval (Pub. Resources Code, §§21065, 21167.6.5). The project is entirely administrative in scope.

**Name of Public Agency Approving Project:** Westlands Water District - Distribution District No. 1

**Name of Person or Agency Carrying Out Project:** Westlands Water District - Distribution District No. 1

**Exempt Status:** *(check one)*

- ☐ Ministerial (Sec. 21080(b)(1); 15268);
- ☐ Declared Emergency (Sec. 21080(b)(3); 15269(a));
- ☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- ☒ Categorical Exemption. State type and section number: CEQA Guidelines, §15301
- ☒ Statutory Exemptions. State code number: CEQA Guidelines, §15261

**Reasons why project is exempt:**

The project is statutorily exempt from compliance with the California Environmental Quality Act as provided in Title 14 of the California Code of Regulations, Section 15261, because it is merely a continuation of a project approved, funded and fully operated prior to November 23, 1970 and no modification or alteration in the Central Valley Project or the amount of water delivered is proposed.

The project is also exempt under 14 CCR 15301 as it provides for the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use. The Project is wholly administrative in scope as the project involves no construction, alteration, or expansion of an existing use.

**Lead Agency**

**Contact Person:** Jose Gutierrez

**Area Code/Telephone/Extension:** (559) 241-6215

**If filed by applicant:**

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? ☒ YES ☐ NO

**Signature:** \_\_\_\_\_ **Date:** January 22, 2020 **Title:** Chief Operating Officer

☒ Signed by Lead Agency   ☒ Signed by Applicant

Authority cited: Sections 21083 and 21110, Public Resources Code.

Date Received for filing at OPR: \_\_\_\_\_

Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.

Revised 2011

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF RECLAMATION  
Central Valley Project, California

CONTRACT BETWEEN THE UNITED STATES  
AND  
WESTLANDS WATER DISTRICT DISTRIBUTION DISTRICT NO. 1  
PROVIDING FOR PROJECT WATER SERVICE  
AND FACILITIES REPAYMENT

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UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF RECLAMATION  
Central Valley Project California

CONTRACT BETWEEN THE UNITED STATES  
AND  
WESTLANDS WATER DISTRICT DISTRIBUTION DISTRICT NO. 1  
PROVIDING FOR PROJECT WATER SERVICE  
AND FACILITIES REPAYMENT

1        THIS CONTRACT, made this \_\_\_\_ day of \_\_\_\_\_ 20\_\_, in pursuance generally of  
2        the Act of June 17, 1902 (32 Stat. 388), and acts amendatory or supplementary thereto,  
3        including, but not limited to, the Acts of August 26, 1937 (50 Stat. 844), as amended and  
4        supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented, July 2, 1956 (70  
5        Stat. 483), June 21, 1963 (77 Stat. 68), October 12, 1982 (96 Stat. 1263), October 27, 1986 (100  
6        Stat. 3050), as amended Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706), as  
7        amended, and the Water Infrastructure Improvements for the Nation Act (Public Law 114-322,  
8        130 Stat. 1628), Section 4011 (a-d) and (f) ("WIIN Act"), all collectively hereinafter referred to  
9        as Federal Reclamation law, between THE UNITED STATES OF AMERICA, hereinafter  
10       referred to as the United States, and WESTLANDS WATER DISTRICT DISTRIBUTION  
11       DISTRICT NO. 1, hereinafter referred to as the Contractor, a public agency of the State of  
12       California, duly organized, existing, and acting pursuant to the laws thereof;

13       WITNESSETH, That:

EXPLANATORY RECITALS

[1<sup>st</sup>] WHEREAS, the United States has constructed and is operating the Central Valley Project, California, for diversion, storage, carriage, distribution, and beneficial use, for flood control, irrigation, municipal, domestic, industrial, fish and wildlife mitigation, protection and restoration, generation and distribution of electric energy, salinity control, navigation, and other beneficial uses, of waters of the Sacramento River, the American River, the Trinity River, and the San Joaquin River and their tributaries; and

[2<sup>nd</sup>] WHEREAS, the United States constructed the Delta-Mendota Canal and related facilities, hereinafter collectively referred to as the Delta Division facilities, which will be used in part for the furnishing of water to the Contractor pursuant to the terms of this Contract; and

[3<sup>rd</sup>] WHEREAS, the Centinella Water District (District) and the United States entered into Contract No. 7-07-20-W0055, which provided the District, Central Valley Project water from the Delta-Mendota Canal from July 8, 1977 to February 28, 1995; and

[4<sup>th</sup>] WHEREAS, the United States and the District entered into Contract No. 7-07-20-W0055-IR1 and subsequent Interim Renewal Contracts 7-07-20-W0055-IR2 through 7-07-20-W0055-IR8, which provided for the continued water service to the District from March 1, 1995, through February 28, 2006; and

[5<sup>th</sup>] WHEREAS, the Contractor and the District executed an agreement on February 28, 2006, which assigned to the Contractor all right, title, and interest to Contract No. 7-07-20-W0055-IR8; and

[6<sup>th</sup>] WHEREAS, the United States and the Contractor entered into Contract Number 7-07-20-W0055-IR9 and subsequent Interim Renewal Contracts 7-07-20-W0055-IR10 through 7-07-20-W0055-IR16, the last of which is hereinafter referred to as the "Existing Contract",

which established terms for the delivery of Project Water to the Contractor from the Delta Division, and which was in effect the date the WIIN Act was enacted; and

[7<sup>th</sup>] WHEREAS, on December 16, 2016, the 114th Congress of the United States of America enacted the WIIN Act; and

[8<sup>th</sup>] WHEREAS, Section 4011(a)(1) provides that “upon request of the contractor, the Secretary of the Interior shall convert any water service contract in effect on the date of enactment of this subtitle and between the United States and a water users’ association [Contractor] to allow for prepayment of the repayment contract pursuant to paragraph (2) under mutually agreeable terms and conditions.”; and

[9<sup>th</sup>] WHEREAS, Section 4011(a)(1) further provides that “the manner of conversion under this paragraph shall be as follows: (A) Water service contracts that were entered into under section (e) of the Act of August 4, 1939 (53 Stat. 1196), to be converted under this section shall be converted to repayment contracts under section 9(d) of that Act (53 Stat. 1195)”; and “(B) Water service contracts that were entered under subsection (c)(2) of section 9 of the Act of August 4, 1939 (53 Stat. 1194), to be converted under this section shall be converted to a contract under subsection (c)(1) of section 9 of that Act (53 Stat. 1195).”; and

[10<sup>th</sup>] WHEREAS, Section 4011(a)(4)(C) further provides all contracts entered into pursuant to Section 4011(a)(1), (2), and (3) shall “not modify other water service, repayment, exchange, and transfer contractual rights between the water users’ association [Contractor], and the Bureau of Reclamation, or any rights, obligations, or relationships of the water users’ association [Contractor] and their landowners as provided under State law.”; and

[11<sup>th</sup>] WHEREAS, Section 4011(d)(3) and (4) of the WIIN Act provides that “implementation of the provisions of this subtitle shall not alter...(3) the priority of a water

service or repayment contractor to receive water; or (4) except as expressly provided in this section, any obligations under the Federal Reclamation law, including the continuation of Restoration Fund charges pursuant to section 3407(d) (Pub. L. 102-575), of the water service and repayment contractors making prepayments pursuant to this section.”; and

[12<sup>th</sup>] WHEREAS, upon the request of the Contractor, the WIIN Act directs the Secretary to convert irrigation water service contracts and Municipal and Industrial (M&I) water service contracts into repayment contracts, amend existing repayment contracts, and allow contractors to prepay their construction cost obligations pursuant to applicable Federal Reclamation law; and

[13<sup>th</sup>] WHEREAS, the United States has determined that the Contractor has to date fulfilled all of its obligations under the Existing Contract; and

[14<sup>th</sup>] WHEREAS, the Contracting Officer has determined that the Contractor has the capability to fully utilize for reasonable and beneficial use, or shown projected future reasonable and beneficial use for, the quantity of Project Water to be made available to it pursuant to this Contract; and

[15<sup>th</sup>] WHEREAS, the Contracting Officer and the Contractor agree that this Contract complies with Section 4011 of the WIIN Act; and

[16<sup>th</sup>] WHEREAS, the Contracting Officer and the Contractor agree to amend and convert the Existing Contract pursuant to section 4011 of the WIIN Act and other Federal Reclamation law on the terms and conditions set forth below:

NOW, THEREFORE, in consideration of the mutual and dependent covenants herein contained, it is hereby mutually agreed by the parties hereto as follows:

DEFINITIONS

1. When used herein unless otherwise distinctly expressed, or manifestly incompatible with the intent of the parties as expressed in this Contract, the term:

(a) "Additional Capital Obligation" shall mean construction costs or other capitalized costs incurred after the effective date of Contract or not reflected in the Existing Capital Obligation as defined herein and in accordance with Section 4011, subsection (a)(2)(B) and (a)(3)(B) of the Water Infrastructure Improvements for the Nation Act (Pub. L. 114-322, 130 Stat. 1628) ("WIIN Act");

(b) "Calendar Year" shall mean the period January 1 through December 31, both dates inclusive;

(c) "Charges" shall mean the payments required by Federal Reclamation law in addition to the Rates and Tiered Pricing Component specified in this Contract as determined annually by the Contracting Officer pursuant to this Contract;

(d) "Contractor's Boundaries" shall mean the area to which the Contractor is permitted to provide Project Water under this Contract;

(e) "CVPIA" shall mean the Central Valley Project Improvement Act, Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706);

(f) "Delivered Water" or "Water Delivered" shall mean Project Water made available to the Contractor and diverted at the point(s) of delivery approved by the Contracting Officer;

(g) "Eligible Lands" shall mean all lands to which Irrigation Water may be delivered in accordance with Section 204 of the Reclamation Reform Act of October 12, 1982 (96 Stat. 1263), as amended;



(h) "Excess Lands" shall mean all lands defined as excess in Section 204 of the Reclamation Reform Act of 1982, other than those lands exempt from acreage limitation under Federal Reclamation law;

(i) "Existing Capital Obligation" shall mean the remaining amount of construction costs or other capitalized costs allocable to the Contractor as described in section 4011, subsections (a)(2)(A) and (a)(3)(A) of the WIIN Act, and as identified in the Central Valley Project Irrigation Water Rates and/or Municipal and Industrial Water Rates, respectively, dated Month/Day/Year [specify ratebook year for all contractors.] [contractor specific to address the intertie], as adjusted to reflect payments not reflected in such schedule. The Contracting Officer has computed the Existing Capital Obligation and such amount is set forth in Exhibit C, which is incorporated herein by reference;

(j) "Full Cost Rate" shall mean that water rate described in Sections 205(a)(3) or 202(3) of the Reclamation Reform Act of 1982, whichever is applicable;

(k) "Ineligible Lands" shall mean all lands to which Irrigation Water may not be delivered in accordance with Section 204 of the Reclamation Reform Act of 1982;

(l) "Irrigation Water" shall mean the use of Project Water to irrigate lands primarily for the production of commercial agricultural crops or livestock, and domestic and other uses that are incidental thereto;

(m) "Landholder" shall mean an individual or entity attributed with the total irrigable acreage of one or more tracts of land situated in one or more districts owned and/or operated under a lease which is served with Irrigation Water pursuant to a contract with the United States;

(n) "Municipal and Industrial (M&I) Water" shall mean the use of Project Water for municipal, industrial, and miscellaneous other purposes not falling under the definition of "Irrigation Water" or within another category of water use under an applicable Federal authority;



(o) "Operation and Maintenance" or "O&M" shall mean normal and reasonable care, control, operation, repair, replacement and maintenance of Project facilities;

(p) "Operating Non-Federal Entity" shall mean a Non-Federal entity which has the obligation to operate and maintain all or a portion of the Delta Division facilities pursuant to an agreement with the United States;

(q) "Project" shall mean the Central Valley Project owned by the United States and operated by the Department of the Interior, Bureau of Reclamation;

(r) "Project Contractors" shall mean all parties who have contracts for water service for Project Water from the Project with the United States pursuant to Federal Reclamation law;

(s) "Project Water" shall mean all water that is developed, diverted, stored, or delivered by the United States in accordance with the statutes authorizing the Project and in accordance with the terms and conditions of applicable water rights permits and licenses acquired by and/or issued to the United States pursuant to California law;

(t) "Rates" shall mean the payments determined annually by the Contracting Officer in accordance with the then current applicable water ratesetting policies for the Project;

(u) "Repayment Obligation" for Water Delivered as Irrigation Water shall mean the Existing Capital Obligation discounted by  $\frac{1}{2}$  of the Treasury rate, which shall be the amount due and payable to the United States, pursuant to section 4011(a)(2)(A) of the WIIN Act; and for Water Delivered as M&I Water shall mean the amount due and payable to the United States, pursuant to section 4011(a)(3)(A) of the WIIN Act;

(v) "Secretary" or "Contracting Officer" shall mean the Secretary of the United States Department of the Interior or his duly authorized representative;

(w) "Tiered Pricing Component" shall be the incremental amount to be paid for each acre-foot of Water Delivered as described in Article 7 of this Contract and as provided for in Exhibit A;

(x) "Water Made Available" shall mean the estimated amount of Project Water that can be delivered to the Contractor for the upcoming Year as declared by the Contracting Officer, pursuant to subdivision (a) of Article 4 of this Contract;

(y) "Year" shall mean the period from and including March 1 of each Calendar Year through the last day of February of the following Calendar Year.

TERM OF CONTRACT – RIGHT TO USE OF WATER

2. (a) This Contract shall be effective March 1, 2020, hereinafter known as the "Effective Date", and shall continue so long as the Contractor pays applicable Rates and Charges under this Contract, consistent with Section 9(d) or 9(c)(1) of the Act of August 4, 1939 (53 Stat. 1195) as applicable, and applicable law;

(1) Provided, That the Contracting Officer shall not seek to terminate this Contract for failure to fully or timely pay applicable Rates and Charges by the Contractor, unless the Contracting Officer has first provided at least sixty (60) calendar days written notice to the Contractor of such failure to pay and the Contractor has failed to cure such failure to pay, or to diligently commence and maintain full curative payments satisfactory to the Contracting Officer within the sixty (60) calendar days' notice period;

(2) Provided, further, That the Contracting Officer shall not seek to suspend making water available or declaring Water Made Available pursuant to this Contract for non-compliance by the Contractor with the terms of this Contract or Federal law, unless the Contracting Officer has first provided at least thirty (30) calendar days written notice to the Contractor and the Contractor has failed to cure such non-compliance, or to diligently commence

curative actions satisfactory to the Contracting Officer for a non-compliance that cannot be fully cured within the thirty (30) calendar days' notice period. If the Contracting Officer has suspended making water available pursuant to this paragraph, upon cure of such non-compliance satisfactory to the to the Contracting Officer, the Contracting Officer shall resume making water available and declaring Water Made Available pursuant to this Contract;

(3) Provided, further, That this Contract may be terminated at any time by mutual consent of the parties hereto.

(b) Upon complete payment of the Repayment Obligation by the Contractor, and notwithstanding any Additional Capital Obligation that may later be established, the acreage limitations, reporting, and Full Cost pricing provisions of the Reclamation Reform Act of 1982, and subdivisions (f) Eligible Lands, (g) Excess Lands, and (j) Ineligible Lands of Article 1 of this Contract shall no longer be applicable.

(c) Notwithstanding any provision of this Contract, the Contractor reserves and shall have all rights and benefits under the Act of July 2, 1956 (70 Stat. 483), to the extent allowed by law.

(d) Notwithstanding any provision of this Contract, the Contractor reserves and shall have all rights and benefits under the Act of June 21, 1963 (77 Stat. 68), to the extent allowed by law.

WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

3. (a) Subject to the provisions set forth in Articles 11 and 12 of this Contract, and consistent with applicable State water rights, permits, and licenses, the Contractor is entitled to, and the Contracting Officer shall be obligated to make available to the Contractor up to 2,500 acre-feet of Project Water during any Year for Irrigation and/or Municipal and Industrial purposes. The quantity of Project Water delivered to the Contractor in accordance with this

subdivision of this Article 3 in any Year shall be scheduled and paid for pursuant to the provisions of Articles 4 and 7 of this Contract, and shall not exceed the quantity of Project Water the Contractor intends to put to reasonable beneficial use within the Contractor's Boundaries or sold, transferred, or exchanged pursuant to Article 9 of this Contract.

(b) The Contractor shall utilize the Project Water made available to it pursuant to this Contract in accordance with all applicable requirements of any Biological Opinion addressing the execution of this Contract developed pursuant to Section 7 of the Endangered Species Act of 1973 as amended, and in accordance with environmental documentation as may be required for specific activities, including conversion of Irrigation Water to M&I Water.

(c) The Contractor shall make reasonable and beneficial use of Project Water or other water furnished pursuant to this Contract. In addition, use of Project Water in a groundwater recharge program shall be permitted under this Contract to the extent that it is carried out in accordance with California law: Provided, however, That such groundwater recharge program cannot be undertaken unless and until the Contractor submits a groundwater management plan pursuant to California law that demonstrates that such groundwater recharge program will result in a reasonable and beneficial use of such water.

(d) If the Contracting Officer determines that Project Water, or other water available to the Project, can be made available to the Contractor in addition to the quantity of Project Water made available to the Contractor pursuant to subdivision (a) of this Article, the Contracting Officer shall so notify the Contractor. If the Contractor requests the delivery of any quantity of such water, the Contracting Officer shall make such water available to the Contractor in accordance with applicable statutes, regulations, guidelines, and policies.

(e) If the Contractor requests permission to reschedule for use during the subsequent Year some or all of the Project Water made available to the Contractor during the current Year or to use, during the current Year, that quantity of Project Water the United States has agreed to make available to the Contractor during the subsequent Year, the Contracting Officer may permit such uses in accordance with applicable statutes, regulations, guidelines, and policies.

(f) The Contractor's rights pursuant to Federal Reclamation law and applicable State law to the beneficial use of water furnished pursuant to this Contract shall not be disturbed so long as the Contractor shall fulfill all of its obligations under this Contract. Nothing in the preceding sentence shall affect the Contracting Officer's ability to impose shortages under subdivision (b) of Article 12 of this Contract.

(g) Notwithstanding subdivisions (k) and (m) of Article 1 of this Contract, Project Water furnished to the Contractor pursuant to this Contract may be delivered for purposes other than those described in subdivisions (k) and (m) of Article 1 of this Contract upon written approval by the Contracting Officer in accordance with the terms and conditions of such approval.

(h) The Contractor's right pursuant to Federal Reclamation law and applicable State law to the reasonable and beneficial use of the Water Delivered pursuant to this Contract shall not be disturbed, and this Contract shall continue so long as the Contractor pays applicable Rates and Charges under this Contract consistent with Section 9(d) or 9(c)(1) of the Act of August 4, 1939 (53 Stat. 1195) as applicable, and applicable law. Nothing in the preceding sentence shall affect the Contracting Officer's ability to impose shortages under Article 11 or subdivision (b) of Article 12 of this Contract.



TIME FOR DELIVERY OF WATER

4. (a) On or about February 20, of each Calendar Year, the Contracting Officer shall declare the amount of Project Water estimated to be made available to the Contractor pursuant to this Contract for the upcoming Year. The declaration will be updated monthly, as necessary, based on current hydrologic conditions. The Contracting Officer shall make available the forecast of Project operations, with relevant supporting information, upon the written request of the Contractor or its representatives. Upon written request of the Contractor, the Contracting Officer shall provide the basis of the estimate which shall include, but not be limited to, a monthly pumping forecast for the O'Neill Pumping Plant, the projected carryover of Project reservoirs, projected CVPIA impacts, projected Endangered Species Act and all other regulatory impacts.

(b) On or before each March 1, the Contractor shall submit to the Contracting Officer and at such other times as necessary, a written schedule, satisfactory to the Contracting Officer, showing the times and quantities of Project Water to be delivered by the United States to the Contractor pursuant to this Contract, and consistent with subdivision (a) of Article 3 of this Contract.

(c) Subject to the conditions set forth in subdivision (a) of Article 3 of this Contract, the United States shall deliver Project Water to the Contractor in accordance with the initial schedule submitted by the Contractor pursuant to subdivision (b) of this Article, or any revision(s) thereto submitted within a reasonable time prior to the date(s) on which the requested change(s) is(are) to be implemented.

POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

5. (a) The Project Water to be furnished to the Contractor pursuant to this Contract shall be made available to the Contractor at either of the mileposts identified in Exhibit



B and any additional point or points of delivery either on Delta Division facilities or another location or locations mutually agreed to in writing by the Contracting Officer and the Contractor

(b) The Contracting Officer shall make all reasonable efforts to maintain sufficient flows and levels of water in the Delta-Mendota Canal to furnish Project Water to the Contractor at the full design capacity of the turnout(s) established as a delivery point(s) pursuant to subdivision (a) of this Article.

(c) Irrigation Water furnished to the Contractor pursuant to this Contract shall be delivered by the Contractor in accordance with any applicable land classification provisions of Federal Reclamation law and the associated regulations. Project Water shall not be delivered to land outside the Contractor's Boundaries unless approved in advance by the Contracting Officer.

(d) All Project Water delivered to the Contractor pursuant to this Contract shall be measured and recorded with equipment furnished, installed, operated, and maintained by the United States or the responsible Operating Non-Federal Entity at the point or points of delivery established pursuant to subdivision (a) of this Article. Upon the request of either party to this Contract, the Contracting Officer shall investigate the accuracy of such measurements and shall take any necessary steps to adjust any errors appearing therein. The Contractor shall advise the Contracting Officer on or before the 10th calendar day of each month of the quantity of M&I Water taken during the preceding month.

(e) Neither the United States nor any Operating Non-Federal Entity shall be responsible for the control, carriage, handling, use, disposal, or distribution of Project Water made available to the Contractor pursuant to this Contract beyond the delivery points specified in subdivision (a) of this Article. The Contractor shall indemnify the United States its officers,

employees, agents, and assigns on account of damage or claim of damage of any nature whatsoever for which there is legal responsibility, including property damage, personal injury, or death arising out of or connected with the control, carriage, handling, use, disposal, or distribution of such Project Water beyond such delivery points, except for any damage or claim arising out of (i) acts performed by the United States or any of its officers, employees, agents, or assigns, including any responsible Operating Non-Federal Entity, with the intent of creating the situation resulting in any damage or claim; (ii) willful misconduct of the United States or any of its officers, employees, agents, or assigns, including any responsible Operating Non-Federal Entity, or (iii) negligence of the United States or any of its officers, employees, agents, or assigns, including any responsible Operating Non-Federal Entity.

MEASUREMENT OF WATER WITHIN THE DISTRICT

6. (a) Within five (5) years of the effective date of this Contract, the Contractor shall ensure that, unless the Contractor establishes an alternative measurement program satisfactory to the Contracting Officer, all surface water delivered for irrigation purposes within the Contractor's Boundaries is measured at each agricultural turnout and such water delivered for Municipal and Industrial purposes is measured at each Municipal and Industrial service connection. All water measuring devices or water measuring methods of comparable effectiveness must be acceptable to the Contracting Officer. The Contractor shall be responsible for installing, operating, and maintaining and repairing all such measuring devices and implementing all such water measuring methods at no cost to the United States. The Contractor shall use the information obtained from such water measuring devices or water measuring methods to ensure proper management of the water; to bill water users for water delivered by the Contractor; and, if applicable, to record water delivered for Municipal and Industrial purposes by customer class as defined in its water conservation plan. Nothing herein contained in this

Article, however, shall preclude the Contractor from establishing and collecting any charges, assessments or other revenues authorized by California law. The Contractor shall include a summary of its annual surface water deliveries in the annual report described in subdivision (d) of Article 24 of this Contract.

(b) Omitted.

(c) All new surface water delivery systems installed within the Contractor's Boundaries after the effective date of this Contract shall also comply with the measurement provisions described in subdivision (a) of this Article.

(d) The Contractor shall inform the Contracting Officer and the State of California in writing by April 30 of each Year of the monthly volume of surface water delivered within the Contractor's Boundaries during the previous Year.

RATES, METHOD OF PAYMENT FOR WATER AND ACCELERATED REPAYMENT OF FACILITIES

7. (a) Notwithstanding the Contractor's full prepayment of the Repayment Obligation pursuant to section 4011, subsection (a)(2)(A) and subsection (a)(3)(A) of the WIIN Act, as set forth in Exhibit C, and any payments required pursuant to section 4011, subsection (b) of the WIIN Act, to reflect the adjustment for the final cost allocation as described in this Article, subsection (b), the Contractor's Project construction and other obligations shall be determined in accordance with: (i) the Secretary's ratesetting policy for Irrigation Water adopted in 1988 and the Secretary's then-existing ratesetting policy for M&I Water, consistent with the WIIN Act; and such ratesetting policies shall be amended, modified, or superseded only through a public notice and comment procedure; (ii) applicable Federal Reclamation law and associated rules and regulations, or policies, and (iii) other applicable provisions of this Contract. Payments shall be made by cash transaction, electronic funds transfers, or any other mechanism as may be agreed

to in writing by the Contractor and the Contracting Officer. The Rates, Charges, and Tiered Pricing Component applicable to the Contractor upon execution of this Contract are set forth in Exhibit "A," as may be revised annually

(1) The Contractor shall pay the United States as provided for in this Article of this Contract for all Delivered Water at Rates, Charges, and Tiered Pricing Component in accordance with policies for Irrigation Water and M&I Water. The Contractor's Rates shall be established to recover its estimated reimbursable costs included in the operation and maintenance component of the Rate and amounts established to recover deficits and other charges, if any, including construction costs as identified in the following subdivisions.

(2) In accordance with the WIIN Act, the Contractor's allocable share of Project construction costs will be repaid pursuant to the provisions of this Contract.

(A) The amount due and payable to the United States, pursuant to the WIIN Act, shall be the Repayment Obligation. The Repayment Obligation has been computed by the Contracting Officer in a manner consistent with the WIIN Act and is set forth as a lump sum payment (M&I and Irrigation) and as four (4) approximately equal annual installments (Irrigation Only) to be repaid no later than three (3) years after the effective date of this Contract as set forth in Exhibit C. [There could be one or two exhibits in most cases due to more than one service area (For Irrigation contractors and M&I contractors)] The Repayment Obligation is due in lump sum by [Month, Day, Year] as provided by the WIIN Act. The Contractor must provide appropriate notice to the Contracting Officer in writing no later than thirty (30) days prior to [Month, Day, Year] [Division Level: consider the effective date of the contract being converted] if electing to repay the amount due using the lump sum alternative. If such notice is not provided by such date, the Contractor shall be deemed to have elected the

installment payment alternative, in which case, the first such payment shall be made no later than [Month, Day, Year] [Division Level: consider the effective date of the contract being converted]. The second payment shall be made no later than the first anniversary of the first payment date. The third payment shall be made no later than the second anniversary of the first payment date. The final payment shall be made no later than [Month, Day, Year] [no later than the third anniversary of the effective date of the contract]. If the installment payment option is elected by the Contractor, the Contractor may pre-pay the remaining portion of the Repayment Obligation by giving the Contracting Officer sixty (60) days written notice, in which case, the Contracting Officer shall re-compute the remaining amount due to reflect the pre-payment using the same methodology as was used to compute the initial annual installment payment amount, which is illustrated in Exhibit C. Notwithstanding any Additional Capital Obligation that may later be established, receipt of the Contractor's payment of the Repayment Obligation to the United States shall fully and permanently satisfy the Existing Capital Obligation.

(B) Additional Capital Obligations that are not reflected in, the schedules referenced in Exhibit C and properly assignable to the Contractor, shall be repaid as prescribed by the WIIN Act without interest except as required by law. Consistent with Federal Reclamation law, interest shall continue to accrue on the M&I portion of the Additional Capital Obligation assigned to the Contractor until such costs are paid. Increases or decreases in the Additional Capital Obligation assigned to the Contractor caused solely by annual adjustment of the Additional Capital Obligation assigned to each Project contractor by the Secretary shall not be considered in determining the amounts to be paid pursuant to this subdivision (a)(2)(B), however, will be considered under subdivision (b) of this Article. A separate agreement shall be established by the Contractor and the Contracting Officer to accomplish repayment of the



Additional Capital Obligation assigned to the Contractor within the timeframe prescribed by the WIIN Act, subject to the following:

(1) If the collective Additional Capital Obligation properly assignable to the contractors exercising conversion under section 4011 of the WIIN Act is less than five million dollars (\$5,000,000), then the portion of such costs properly assignable to the Contractor shall be repaid not more than five (5)-years after the Contracting Officer notifies the Contractor of the Additional Capital Obligation; Provided, That the reference to the amount of five million dollars (\$5,000,000) shall not be a precedent in any other context.

(2) If the collective Additional Capital Obligation properly assignable to the contractors exercising conversion under section 4011 of the WIIN Act is equal to or greater than five million dollars (\$5,000,000), then the portion of such costs properly assignable to the Contractor shall be repaid as provided by applicable Federal Reclamation law and Project ratesetting policy; Provided, That the reference to the amount of five million dollars (\$5,000,000) shall not be a precedent in any other context.

(b) In the event that the final cost allocation referenced in Section 4011(b) of the WIIN Act determines that the costs properly assignable to the Contractor are greater than what has been paid by the Contractor, the Contractor shall be obligated to pay the remaining allocated costs. The term of such additional repayment contract shall be not less than one (1) year and not more than ten (10) years, however, mutually agreeable provisions regarding the rate of repayment of such amount may be developed by the Contractor and Contracting Officer. In the event that the final cost allocation indicates that the costs properly assignable to the Contractor are less than what the Contractor has paid, the Contracting Officer shall credit such



overpayment as an offset against any outstanding or future obligations of the Contractor, with the exception of Restoration Fund charges pursuant to section 3407(d) of Pub. L. 102-575.

(c) The Contracting Officer shall notify the Contractor of the Rates, Charges, and Tiered Pricing Component as follows:

(1) Prior to July 1, of each Calendar Year, the Contracting Officer shall provide the Contractor the preliminary calculation of the Charges that will be applied for the period October 1, of the current Calendar Year, through September 30, of the following Calendar Year, and identify the statutes, regulations and guidelines used as the basis for such calculations. On or before September 15, of each Calendar Year, the Contracting Officer shall notify the Contractor in writing of the Charges to be in effect during the period October 1, of the current Calendar Year, through September 30, of the following Calendar Year, and such notification shall revise Exhibit "A."

(2) Prior to October 1 of each Calendar Year, the Contracting Officer shall make available to the Contractor an estimate of the Rates and Tiered Pricing Component for Project Water for the following Year and the computations and cost allocations upon which those Rates are based. The Contractor shall be allowed not less than two (2) months to review and comment on such computations and cost allocations. By December 31 of each Calendar Year, the Contracting Officer shall provide the Contractor with the final Rates and Tiered Pricing Component to be in effect for the upcoming Year, and such notification shall revise Exhibit "A."

(d) At the time the Contractor submits the initial schedule for the delivery of Project Water for each Year pursuant to subdivision (b) of Article 4 of this Contract, the Contractor shall pay the United States the total amount payable pursuant to the applicable Rate(s) for all Project Water scheduled to be delivered pursuant to this Contract during the first two (2)

calendar months of the Year. Before the end of the first month or part thereof of the Year, and before the end of each calendar month thereafter, the Contractor shall pay pursuant to the applicable Rate(s) for all Project Water scheduled to be delivered pursuant to this Contract during the second month immediately following. Adjustments between the payments for the scheduled amount of Project Water and the appropriate payments for quantities of Delivered Water furnished pursuant to this Contract each month shall be made before the end of the following month: Provided, That any revised schedule submitted by the Contractor pursuant to Article 4 of this Contract, which increases the amount of Project Water to be delivered pursuant to this Contract during any month shall be accompanied with appropriate payment for Rates to assure that Project Water is not furnished to the Contractor in advance of such payment. In any month in which the quantity of Delivered Water furnished to the Contractor pursuant to this Contract equals the quantity of Project Water scheduled and paid for by the Contractor, no additional Project Water shall be made available to the Contractor unless and until payment of Rates for such additional Project Water is made. Final adjustment between the payments of Rates for the Project Water scheduled and the quantities of Delivered Water furnished during each Year pursuant to this Contract shall be made as soon as possible but no later than April 30th of the following Year.

(e) The Contractor shall also make a payment in addition to the Rate(s) in subdivision (d) of this Article to the United States for Water Delivered, at the Charges and appropriate Tiered Pricing Component then in effect, before the end of the month following the month of delivery; Provided, That the Contractor may be granted an exception from the Tiered Pricing Component pursuant to subdivision (k)(2) of this Article. The payments shall be consistent with the quantities of Irrigation Water and M&I Water Delivered as shown in the

water delivery report for the subject month prepared by the Operating Non-Federal Entity or, if there is no Operating Non-Federal Entity, by the Contracting Officer. The water delivery report shall be deemed a bill for the payment of Charges and applicable Tiered Pricing Component for Water Delivered. Adjustment for overpayment or underpayment of Charges and the Tiered Pricing Component shall be made through the adjustment of payments due to the United States for Charges for the next month. Any amount to be paid for past due payment of Charges shall be computed pursuant to Article 18 of this Contract.

(f) The Contractor shall pay for any Project Water provided under subdivision (d) or (e) of Article 3 of this Contract as determined by the Contracting Officer pursuant to applicable statutes, regulations, guidelines, and policies.

(g) Payments to be made by the Contractor to the United States under this Contract may be paid from any revenues available to the Contractor.

(h) Revenues received by the United States pursuant to this Contract shall be allocated and applied in accordance with Federal Reclamation law, including but not limited to, subsection 3 of Section 1 of the Act of July 2, 1956 (70 Stat. 483), and subsection (f) of Section 3405, subsection (c)(l) of Section 3406 and subsection (d)(2)(A) of Section 3407 of the CVPIA, and the associated regulations, including but not limited to, the Project Irrigation Water ratesetting policy and the Project M&I Water ratesetting policy promulgated pursuant to the Administrative Procedures Act.

(i) At the Contractor's request, the Contracting Officer shall provide to the Contractor an accounting of all of the expenses allocated and the disposition of all revenues received pursuant to this Contract in sufficient detail to allow the Contractor to determine that the allocation of expenses and disposition of all revenues received was accomplished in

conformance with Federal Reclamation law and the associated regulations. The Contracting Officer and the Contractor shall enter into good faith negotiations to resolve any discrepancies or disputes arising out of said accounting of the Contractor's review thereof.

(j) The parties acknowledge and agree that the efficient administration of this Contract is their mutual goal. Recognizing that experience has demonstrated that mechanisms, policies, and procedures used for establishing Rates, Charges, and Tiered Pricing Component, and/or for making and allocating payments, other than those set forth in this Article would be in the mutual best interest of the parties, it is expressly agreed that the parties may enter into agreements to modify the mechanisms, policies and procedures for any of those purposes while this Contract is in effect without amending this Contract.

(k) 1. Beginning at such time as deliveries of Project Water in a Year exceed 80 percent of the Contract Total, then before the end of the month following the month of delivery the Contractor shall make an additional payment to the United States equal to the applicable Tiered Pricing Component. The Tiered Pricing Component for the amount of Water Delivered in excess of 80 percent of the Contract Total, but less than or equal to 90 percent of the Contract Total, shall equal one-half of the difference between the Rate established under subdivision (a) of this Article and the Irrigation Full Cost Water Rate or M&I Full Cost Water Rate, whichever is applicable. The Tiered Pricing Component for the amount of Water Delivered which exceeds 90 percent of the Contract Total shall equal the difference between (i) the Rate established under subdivision (a) of this Article and (ii) the Irrigation Full Cost Water Rate or M&I Full Cost Water Rate, whichever is applicable. For all Water Delivered pursuant to subdivision (a) of Article 3 of this Contract which is in excess of 80 percent of the Contract

Total, this increment shall be deemed to be divided between Irrigation Water and M&I Water in the same proportion as actual deliveries of each bear to the cumulative total Water Delivered.

2. Subject to the Contracting Officer's written approval, the Contractor may request and receive an exemption from such Tiered Pricing Component for Project Water delivered to produce a crop which the Contracting Officer determines will provide significant and quantifiable habitat values for waterfowl in fields where the water is used and the crops are produced; Provided, That the exemption from the Tiered Pricing Component for Irrigation Water shall apply only if such habitat values can be assured consistent with the purposes of the CVPIA through binding agreements executed with or approved by the Contracting Officer prior to use of such water.

3. For purposes of determining the applicability of the Tiered Pricing Component pursuant to this Article, Water Delivered shall include Project Water that the Contractor transfers to others but shall not include Project Water transferred to the Contractor, nor shall it include the additional water provided to the Contractor under the provisions of subdivision (d) of Article 3 of this Contract.

#### NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICITS

8. The Contractor and the Contracting Officer concur that at the time of execution of this Contract, the Contractor has no non-interest bearing operation and maintenance deficits and shall have no further liability therefor.

#### TRANSFERS OR EXCHANGES OF WATER

9. The right to Project Water provided for in this Contract may be sold, transferred, or exchanged to others for beneficial uses within the State of California if such sale, transfer, or exchange is authorized by applicable Federal laws, State laws, and applicable guidelines or regulations then in effect. The right to sell, transfer, or exchange Project Water shall include,



and the Contracting Officer shall apply this Article in a manner that does not impede or restrict, lawful short-term sales, transfers, or exchanges of the type the District and Contractor historically carried out with approval of the Contracting Officer under Contract No. 7-07-20-W0055, as amended, assigned, and renewed. No sale, transfer, or exchange of the right to Project Water under this Contract may take place without the prior written approval of the Contracting Officer.

APPLICATION OF PAYMENTS AND ADJUSTMENTS

10. (a) The amount of any overpayment by the Contractor shall be applied first to any accrued indebtedness arising out of this Contract then due and payable by the Contractor. Any amount of such overpayment then remaining shall, at the option of the Contractor, be refunded to the Contractor or credited upon amounts to become due to the United States from the Contractor under the provisions of this Contract in the following months. With respect to overpayment, such adjustment shall constitute the sole remedy of the Contractor or anyone having or claiming to have the right to the use of any of the water supply provide for in this Contract.

(b) All advances for miscellaneous costs incurred for work requested by the Contractor pursuant to Article 23 of this Contract shall be adjusted to reflect the actual costs when the work has been completed. If the advances exceed the actual costs incurred, the difference will be refunded to the Contractor. If the actual costs exceed the Contractor's advances, the Contractor will be billed for the additional costs pursuant to Article 23 of this Contract.

TEMPORARY REDUCTIONS – RETURN FLOWS

11. (a) Subject to: (i) the authorized purposes and priorities of the Project; and (ii) the obligations of the United States under existing contracts, or renewals thereof, providing



for water deliveries from the Project, the Contracting Officer shall make all reasonable efforts to optimize Project Water deliveries to the Contractor as provided in this Contract.

(b) The United States may temporarily discontinue or reduce the quantity of Project Water to be delivered to the Contractor as herein provided for the purposes of investigation, inspection, maintenance, repair, or replacement of any of the Project facilities or any part thereof necessary for the delivery of Project Water to the Contractor, but so far as feasible the Contracting Officer will give the Contractor due notice in advance of such temporary discontinuance or reduction, except in case of emergency, in which case no notice need be given: Provided, That the United States shall use its best efforts to avoid any discontinuance or reduction in such service. Upon resumption of service after such reduction or discontinuance, and if requested by the Contractor, the United States will, if possible, deliver the quantity of Project Water which would have been delivered hereunder in the absence of such discontinuance or reduction: Provided, further, That with respect to any quantity of Project Water not delivered after a discontinuance or reduction the Contractor shall be relieved of its scheduling and payment obligations for such quantity of Project Water.

(c) The United States reserves the right to all seepage and return flow water derived from water delivered to the Contractor under this Contract which escapes or is discharged beyond the Contractor's Boundaries: Provided, That this shall not be construed as claiming for the United States any right to seepage or return flow being put to reasonable and beneficial use pursuant to this Contract within the Contractor's Boundaries by the Contractor or those claiming by, through, or under the Contractor.

#### CONSTRAINTS ON THE AVAILABILITY OF WATER

12. (a) In its operation of the Project, the Contracting Officer will use all reasonable means to guard against a Condition of Shortage in the quantity of Project Water to be made available to the Contractor pursuant to this Contract. In the event the Contracting Officer

575 determines that a Condition of Shortage appears probable, the Contracting Officer will notify the  
576 Contractor of said determination as soon as practicable.

577 (b) If there is a Condition of Shortage because of inaccurate runoff forecasting  
578 or other similar operational errors affecting the Project; drought and other physical or natural  
579 causes beyond the control of the Contracting Officer; or actions taken by the Contracting Officer  
580 to meet current and future legal obligations, then, except as provided in subdivision (a) of Article  
581 17 of this Contract, no liability shall accrue against the United States or any of its officers,  
582 agents, or employees for any damage, direct or indirect, arising therefrom.

583 (c) In any Year in which there may occur a shortage for any of the reasons  
584 specified in subdivision (b) of this Article, the Contracting Officer shall apportion the available  
585 Project Water supply among the Contractor and others entitled, under existing contracts and  
586 future contracts (to the extent such future contracts are permitted under subsections (a) and (b) of  
587 Section 3404 of the CVPIA) and renewals thereof, to receive Project Water consistent with the  
588 contractual obligations of the United States.

589 (d) Subject to subdivision (c) of this Article, in any Year in which there may  
590 occur a shortage for any of the reasons specified in subdivision (b) of this Article, the  
591 Contracting Officer shall apportion the available Project Water among the Contractor and others  
592 entitled to receive Project Water from the Delta-Mendota Canal as follows:

593 (1) A determination shall be made of the total quantity of water  
594 scheduled to be delivered during the respective Year under all contracts then in force for the  
595 delivery of water from the Delta-Mendota Canal, the quantity so determined being herein  
596 referred to as the contractual commitments from the Delta-Mendota Canal.

597 (2) The total quantity of water scheduled to be delivered to the  
598 Contractor from the Delta-Mendota Canal during the respective Year under subdivision (a) of  
599 Article 3 of this Contract shall be divided by the contractual commitments, the quotient thus  
600 obtained being herein referred to as the Contractor's contractual entitlement from the Delta-  
601 Mendota Canal.

(3) The supply determined by the Contracting Officer to be available from the Delta-Mendota Canal shall be multiplied by the Contractor's contractual entitlement and the result shall be the quantity of water required to be delivered by the United States to the Contractor for the respective Year from the Delta-Mendota Canal.

UNAVOIDABLE GROUNDWATER PERCOLATION

13. (a) The Contractor shall not be deemed to have furnished Irrigation Water to Excess Lands or Ineligible Lands within the meaning of this Contract if such lands are irrigated with groundwater that reaches the underground strata as an unavoidable result of the furnishing of Irrigation Water by the Contractor to Eligible Lands.

(b) Upon complete payment of the Repayment Obligation by the Contractor, this Article 13 shall no longer be applicable.

COMPLIANCE WITH FEDERAL RECLAMATION LAWS

14. The parties agree that the delivery of Irrigation Water or use of Federal facilities pursuant to this Contract is subject to Federal Reclamation law, including but not limited to, the Reclamation Reform Act of 1982 (43 U.S.C. 390aa et seq.), as amended and supplemented, and the rules and regulations promulgated by the Secretary of the Interior under Federal Reclamation law.

PROTECTION OF WATER AND AIR QUALITY

15. (a) Omitted

(b) The United States will care for, operate and maintain reserved works in a manner that preserves the quality of the water at the highest level possible as determined by the Contracting Officer. The United States does not warrant the quality of the water delivered to the Contractor and is under no obligation to furnish or construct water treatment facilities to maintain or improve the quality of water delivered to the Contractor.

(c) The Contractor will comply with all applicable water and air pollution laws and regulations of the United States and the State of California; and will obtain all required permits or licenses from the appropriate Federal, State, or local authorities necessary for the delivery of water by the Contractor; and shall be responsible for compliance with all Federal, State, and local water quality standards applicable to surface and subsurface drainage and/or discharges generated through the use of Federal or Contractor facilities or Project Water provided by the Contractor within its Service Area.

(d) This Article shall not affect or alter any legal obligations of the Secretary to provide drainage or other discharge services.

WATER ACQUIRED BY THE CONTRACTOR OTHER THAN FROM THE UNITED STATES

16. (a) Water or water rights now owned or hereafter acquired by the Contractor other than from the United States and Irrigation Water furnished pursuant to the terms of this Contract may be simultaneously transported through the same distribution facilities of the Contractor subject to the following: (i) if the facilities utilized for commingling Irrigation Water and non-Project water were constructed without funds made available pursuant to Federal Reclamation law, the provisions of Federal Reclamation law will be applicable only to the Landholders of lands which receive Irrigation Water; (ii) the eligibility of land to receive Irrigation Water must be established through the certification requirements as specified in the Acreage Limitation Rules and Regulations (43 CFR Part 426); (iii) the water requirements of Eligible Lands within the Contractor's Boundaries can be established and the quantity of Irrigation Water to be utilized is less than or equal to the quantity necessary to irrigate such Eligible Lands; and (iv) if the facilities utilized for commingling Irrigation Water and non-Project water are constructed with funds made available pursuant to Federal Reclamation law, the non-Project water will be subject to Federal Reclamation law, until such funds have been repaid.

(b) Upon complete payment of the Repayment Obligation by the Contractor, this Article 16 shall no longer be applicable.

OPINIONS AND DETERMINATIONS

17. (a) Where the terms of this Contract provide for actions to be based upon the opinion or determination of either party to this Contract, said terms shall not be construed as permitting such action to be predicated upon arbitrary, capricious, or unreasonable opinions or



determinations. Both parties, notwithstanding any other provisions of this Contract, expressly reserve the right to relief from and appropriate adjustment for any such arbitrary, capricious, or unreasonable opinion or determination. Each opinion or determination by either party shall be provided in a timely manner.

(b) The Contracting Officer shall have the right to make determinations necessary to administer this Contract that are consistent with the expressed and implied provisions of this Contract, the laws of the United States and the State of California, and the rules and regulations promulgated by the Secretary. Such determinations shall be made in consultation with the Contractor to the extent reasonably practicable.

#### CHARGES FOR DELINQUENT PAYMENTS

18. (a) The Contractor shall be subject to interest, administrative, and penalty charges on delinquent payments. If a payment is not received by the due date, the Contractor shall pay an interest charge on the delinquent payment for each day the payment is delinquent beyond the due date. If a payment becomes 60 days delinquent, the Contractor shall pay, in addition to the interest charge, an administrative charge to cover additional costs of billing and processing the delinquent payment. If a payment is delinquent 90 days or more, the Contractor shall pay, in addition to the interest and administrative charges, a penalty charge for each day the payment is delinquent beyond the due date, based on the remaining balance of the payment due at the rate of 6 percent per year. The Contractor shall also pay any fees incurred for debt collection services associated with a delinquent payment.

(b) The interest rate charged shall be the greater of either the rate prescribed quarterly in the Federal Register by the Department of the Treasury for application to overdue payments, or the interest rate of 0.5 percent per month. The interest rate charged will be determined as of the due date and remain fixed for the duration of the delinquent period.

(c) When a partial payment on a delinquent account is received, the amount received shall be applied first to the penalty charges, second to the administrative charges, third to the accrued interest, and finally to the overdue payment.

#### EQUAL EMPLOYMENT OPPORTUNITY

19. During the performance of this Contract, the Contractor agrees as follows:

(a) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and

that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of this nondiscrimination clause.

(b) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(c) The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.

(d) The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the Contracting Officer, advising the labor union or workers' representative of the Contractor's commitments under section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(e) The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(f) The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the Contracting Agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(g) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Contract or with any of such rules, regulations, or orders, this Contract may be canceled, terminated or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed



and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(h) The Contractor will include the provisions of paragraphs (a) through (g) in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

#### GENERAL OBLIGATION – BENEFITS CONDITIONED UPON PAYMENT

20. (a) The obligation of the Contractor to pay the United States as provided in this Contract is a general obligation of the Contractor notwithstanding the manner in which the obligation may be distributed among the Contractor's water users and notwithstanding the default of individual water users in their obligation to the Contractor.

(b) The payment of charges becoming due pursuant to this Contract is a condition precedent to receiving benefits under this Contract. The United States shall not make water available to the Contractor through Project facilities during any period in which the Contractor is in arrears in the advance payment of water rates due the United States. The Contractor shall not deliver water under the terms and conditions of this Contract for lands or parties that are in arrears in the advance payment of water rates as levied or established by the Contractor.

#### COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

21. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352; 42 U.S.C. § 2000d), the Rehabilitation Act of 1973 (Pub. L. 93-112, Title V, as amended; 29 U.S.C. § 791, et seq.), the Age Discrimination Act of 1975 (Pub. L. 94-135, Title III; 42 U.S.C. 6101, et seq.), Title III of the Americans with Disabilities Act of 1990 (Pub. L. 101-336; 42 U.S.C. § 12181, et seq.), and any other applicable civil rights laws, and with the applicable implementing regulations and any guidelines imposed by the U.S. Department of the Interior and/or Bureau of Reclamation.

(b) These statutes prohibit any person in the United States from being excluded from participation in, being denied the benefits of, or being otherwise subjected to discrimination under any program or activity receiving financial assistance from the Bureau of Reclamation on the grounds of race, color, national origin, disability, or age. By executing this Contract, the Contractor agrees to immediately take any measures necessary to implement this obligation, including permitting officials of the United States to inspect premises, programs, and documents.

(c) The Contractor makes this Contract in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property discounts, or other Federal financial assistance extended after the date hereof to the Contractor by the Bureau of Reclamation, including installment payments after such date on account of arrangements for Federal financial assistance which were approved before such date. The Contractor recognizes and agrees that such Federal assistance will be extended in reliance on the representations and agreements made in this Article and that the United States reserves the right to seek judicial enforcement thereof.

(d) Complaints of discrimination against the Contractor shall be investigated by the Contracting Officer's Office of Civil Rights.

#### PRIVACY ACT COMPLIANCE

22. (a) The Contractor shall comply with the Privacy Act of 1974 (Privacy Act) (5 U.S.C. § 552a) and the Department of the Interior rules and regulations under the Privacy Act (43 C.F.R. § 2.45, et seq.) in maintaining Landholder certification and reporting records required to be submitted to the Contractor for compliance with Sections 206, 224(c), and 228 of the Reclamation Reform Act of 1982 (43 U.S.C. §§ 390ff, 390ww, and 390zz), and pursuant to 43 C.F.R. § 426.18.

(b) With respect to the application and administration of the criminal penalty provisions of the Privacy Act (5 U.S.C. § 552a(i)), the Contractor and the Contractor's employees who are responsible for maintaining the certification and reporting records referenced in paragraph (a) above are considered to be employees of the Department of the Interior. See 5 U.S.C. § 552a(m).

(c) The Contracting Officer or a designated representative shall provide the Contractor with current copies of the Department of the Interior Privacy Act regulations and the Bureau of Reclamation Federal Register Privacy Act System of Records Notice (Interior/WBR-31, Acreage Limitation) which govern the maintenance, safeguarding, and disclosure of information contained in the Landholders' certification and reporting records.

(d) The Contracting Officer shall designate a full-time employee of the Bureau of Reclamation to be the System Manager responsible for making decisions on denials pursuant to 43 C.F.R. §§ 2.61 and 2.64 and amendment requests pursuant to 43 C.F.R. § 2.72. The Contractor is authorized to grant requests by individuals for access to their own records.

(e) The Contractor shall forward promptly to the System Manager each proposed denial of access under 43 C.F.R. § 2.64 and each request for amendment of records filed under 43 C.F.R. § 2.71; notify the requester accordingly of such referral; and provide the System Manager with information and records necessary to prepare an appropriate response to the requester. These requirements do not apply to individuals seeking access to their own certification and reporting forms filed with the Contractor pursuant to 43 C.F.R. § 426.18 unless the requester elects to cite the Privacy Act as an authority for the request.

(f) Upon complete payment of the Repayment Obligation by the Contractor, this Article 22 will no longer be applicable.

CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

23. In addition to all other payments to be made by the Contractor pursuant to this Contract, the Contractor shall pay to the United States, within sixty (60) days after receipt of a bill and detailed statement submitted by the Contracting Officer to the Contractor for such specific items of direct cost incurred by the United States for work requested by the Contractor associated with this Contract plus a percentage of such direct costs for administrative and general overhead in accordance with applicable Bureau of Reclamation policy and procedures. All such amounts referred to in this Article shall not exceed the amount agreed to in writing in advance by the Contractor. This Article shall not apply to costs for routine contract administration.

WATER CONSERVATION

24. (a) Prior to the delivery of water provided from or conveyed through Federally constructed or Federally financed facilities pursuant to this Contract, the Contractor shall develop a water conservation plan, as required by subsection 210(b) of the Reclamation Reform Act of 1982 and 43 C.F.R. 427.1 (Water Conservation Rules and Regulations). Additionally, an effective water conservation and efficiency program shall be based on the Contractor's water conservation plan that has been determined by the Contracting Officer to meet the conservation and efficiency criteria for evaluating water conservation plans established under Federal law. The water conservation and efficiency program shall contain definite water conservation objectives, appropriate economically feasible water conservation measures, and time schedules for meeting those objectives.

(b) Should the amount of M&I Water delivered pursuant to subdivision (a) Article 3 of this Contract equal or exceed 2,000 acre-feet per Year, the Contractor shall implement the Best Management Practices identified by and the time frames issued by the Mid-

Pacific Region's then-existing conservation and efficiency criteria for such M&I Water unless any such practice is determined by the Contracting Officer to be inappropriate for the Contractor.

(c) As part of the water conservation program, the Contractor shall develop and be implementing a tiered block water pricing program that promotes conservation and the efficient management of Project Water within eighteen (18) months of the effective date of this Contract. Such pricing program for Project Water shall take into account all relevant circumstances, including without limitation, water shortages imposed under this Contract and the availability and cost of the Contractor's and individual water user's non-Project alternative sources of supply, including groundwater and other non-Project water supplies, so that the Contractor's pricing structure provides incentives for conservation and the efficient management of overall water supply available to water users served by the Contractor. Provided, That no such tiered block water pricing program need be implemented by the Contractor if the Contracting Officer determines, based on information provided by the Contractor, that (i) such a pricing structure will not result in significant conservation of water available for use within the Contractor's Boundaries, including groundwater or (ii) other pricing program, conservation, or management measures are more appropriate and/or will result in comparable or better conservation of the water supplies available within the Contractor's Boundaries. Provided, further, That if the Contractor fails to, or elects not to, comply with this subdivision of this Article 24, then any subsequent Contract shall contain a tiered pricing contractual provision pursuant to subsection (d) of Section 3405 of the CVPIA.

(d) The Contractor shall submit to the Contracting Officer by December 31, of each Calendar Year, an annual report on the status of its implementation of the water conservation program.



(e) At five (5)-year intervals, the Contractor shall revise its water conservation plan to reflect the then-existing conservation and efficiency criteria for evaluating water conservation plans established under Federal law and submit such revised water management plan to the Contracting Officer for review and evaluation. The Contracting Officer will then determine if the water conservation plan meets the Bureau of Reclamation's then-existing conservation and efficiency criteria for evaluating water conservation plans established under Federal law.

(d) Upon complete payment of the Repayment Obligation by the Contractor, and notwithstanding any Additional Capital Obligation that may later be established, subsection (b) of this Article 24 of this Contract shall no longer be applicable.

#### EXISTING OR ACQUIRED WATER OR WATER RIGHTS

25. Except as specifically provided in Article 16 of this Contract, the provisions of this Contract shall not be applicable to or affect water or water rights now owned or hereafter acquired by the Contractor or any user of such water within the Contractor's Boundaries from other than the United States by the Contractor. Any such water shall not be considered Project Water under this Contract. In addition, this Contract shall not be construed as limiting or curtailing any rights which the Contractor or any water user within the Contractor's Boundaries acquires or has available under any other contract pursuant to the Federal Reclamation law.

#### OPERATION AND MAINTENANCE BY THE OPERATING NON-FEDERAL ENTITY

26. (a) The responsibility for performing and, in some cases, funding the O&M of all or any portion of the Delta Division facilities may be transferred to an Operating Non-Federal Entity by one or more separate agreements between the United States and the Operating Non-Federal Entity. Any such agreement(s) shall require the Operating Non-Federal Entity to

perform the O&M in compliance with the provisions of this Contract and shall not interfere with the rights and obligations of the Contractor and the United States under this Contract.

(b) The Contracting Officer has previously notified the Contractor in writing that the Operation and Maintenance of a portion of the Project facilities which serve the Contractor has been transferred to the Operating Non-Federal Entity, and therefore, the Contractor shall pay directly to the Operating Non-Federal Entity, or to any successor approved by the Contracting Officer under the terms and conditions of the separate agreement between the United States and the Operating Non-Federal Entity described in subdivision (a) of this Article, all rates, charges, or assessments of any kind, including any assessment for reserve funds, which the Operating Non-Federal Entity or such successor determines, sets, or establishes for the Operation and Maintenance of the portion of the Project facilities operated and maintained by the Operating Non-Federal Entity or such successor. Such direct payments to Operating Non-Federal Entity or such successor shall not relieve the Contractor of its obligation to pay directly to the United States the Contractor's share of the Project Rates, Charges, and Tiered Pricing Component except to the extent the Operating Non-Federal Entity collects payments on behalf of the United States in accordance with the separate agreement identified in subdivision (a) of this Article.

(c) In the event the Operation and Maintenance of the Project facilities operated and maintained by the Operating Non-Federal Entity is re-assumed by the United States during the term of this Contract, the Contracting Officer shall so notify the Contractor, in writing, and present to the Contractor a revised Exhibit "A" which shall include the portion of the Rates to be paid by the Contractor for Project Water under this Contract representing the Operation and Maintenance costs of the portion of such Project facilities which have been re-



assumed. The Contractor shall, thereafter, in the absence of written notification from the Contracting Officer to the contrary, pay the Rates, Charges, and Tiered Pricing Component specified in the revised Exhibit "A" directly to the United States in compliance with Article 7 of this Contract.

#### CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

27. The expenditure or advance of any money or the performance of any obligation of the United States under this Contract shall be contingent upon appropriation or allotment of funds. Absence of appropriation or allotment of funds shall not relieve the Contractor from any obligations under this Contract. No liability shall accrue to the United States in case funds are not appropriated or allotted.

#### BOOKS, RECORDS, AND REPORTS

28. The Contractor shall establish and maintain accounts and other books and records pertaining to administration of the terms and conditions of this Contract, including the Contractor's financial transactions; water supply data; project operations, maintenance, and replacement logs; project land and rights-of-way use agreements; the water users' land-use (crop census), land-ownership, land-leasing, and water-use data; and other matters that the Contracting Officer may require. Reports shall be furnished to the Contracting Officer in such form and on such date or dates as the Contracting Officer may require. Subject to applicable Federal laws and regulations, each party to this Contract shall have the right during office hours to examine and make copies of the other party's books and records relating to matters covered by this Contract.

#### ASSIGNMENT LIMITED – SUCCESSORS AND ASSIGNS OBLIGATED

29. (a) The provisions of this Contract shall apply to and bind the successors and assigns of the parties hereto, but no assignment or transfer of this Contract or any right or interest therein by either party shall be valid until approved in writing by the other party.

(b) The assignment of any right or interest in this Contract by either party shall not interfere with the rights or obligations of the other party to this Contract absent the written concurrence of said other party.

#### SEVERABILITY

30. In the event that a person or entity who is neither (i) a party to a Project Contract, nor (ii) a person or entity that receives Project Water from a party to a Project Contract, nor (iii)

an association or other form of organization whose primary function is to represent parties to Project Contracts, brings an action in a court of competent jurisdiction challenging the legality or enforceability of a provision included in this Contract and said person, entity, association, or organization obtains a final court decision holding that such provision is legally invalid or unenforceable and the Contractor has not intervened in that lawsuit in support of the plaintiff(s), the parties to this Contract shall use their best efforts to (i) within thirty (30) days of the date of such final court decision identify by mutual agreement the provisions in this Contract which must be revised, and (ii) within three (3) months thereafter promptly agree on the appropriate revision(s). The time periods specified above may be extended by mutual agreement of the parties. Pending the completion of the actions designated above, to the extent it can do so without violating any applicable provisions of law, the United States shall continue to make the quantities of Project Water specified in this Contract available to the Contractor pursuant to the provisions of this Contract which were not found to be legally invalid or unenforceable in the final court decision.

OFFICIALS NOT TO BENEFIT

31. No Member of or Delegate to the Congress, Resident Commissioner, or official of the Contractor shall benefit from this Contract other than as a water user or landowner in the same manner as other water users or landowners.

CHANGES IN CONTRACTOR'S ORGANIZATION AND/OR SERVICE AREA

32. While this Contract is in effect, no change may be made in the Contractor's Service Area or organization, by inclusion or exclusion of lands or by any other changes which may affect the respective rights, obligations, privileges, and duties of either the United States or the Contractor under this Contract, including, but not limited to, dissolution, consolidation, or merger, except upon the Contracting Officer's written consent.

RECLAMATION REFORM ACT OF 1982

33. (a) Upon a Contractor's compliance with and discharge of the Repayment Obligation pursuant to this Contract, subsections (a) and (b) of Section 213 of the Reclamation Reform Act of 1982 (96 Stat. 1269) shall apply to affected lands.

(b) The obligation of a Contractor to pay the Additional Capital Obligation shall not affect the Contractor's status as having repaid all of the construction costs assignable to the Contractor or the applicability of subsections (a) and (b) of section 213 of the Reclamation Reform Act of 1982 (96 Stat. 1269) once the Repayment Obligation is paid.

CERTIFICATION OF NONSEGREGATED FACILITIES

34. The Contractor hereby certifies that it does not maintain or provide for its employees any segregated facilities at any of its establishments and that it does not permit its employees to perform their services at any location under its control where segregated facilities are maintained. It certifies further that it will not maintain or provide for its employees any segregated facilities at any of its establishments and that it will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The Contractor agrees that a breach of this certification is a violation of the Equal Employment Opportunity clause in this Contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, creed, color, or national origin, because of habit, local custom, disability, or otherwise. The Contractor further agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) it will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Employment Opportunity clause; that it will retain such certifications in its files; and that it will forward the following notice to such proposed subcontractors (except where the proposed subcontractors have submitted identical certifications for specific time periods):

NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR  
CERTIFICATIONS OF NONSEGREGATED FACILITIES

A Certification of Nonsegregated Facilities must be submitted prior to the award of a subcontract exceeding \$10,000 which is not exempt from the provisions of the Equal Employment Opportunity clause. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semiannually, or annually). Note: The penalty for making false statements in offers is prescribed in 18 U.S.C. § 1001.

MEDIUM FOR TRANSMITTING PAYMENT

35. (a) All payments from the Contractor to the United States under this Contract shall be by the medium requested by the United States on or before the date payment is due. The required method of payment may include checks, wire transfers, or other types of payment specified by the United States.

(b) Upon execution of this Contract, the Contractor shall furnish the Contracting Officer with the Contractor's taxpayer's identification number (TIN). The purpose for requiring the Contractor's TIN is for collecting and reporting any delinquent amounts arising out of the Contractor's relationship with the United States.

NOTICES

36. Any notice, demand, or request authorized or required by this Contract shall be deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or delivered to the Area Manager, South-Central California Area Office, 1243 N Street, Fresno, California 93721, Bureau of Reclamation, and on behalf of the United States, when mailed, postage prepaid, or delivered to the Board of Directors of the Westlands Water District Distribution District No. 1, P.O. Box 6056, Fresno, California 93703-6056. The designation of the addressee or the address may be changed by notice given in the same manner as provided in this Article for other notices.

CONTRACT DRAFTING CONSIDERATIONS

37. This amended Contract has been negotiated and reviewed by the parties hereto, each of whom is sophisticated in the matters to which this amended Contract pertains. The double-spaced Articles of this amended Contract have been drafted, negotiated, and reviewed by the parties, and no one party shall be considered to have drafted the stated Articles. Single-spaced Articles are standard Articles pursuant to Bureau of Reclamation policy.

CONFIRMATION OF CONTRACT

38. Promptly after the execution of this amended Contract, the Contractor will provide to the Contracting Officer a certified copy of a final decree of a court of competent jurisdiction in the State of California, confirming the proceedings on the part of the Contractor for the authorization of the execution of this amended Contract. This amended Contract shall not be binding on the United States until the Contractor secures a final decree.

1022 IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the day  
1023 and year first above written.

1024 UNITED STATES OF AMERICA

1025 By: \_\_\_\_\_  
1026 Regional Director  
1027 Mid-Pacific Region  
1028 Bureau of Reclamation

1029 WESTLANDS WATER DISTRICT DISTRIBUTION  
1030 DISTRICT NO. 1  
1031 (SEAL)

1032 By: \_\_\_\_\_  
1033 President of the Board of Directors

1034 Attest:

1035 By: \_\_\_\_\_  
1036 Secretary of the Board of Directors

Irrigation and M&I  
Contract No. 7-07-20-W0055-XXX  
(Centinella Assignment)

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF RECLAMATION  
Central Valley Project, California

CONTRACT BETWEEN THE UNITED STATES  
AND  
WESTLANDS WATER DISTRICT DISTRIBUTION DISTRICT NO. 1  
PROVIDING FOR PROJECT WATER SERVICE  
AND FACILITIES REPAYMENT

Exhibits

Exhibit A – Rates and Charges

*This Exhibit template is unchanged from current Contract and is updated annually. Rate Schedules may be found at: <https://www.usbr.gov/mp/cvpwaterrates/ratebooks/index.html>*

Exhibit B – Points of Diversion

*This Exhibit has been updated to reflect Westlands Water District's points of diversion..*

Exhibit C – Repayment Obligation

*This Exhibit template was developed during the WIIN Act Negotiations. Relevant data will be incorporated upon contract execution.*



**EXHIBIT A**  
**WESTLANDS WATER DISTRICT**  
**(ASSIGNMENT OF CENTINELLA WATER DISTRICT)**  
**2019 Rates and Charges**  
**(Per Acre-Foot)**

	<b>Irrigation</b>	<b>M&amp;I <sup>3</sup></b>
	<b>Water</b>	<b>Water</b>
	<b>SLC</b>	<b>SLC</b>
<b>COST-OF-SERVICE (COS) RATE</b>		
Construction Costs	\$68.25	
DMC Aqueduct Intertie	\$1.11	
O&M Components		
Water Marketing	\$7.07	
Storage	\$14.52	
Credit for other PUE Remittance <sup>1</sup>	(\$9.74)	
Direct Pumping		
American Recovery and Reinvestment Act (ARRA)	\$0.00	
<b>TOTAL COS RATE</b>	<b>\$81.21</b>	
<b>Project Use Energy Payment <sup>2</sup></b>		
Direct Pumping	\$12.63	
Other PUE Remittance	\$9.74	
<b>IRRIGATION FULL-COST RATE</b>		
Section 202(3) Rate is applicable to a Qualified Recipient or to a Limited Recipient receiving irrigation water on or before October 1, 1981.	\$117.71	
Section 205(a)(3) Rate is applicable to a Limited Recipient that did not receive irrigation water on or before October 1, 1981.	\$151.30	
<b>CHARGES AND ASSESSMENTS (Payments in addition to Rates)</b>		
P.L. 102-575 Surcharge (Restoration Fund Payment) [Section 3407(d)(2)(A)]	\$10.63	
P.L. 106-377 Assessment (Trinity Public Utilities District) [Appendix B, Section 203]	\$0.30	

**EXPLANATORY NOTES**

- <sup>1</sup> Project Use Energy payment is being remitted to Western Area Power Authority for storage and direct pumping based on the deliveries of a select few contractors. The rates for the select few contractors are reduced as a credit in the O&M rates. All Contractors will ultimately pay for the storage and direct pumping service but as an offset to the amount paid by the select few.
- <sup>2</sup> Project Use Energy payment is in addition to the Contract Rate and Full-Cost Water Rates. Refer to the water rate books for more information.
- <sup>3</sup> The Contractor has not projected any delivery of M&I Water for the 2019 contract year. A temporary M&I Rate will be applied upon any M&I water delivery.

The CVP M&I Water Shortage Policy per EIS/EIR dated August 2015 and Record of Decision dated November 2015 defines the M&I Historic Use as the average quantity of CVP water put to beneficial use during the last three years of water deliveries, unconstrained (100% allocation) by the availability of CVP water for South of the Delta. Contractor's last three years in acre feet (AF) are: 2006 = 0 AF; 2011 = 0 AF; 2017 = 0 AF; equals a M&I Historic use average quantity of 0 AF.

**Additional detail of rate components is available on the Internet at:**

<http://www.usbr.gov/mp/cvpwaterrates/ratebooks/index.html>

## Exhibit B

### **Points of Diversion on the San Luis Canal:**

MP-104.18 Lat.1R, MP-105.2L, MP-105.22 Lat.1L, MP-105.23 Lat.2R,  
MP-106.35 Lat.2L, MP-108.39 Lat.3L, MP-108.46 Lat.3R, MP-110.52 Lat. 4L,  
MP-111.93 Lat.5L, MP-113 Lat.6L, MP-113.77 Lat.4R, MP-114R, MP-114.64R,  
MP-114.90 Lat.5R, MP-114.92R, MP-116.02R, MP-116.32R, MP-116.91R,  
MP-117.51 Lat.8L, MP-117.51R, MP-118.44 Lat.7R, MP-118.46R, MP-119.56R  
A&B, MP-119.63 Lat.8R, MP-119.63R ABC, MP-120.77 Lat.9L, MP-120.86R,  
MP-120.87R A&B, MP-121.92 Lat.10L, MP-122.02R, MP-122.05R,  
MP-122.59R, MP-123.89R, MP-124.16R, MP-124.18 Lat.11L, MP-124.19R,  
MP-125.36R, MP-126.65 Lat.12L, MP-128.49R, MP-128.57 Lat.11R,  
MP-128.78R, MP-129.88 Lat.13L, MP-130.85 Lat.14L, MP-131.70 Lat.15L,  
MP-132.74 Lat.12R, MP-132.81 Lat.16L, MP-133.81 Lat.17L, MP-133.81  
Lat.13R, MP-134.94 Lat.18L, MP-135.96 Lat.14R, MP-136.05 Lat.19L,  
MP-137.00 Lat.15R, MP-137.11 Lat.20L, MP-138.14 Lat.16R, MP-138.29  
Lat.21L, MP-139.27 Lat.17R, MP-139.39 Lat.22L, MP-140.48 Lat.18R,  
MP-140.57 Lat.23L, MP-141.29R, MP-141.53 Lat.19R, MP-141.60 Lat.24L,  
MP-142.57R, MP-142.60R A&B, MP-143.16, MP-145.26 Lat.25L, MP-145.32  
Lat.20R, MP-147.02 Lat.26L, MP-147.75R, MP-147.77R, MP-149.12 Lat.27L,  
MP-149.55 Lat.21R, MP-149.59R, MP-150.48R, MP-150.88 Lat.28L, MP-151.19  
Lat.22R, MP-152.35 Lat.29L, MP-154.11 Lat.30L, MP-156.34 Lat.23R,  
MP-156.40 Lat.31L, MP-158.47 Lat.32L, MP-158.47 Lat.24R, MP-160.45  
Lat.33L, MP-160.45 Lat.25R, MP-161.60 Lat.34L, MP-161.60 Lat.26R,  
MP-162.63 Lat.35L, MP-163.59L, MP-163.69 Lat.36L, MP-163.69 Lat.27R,  
MP-164.79 Lat.28R, MP-167.04 Lat.37L, MP-167.84 Lat.29R, MP-169.30  
Lat.38L, MP-171.51 Lat.30R

## Exhibit C Template

### Repayment Obligation - Current Calculation under the WIIN Act, Section 4011 (a) (2)

Represents an Example of Cost to Repay Construction Based on Unpaid Construction (From 2018 or 2019 of the Water Rate Books\*\*)

Contractor: Contractor A  
Facility: San Luis Canal (This does not include Delta-Mendota Pool or Canal)  
Contract: Contract Number #:

Irrigation Construction Cost (2018 or 2019 Irrigation Ratebook, Schedule A-2Ba and A-2Bc)			
	Unpaid Cost	Discount	
Construction Cost (Excludes Intertie):	\$ 2,000,000	\$ 1,860,792	
Intertie Construction Cost:	\$ 50,000	\$ 36,962	
Total	\$ 2,050,000	\$ 1,897,754	
If Paid in Installments (1/2 of 20 yr CMT)			
	Due		
Payment 1	1-Jan-20	\$ 492,663	
Payment 2	1-Jan-21	\$ 492,663	
Payment 3	1-Jan-22	\$ 492,663	
Payment 4	1-Jan-23	\$ 492,663	
Total Installment Payments		\$ 1,970,653	
20 yr CMT Rates - 4/23/2018		3.050%	
Discount Rate: 1/2 of 20 yr CMT (WIIN Act, Section 4011(a)(2)(A) & f)		1.525%	

M&I Construction Cost (2018 or 2019 M&I Ratebook, Schedule A-2Ba)	
Construction Cost *:	Unpaid Cost \$ 300,000
* Excludes interest to payment date as interest will be computed as an annual expense as usual	

Calculation Support: Irrigation lump sum or first payment due date 1-Jan-20  
Days Until End of Fiscal Year 273

Fiscal Yr	Unpaid Allocated Construction Cost			Unpaid Intertie Construction Cost			Total
	Beginning Balance	Straight Line Repayment	Present Value	Beginning Balance	Straight Line Repayment	Present Value	Present Values
2018	\$ 2,000,000	\$ 153,846	\$ 153,846	\$ 50,000	\$ 1,087	\$ 1,087	\$ 154,933
2019	\$ 1,846,154	\$ 153,846	\$ 153,846	\$ 48,913	\$ 1,087	\$ 1,087	\$ 154,933
2020	\$ 1,692,308	\$ 153,846	\$ 152,116	\$ 47,826	\$ 1,087	\$ 1,075	\$ 153,191
2021	\$ 1,538,462	\$ 153,846	\$ 149,831	\$ 46,739	\$ 1,087	\$ 1,059	\$ 150,890
2022	\$ 1,384,615	\$ 153,846	\$ 147,580	\$ 45,652	\$ 1,087	\$ 1,043	\$ 148,623
2023	\$ 1,230,769	\$ 153,846	\$ 145,364	\$ 44,565	\$ 1,087	\$ 1,027	\$ 146,391
2024	\$ 1,076,923	\$ 153,846	\$ 143,180	\$ 43,478	\$ 1,087	\$ 1,012	\$ 144,192
2025	\$ 923,077	\$ 153,846	\$ 141,029	\$ 42,391	\$ 1,087	\$ 996	\$ 142,026
2026	\$ 769,231	\$ 153,846	\$ 138,911	\$ 41,304	\$ 1,087	\$ 981	\$ 139,892
2027	\$ 615,385	\$ 153,846	\$ 136,824	\$ 40,217	\$ 1,087	\$ 967	\$ 137,791
2028	\$ 461,538	\$ 153,846	\$ 134,769	\$ 39,130	\$ 1,087	\$ 952	\$ 135,721
2029	\$ 307,692	\$ 153,846	\$ 132,745	\$ 38,043	\$ 1,087	\$ 938	\$ 133,683
2030	\$ 153,846	\$ 153,846	\$ 130,751	\$ 36,957	\$ 1,087	\$ 924	\$ 131,675
2031-63				\$ 35,870	\$ 35,870	\$ 23,815	\$ 23,815
Total, Lump Sum Payment			\$ 1,860,792			\$ 36,962	\$ 1,897,754
Amount of Reduction, Lump Sum			\$ 139,208			\$ 13,038	\$ 152,246

\*\* Water Rate Charges and payments are a requirement under the existing and amendatory contract. If at a later date charges are updated based on Regional and Area Office reviews, any unpaid charges are still due.

# **EXHIBIT C**

**RESOLUTION NO. 103-20**

**WESTLANDS WATER DISTRICT DISTRIBUTION DISTRICT NO. 1**

**A RESOLUTION OF THE BOARD OF DIRECTORS:**

**AUTHORIZING THE FILING OF NOTICES OF STATUTORY EXEMPTION AND CATEGORICAL EXEMPTION FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FOR APPROVAL OF AND AUTHORIZATION TO EXECUTE THE CONTRACT BETWEEN THE UNITED STATES AND WESTLANDS WATER DISTRICT DISTRIBUTION DISTRICT NO. 1 PROVIDING FOR PROJECT WATER SERVICE AND FACILITIES REPAYMENT,**

**AUTHORIZING APPROVAL, EXECUTION, AND DELIVERY OF THE CONTRACT BETWEEN THE UNITED STATES AND WESTLANDS WATER DISTRICT DISTRIBUTION DISTRICT NO. 1 PROVIDING FOR PROJECT WATER SERVICE AND FACILITIES REPAYMENT, AND**

**AUTHORIZING ACTIONS IN FURTHERANCE THEREOF**

WHEREAS, Widren Water District (Widren) entered into a contract for water service with the United States on June 21, 1967, Contract No. 14-06-200-8018 (the "Original Contract"), which provided for the delivery of up to 2,990 acre feet of water diverted through Central Valley Project facilities. Upon expiration of the Original Contract, Widren entered into successive interim renewal contracts with the United States of America providing for water service, including Contract No. 14-06-200-8018-IR8 ending on February 28, 2006; and

WHEREAS, on May 27, 2005, Westlands Water District Distribution District No.1 (District) and the United States through the Bureau of Reclamation entered into an agreement for assignment (Assignment Contract 14-06-200-8018-IR8-B) of Widren's water service contract. Under this Assignment Contract, Widren assigned its right, title and interest to 2,990 acre-feet of its water service contract to the District; and

WHEREAS, the District has entered into successive interim renewal contracts with the United States of America providing for water service, including the most recent Contract No. 14-06-200-8018-IR16-B (Existing Interim Renewal Contract) ending on February 29, 2020; and

WHEREAS, the United States has tendered a form of an interim renewal contract to the District, Renewal Contract No. 14-06-200-8018-IR17-B, (Interim Renewal Contract) which provides for the delivery of water diverted through Central Valley Project facilities under terms that are substantially the same as the Existing Interim Renewal Contract, which if executed, would remain in effect through February 28, 2022; and

WHEREAS, on December 16, 2016, the 114th Congress of the United States of America enacted the Water Infrastructure Improvements for the Nation Act (Pub. L. 114-322, 130 Stat. 1628) (WIIN Act); and



WHEREAS, Section 4011(a)(1) of the WIIN Act provides that "upon request of the contractor, the Secretary of the Interior shall convert any water service contract in effect on the date of enactment of this subtitle and between the United States and a water users' association [Contractor] to allow for prepayment of the repayment contract pursuant to paragraph (2) under mutually agreeable terms and conditions."; and

WHEREAS, Section 4011(a)(1) further provides that "the manner of conversion under this paragraph shall be as follows: (A) Water service contracts that were entered into under section (e) of the Act of August 4, 1939 (53 Stat. 1196), to be converted under this section shall be converted to repayment contracts under section 9(d) of that Act (53 Stat. 1195)"; and "(B) Water service contracts that were entered under subsection (c)(2) of section 9 of the Act of August 4, 1939 (53 Stat. 1194), to be converted under this section shall be converted to a contract under subsection (c)(1) of section 9 of that Act (53 Stat. 1195)."; and

WHEREAS, Section 4011(a)(4)(C) provides all contracts entered into pursuant to Section 4011(a)(1), (2), and (3) shall "not modify other water service, repayment, exchange and transfer contractual rights between the water users' association [Contractor], and the Bureau of Reclamation, or any rights, obligations, or relationships of the water users' association [Contractor] and their landowners as provided under State law."; and

WHEREAS, Section 4011(d)(3) and (4) of the WIIN Act provides that "implementation of the provisions of this subtitle shall not alter... (3) the priority of a water service or repayment contractor to receive water; or (4) except as expressly provided in this section, any obligations under the Federal Reclamation law, including the continuation of Restoration Fund charges pursuant to section 3407(d) (Pub. L. 102-575), of the water service and repayment contractors making prepayments pursuant to this section."; and

WHEREAS, on or about April 23, 2018, pursuant to WIIN Act, 4011(a)(1), the District requested that United States Bureau of Reclamation initiate the process to convert its water service contract to a repayment contract.

WHEREAS, pursuant to and consistent with the WIIN Act, the United States and the District negotiated terms and conditions that convert the Existing Interim Renewal Contract to a repayment contract, and those terms and conditions are reflected in the attached Converted Contract between the United States and Westlands Water District Distribution District No. 1 providing for Project Water Service and Facilities Repayment, which is incorporated herein by this reference (Converted Contract); and

WHEREAS, the Converted Contract also reflects the current standard terms and conditions required by the Reclamation Manual; and



WHEREAS, the Converted Contract continues water service to the District within established parameters, in the same scope and nature of the ongoing Central Valley Project and its existing facilities; and

WHEREAS, the United States has determined that the District has fulfilled all of its obligations under the Existing Interim Renewal Contract; and

WHEREAS, the District has demonstrated to the satisfaction of the Contracting Officer that the District has utilized the Project Water supplies available to it for reasonable and beneficial use and expects to utilize fully for reasonable and beneficial use the quantity of Project Water to be made available to it pursuant to the Converted Contract; and

WHEREAS, water obtained from the Project has been relied upon by urban and agricultural areas within California for more than 50 years, and is considered by the District as an essential portion of its water supply; and

WHEREAS, the economies of regions within the Project, including the District's, depend upon the continued availability of water, including water service from the Project; and

WHEREAS, it is imperative to the District and its landowners that the District continue water service to lands within the District for beneficial use, and the District therefore proposes to enter into the Converted Contract; and

WHEREAS, under the Converted Contract, ongoing receipt and delivery of water will continue with no expansion of service and no new facilities constructed because the District will deliver the water received under the Converted Contract: (1) to lands within the District's boundaries for beneficial use and that have been in production, and (2) through existing facilities; and

WHEREAS, the District has reviewed the terms and conditions of the Converted Contract and finds the form and content thereof to be acceptable to the District and appropriate for execution; and

WHEREAS, the District maintains in its records copies of contracts, water delivery reports, crop information and other data supporting these factual findings.

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED as follows:

1. The facts set forth in the recitals above and in the documents referenced therein are true and correct, and the Board so finds and determines.

2. The Converted Contract will not create any effects specified in Title 14 of the California Code of Regulations, Section 15300.2.

3. Executing the Converted Contract is statutorily exempt from compliance with the California Environmental Quality Act as provided in the California Public Resources Code and implemented through Title 14 of the California Code of Regulations, Sections 15260 through 15285, with particular reference to Section 15261, because it is merely a continuation of a project approved, funded and fully operated prior to November 23, 1970, and no modification or alteration in the Central Valley Project or the amount of water delivered is proposed.

4. Execution of the Converted Contract is exempt from the California Environmental Quality Act based on its record of proceedings showing that the Converted Contract continues water service to the District within established parameters, in the same scope and nature of the ongoing Central Valley Project and its existing facilities; it involves no increase in existing service; and no new construction, expansion, or any modification to the existing distribution system; nor any change in the source of water to be delivered, or the uses to which such supplies will be put.

5. Execution of the Converted Contract is categorically exempt from compliance with the California Environmental Quality Act as provided in Title 14 of the California Code of Regulations, Section 15300 through 15333, with particular reference to Section 15301, because it merely provides for continued operation of existing facilities.

6. The District shall prepare and file a Notice of Exemption with the Clerks of Fresno and Kings Counties and the Office of Planning and Research (State Clearinghouse) as provided for in Title 14 of the California Code of Regulations, Section 15062(b), in substantially the forms attached hereto as Exhibit A.

7. The Converted Contract in substantially the form presented to the Board and on file with the Secretary is hereby approved.

8. The President of the District is hereby authorized to execute and deliver the Converted Contract in substantially the form attached hereto, with such additional changes and/or modifications as are approved by the President of the District, its General Manager, and its General Counsel.

9. The District's officers, staff, and consultants are authorized and directed to take all additional actions they deem necessary or appropriate in order to carry out the intent of this resolution.

10. A certified copy of this resolution shall be prepared and transmitted by the District's Secretary to the United States Bureau of Reclamation.

Adopted at a regular meeting of the Board of Directors, at Fresno, California, this 21st day of January, 2020.

AYES: Directors Anderson, Bourdeau, Coelho, Errotabere, Enos, Ferguson, Neves, Nunn and Peracchi

NOES: None

ABSENT: None



Bobbie Ormonde, District Secretary

## Notice of Exemption

## Appendix E

To: Office of Planning and Research  
P.O. Box 3044, Room 113  
Sacramento, CA 95812-3044

County Clerk

County of: Fresno

2221 Kern Street

Fresno, CA 93721

From: (Public Agency): Westlands Water District

P.O. Box 6056

Fresno, CA 93703-6056

(Address)

Project Title: Westlands Water District Distribution District No. 1 Central Valley Project Water Repayment Contract #14-06-200-8018-XXX (Widren Assignment Conversion to Repayment)

Project Applicant: Westlands Water District - Distribution District No. 1

Project Location - Specific:

Within the boundaries of the Westlands Water District

Project Location - City: Not Applicable Project Location - County: Fresno and Kings

Description of Nature, Purpose and Beneficiaries of Project:

The project is the execution of Contract #14-06-200-8018-XXX (Widren Assignment), which would convert Westlands Water District Distribution District No. 1's (District) existing water service contract to a repayment contract that provides the terms and conditions for water service with the United States Bureau of Reclamation (USBR) for the purpose of continuing delivery of Central Valley Project water within established parameters to lands within the District's existing service area boundary. The beneficiaries of the project are the District, its landowners, and water users. The USBR is a party to the bilateral agreement and as such is a recipient of the District's approval (Pub. Resources Code, §§21065, 21167.6.5). The project is entirely administrative in scope.

Name of Public Agency Approving Project: Westlands Water District - Distribution District No. 1

Name of Person or Agency Carrying Out Project: Westlands Water District - Distribution District No. 1

Exempt Status: (check one):

- ☐ Ministerial (Sec. 21080(b)(1); 15268);
- ☐ Declared Emergency (Sec. 21080(b)(3); 15269(a));
- ☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- ☒ Categorical Exemption. State type and section number: CEQA Guidelines, §15301
- ☒ Statutory Exemptions. State code number: CEQA Guidelines, §15261

Reasons why project is exempt:

The project is statutorily exempt from compliance with the California Environmental Quality Act as provided in Title 14 of the California Code of Regulations, Section 15261, because it is merely a continuation of a project approved, funded and fully operated prior to November 23, 1970 and no modification or alteration in the Central Valley Project or the amount of water delivered is proposed.

The project is also exempt under 14 CCR 15301 as it provides for the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use. The Project is wholly administrative in scope as the project involves no construction, alteration, or expansion of an existing use.

Lead Agency

Contact Person: Jose Gutierrez Area Code/Telephone/Extension: (559) 241-6215

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? ☒ Yes ☐ No

Signature: \_\_\_\_\_ Date: January 22, 2020 Title: Chief Operating Officer

☒ Signed by Lead Agency ☒ Signed by Applicant

Authority cited: Sections 21083 and 21110, Public Resources Code.  
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.

Date Received for filing at OPR: \_\_\_\_\_

## NOTICE OF EXEMPTION

Appendix E

To: ☒ Office of Planning and Research/State Clearinghouse  
P.O. Box 3044, 1400 Tenth Street, Room 222  
Sacramento, CA 95812-3044

☐ County Clerk/County Recorder  
County of Fresno  
2220 Tulare Street  
Fresno, CA 93721

☒ County Clerk/County Recorder  
County of Kings  
County Government Center  
1400 West Lacey Boulevard  
Hanford, CA 93230

From: ☒ Westlands Water District  
P.O. Box 6056  
Fresno, CA 93703

**Project Title:** Westlands Water District Distribution District No. 1 Central Valley Project Water Repayment Contract #14-06-200-8018-XXX (Widren Assignment Conversion to Repayment).

**Project Applicant:** Westlands Water District - Distribution District No. 1

**Project Location – Specific:** Within the boundaries of the Westlands Water District.

**Project Location – City:** Not Applicable

**Project Location – County:** Fresno and Kings.

**Description of Nature, Purpose and Beneficiaries of Project:**

The project is the execution of Contract #14-06-200-8018-XXX (Widren Assignment), which would convert Westlands Water District Distribution District No. 1's (District) existing water service contract to a repayment contract that provides the terms and conditions for water service with the United States Bureau of Reclamation (USBR) for the purpose of continuing delivery of Central Valley Project water within established parameters to lands within the District's existing service area boundary. The beneficiaries of the project are the District, its landowners, and water users. The USBR is a party to the bilateral agreement and as such is a recipient of the District's approval (Pub. Resources Code, §§21065, 21167.6.5). The project is entirely administrative in scope.

**Name of Public Agency Approving Project:** Westlands Water District - Distribution District No. 1

**Name of Person or Agency Carrying Out Project:** Westlands Water District - Distribution District No. 1

**Exempt Status: (check one)**

- ☐ Ministerial (Sec. 21080(b)(1); 15268);
- ☐ Declared Emergency (Sec. 21080(b)(3); 15269(a));
- ☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- ☒ Categorical Exemption. State type and section number: CEQA Guidelines, §15301
- ☒ Statutory Exemptions. State code number: CEQA Guidelines, §15261

**Reasons why project is exempt:**

The project is statutorily exempt from compliance with the California Environmental Quality Act as provided in Title 14 of the California Code of Regulations, Section 15261, because it is merely a continuation of a project approved, funded and fully operated prior to November 23, 1970 and no modification or alteration in the Central Valley Project or the amount of water delivered is proposed.

The project is also exempt under 14 CCR 15301 as it provides for the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use. The Project is wholly administrative in scope as the project involves no construction, alteration, or expansion of an existing use.

**Lead Agency**

**Contact Person:** Jose Gutierrez

**Area Code/Telephone/Extension:** (559) 241-6215

**If filed by applicant:**

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? ☒ YES ☐ NO

**Signature:** \_\_\_\_\_ **Date:** January 22, 2020 **Title:** Chief Operating Officer

☒ Signed by Lead Agency   ☒ Signed by Applicant

Authority cited: Sections 21083 and 21110, Public Resources Code.

Date Received for filing at OPR: \_\_\_\_\_

Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.

Revised 2011



UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF RECLAMATION  
Central Valley Project, California

CONTRACT BETWEEN THE UNITED STATES  
AND  
WESTLANDS WATER DISTRICT DISTRIBUTION DISTRICT NO. 1  
PROVIDING FOR PROJECT WATER SERVICE  
AND FACILITIES REPAYMENT

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UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF RECLAMATION  
Central Valley Project California

CONTRACT BETWEEN THE UNITED STATES  
AND  
WESTLANDS WATER DISTRICT DISTRIBUTION DISTRICT NO. 1  
PROVIDING FOR PROJECT WATER SERVICE  
AND FACILITIES REPAYMENT

THIS CONTRACT, made this \_\_\_\_ day of \_\_\_\_\_ 20\_\_, in pursuance generally of the Act of June 17, 1902 (32 Stat. 388), and acts amendatory or supplementary thereto, including, but not limited to, the Acts of August 26, 1937 (50 Stat. 844), as amended and supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented, July 2, 1956 (70 Stat. 483), June 21, 1963 (77 Stat. 68), October 12, 1982 (96 Stat. 1263), October 27, 1986 (100 Stat. 3050), as amended Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706), as amended, and the Water Infrastructure Improvements for the Nation Act (Public Law 114-322, 130 Stat. 1628), Section 4011 (a-d) and (f) ("WIIN Act"), all collectively hereinafter referred to as Federal Reclamation law, between THE UNITED STATES OF AMERICA, hereinafter referred to as the United States, and WESTLANDS WATER DISTRICT DISTRIBUTION DISTRICT NO. 1, hereinafter referred to as the Contractor, a public agency of the State of California, duly organized, existing, and acting pursuant to the laws thereof;

WITNESSETH, That:

EXPLANATORY RECITALS

[1<sup>st</sup>] WHEREAS, the United States has constructed and is operating the Central Valley Project, California, for diversion, storage, carriage, distribution, and beneficial use, for flood control, irrigation, municipal, domestic, industrial, fish and wildlife mitigation, protection and restoration, generation and distribution of electric energy, salinity control, navigation, and other beneficial uses, of waters of the Sacramento River, the American River, the Trinity River, and the San Joaquin River and their tributaries; and

[2<sup>nd</sup>] WHEREAS, the United States constructed the Delta-Mendota Canal and related facilities, hereinafter collectively referred to as the Delta Division facilities, which will be used in part for the furnishing of water to the Contractor pursuant to the terms of this Contract; and

[3<sup>rd</sup>] WHEREAS, the Widren Water District (District) and the United States entered into Contract No. 14-06-200-8018, which provided the District, Central Valley Project water from the Delta-Mendota Canal from September 28, 1959 to February 28, 1995; and

[4<sup>th</sup>] WHEREAS, the United States and the District entered into Contract No. 14-06-200-8018-IR1 and subsequent Interim Renewal Contracts 14-06-200-8018-IR2 through 14-06-200-8018-IR8, which provided for the continued water service to the District from March 1, 1995, through February 28, 2006; and

[5<sup>th</sup>] WHEREAS, the Contractor and the District executed an agreement on February 28, 2006, which assigned to the Contractor all right, title, and interest to Contract No. 14-06-200-8018-IR8; and

[6<sup>th</sup>] WHEREAS, the United States and the Contractor entered into Contract Number 14-06-200-8018-IR9 and subsequent Interim Renewal Contracts 14-06-200-8018-IR10 through 14-06-200-8018-IR16, the last of which is hereinafter referred to as the "Existing Contract",

which established terms for the delivery of Project Water to the Contractor from the Delta Division, and which was in effect the date the WIIN Act was enacted; and

[7<sup>th</sup>] WHEREAS, on December 16, 2016, the 114th Congress of the United States of America enacted the WIIN Act; and

[8<sup>th</sup>] WHEREAS, Section 4011(a)(1) provides that “upon request of the contractor, the Secretary of the Interior shall convert any water service contract in effect on the date of enactment of this subtitle and between the United States and a water users’ association [Contractor] to allow for prepayment of the repayment contract pursuant to paragraph (2) under mutually agreeable terms and conditions.”; and

[9<sup>th</sup>] WHEREAS, Section 4011(a)(1) further provides that “the manner of conversion under this paragraph shall be as follows: (A) Water service contracts that were entered into under section (e) of the Act of August 4, 1939 (53 Stat. 1196), to be converted under this section shall be converted to repayment contracts under section 9(d) of that Act (53 Stat. 1195)”; and “(B) Water service contracts that were entered under subsection (c)(2) of section 9 of the Act of August 4, 1939 (53 Stat. 1194), to be converted under this section shall be converted to a contract under subsection (c)(1) of section 9 of that Act (53 Stat. 1195).”; and

[10<sup>th</sup>] WHEREAS, Section 4011(a)(4)(C) further provides all contracts entered into pursuant to Section 4011(a)(1), (2), and (3) shall “not modify other water service, repayment, exchange, and transfer contractual rights between the water users’ association [Contractor], and the Bureau of Reclamation, or any rights, obligations, or relationships of the water users’ association [Contractor] and their landowners as provided under State law.”; and

[11<sup>th</sup>] WHEREAS, Section 4011(d)(3) and (4) of the WIIN Act provides that “implementation of the provisions of this subtitle shall not alter...(3) the priority of a water

service or repayment contractor to receive water; or (4) except as expressly provided in this section, any obligations under the Federal Reclamation law, including the continuation of Restoration Fund charges pursuant to section 3407(d) (Pub. L. 102-575), of the water service and repayment contractors making prepayments pursuant to this section.”; and

[12<sup>th</sup>] WHEREAS, upon the request of the Contractor, the WIIN Act directs the Secretary to convert irrigation water service contracts and Municipal and Industrial (M&I) water service contracts into repayment contracts, amend existing repayment contracts, and allow contractors to prepay their construction cost obligations pursuant to applicable Federal Reclamation law; and

[13<sup>th</sup>] WHEREAS, the United States has determined that the Contractor has to date fulfilled all of its obligations under the Existing Contract; and

[14<sup>th</sup>] WHEREAS, the Contracting Officer has determined that the Contractor has the capability to fully utilize for reasonable and beneficial use, or shown projected future reasonable and beneficial use for, the quantity of Project Water to be made available to it pursuant to this Contract; and

[15<sup>th</sup>] WHEREAS, the Contracting Officer and the Contractor agree that this Contract complies with Section 4011 of the WIIN Act; and

[16<sup>th</sup>] WHEREAS, the Contracting Officer and the Contractor agree to amend and convert the Existing Contract pursuant to section 4011 of the WIIN Act and other Federal Reclamation law on the terms and conditions set forth below;

NOW, THEREFORE, in consideration of the mutual and dependent covenants herein contained, it is hereby mutually agreed by the parties hereto as follows:



DEFINITIONS

1. When used herein unless otherwise distinctly expressed, or manifestly incompatible with the intent of the parties as expressed in this Contract, the term:

(a) "Additional Capital Obligation" shall mean construction costs or other capitalized costs incurred after the effective date of Contract or not reflected in the Existing Capital Obligation as defined herein and in accordance with Section 4011, subsection (a)(2)(B) and (a)(3)(B) of the Water Infrastructure Improvements for the Nation Act (Pub. L. 114-322, 130 Stat. 1628) ("WIIN Act");

(b) "Calendar Year" shall mean the period January 1 through December 31, both dates inclusive;

(c) "Charges" shall mean the payments required by Federal Reclamation law in addition to the Rates and Tiered Pricing Component specified in this Contract as determined annually by the Contracting Officer pursuant to this Contract;

(d) "Contractor's Boundaries" shall mean the area to which the Contractor is permitted to provide Project Water under this Contract;

(e) "CVPIA" shall mean the Central Valley Project Improvement Act, Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706);

(f) "Delivered Water" or "Water Delivered" shall mean Project Water made available to the Contractor and diverted at the point(s) of delivery approved by the Contracting Officer;

(g) "Eligible Lands" shall mean all lands to which Irrigation Water may be delivered in accordance with Section 204 of the Reclamation Reform Act of October 12, 1982 (96 Stat. 1263), as amended;

(h) "Excess Lands" shall mean all lands defined as excess in Section 204 of the Reclamation Reform Act of 1982, other than those lands exempt from acreage limitation under Federal Reclamation law;

(i) "Existing Capital Obligation" shall mean the remaining amount of construction costs or other capitalized costs allocable to the Contractor as described in section 4011, subsections (a)(2)(A) and (a)(3)(A) of the WIIN Act, and as identified in the Central Valley Project Irrigation Water Rates and/or Municipal and Industrial Water Rates, respectively, dated Month/Day/Year [specify ratebook year for all contractors.] [contractor specific to address the intertie], as adjusted to reflect payments not reflected in such schedule. The Contracting Officer has computed the Existing Capital Obligation and such amount is set forth in Exhibit C, which is incorporated herein by reference;

(j) "Full Cost Rate" shall mean that water rate described in Sections 205(a)(3) or 202(3) of the Reclamation Reform Act of 1982, whichever is applicable;

(k) "Ineligible Lands" shall mean all lands to which Irrigation Water may not be delivered in accordance with Section 204 of the Reclamation Reform Act of 1982;

(l) "Irrigation Water" shall mean the use of Project Water to irrigate lands primarily for the production of commercial agricultural crops or livestock, and domestic and other uses that are incidental thereto;

(m) "Landholder" shall mean an individual or entity attributed with the total irrigable acreage of one or more tracts of land situated in one or more districts owned and/or operated under a lease which is served with Irrigation Water pursuant to a contract with the United States;

(n) "Municipal and Industrial (M&I) Water" shall mean the use of Project Water for municipal, industrial, and miscellaneous other purposes not falling under the definition of "Irrigation Water" or within another category of water use under an applicable Federal authority;

- 131                   (o)    "Operation and Maintenance" or "O&M" shall mean normal and  
132 reasonable care, control, operation, repair, replacement and maintenance of Project facilities;
- 133                   (p)    "Operating Non-Federal Entity" shall mean a Non-Federal entity which  
134 has the obligation to operate and maintain all or a portion of the Delta Division facilities pursuant  
135 to an agreement with the United States;
- 136                   (q)    "Project" shall mean the Central Valley Project owned by the United  
137 States and operated by the Department of the Interior, Bureau of Reclamation;
- 138                   (r)    "Project Contractors" shall mean all parties who have contracts for water  
139 service for Project Water from the Project with the United States pursuant to Federal  
140 Reclamation law;
- 141                   (s)    "Project Water" shall mean all water that is developed, diverted, stored, or  
142 delivered by the United States in accordance with the statutes authorizing the Project and in  
143 accordance with the terms and conditions of applicable water rights permits and licenses  
144 acquired by and/or issued to the United States pursuant to California law;
- 145                   (t)    "Rates" shall mean the payments determined annually by the Contracting  
146 Officer in accordance with the then current applicable water ratesetting policies for the Project;
- 147                   (u)    "Repayment Obligation" for Water Delivered as Irrigation Water shall  
148 mean the Existing Capital Obligation discounted by  $\frac{1}{2}$  of the Treasury rate, which shall be the  
149 amount due and payable to the United States, pursuant to section 4011(a)(2)(A) of the WIIN Act;  
150 and for Water Delivered as M&I Water shall mean the amount due and payable to the United  
151 States, pursuant to section 4011(a)(3)(A) of the WIIN Act;
- 152                   (v)    "Secretary" or "Contracting Officer" shall mean the Secretary of the  
153 United States Department of the Interior or his duly authorized representative;

(w) "Tiered Pricing Component" shall be the incremental amount to be paid for each acre-foot of Water Delivered as described in Article 7 of this Contract and as provided for in Exhibit A;

(x) "Water Made Available" shall mean the estimated amount of Project Water that can be delivered to the Contractor for the upcoming Year as declared by the Contracting Officer, pursuant to subdivision (a) of Article 4 of this Contract;

(y) "Year" shall mean the period from and including March 1 of each Calendar Year through the last day of February of the following Calendar Year.

TERM OF CONTRACT – RIGHT TO USE OF WATER

2. (a) This Contract shall be effective March 1, 2020, hereinafter known as the "Effective Date", and shall continue so long as the Contractor pays applicable Rates and Charges under this Contract, consistent with Section 9(d) or 9(c)(1) of the Act of August 4, 1939 (53 Stat. 1195) as applicable, and applicable law;

(1) Provided, That the Contracting Officer shall not seek to terminate this Contract for failure to fully or timely pay applicable Rates and Charges by the Contractor, unless the Contracting Officer has first provided at least sixty (60) calendar days written notice to the Contractor of such failure to pay and the Contractor has failed to cure such failure to pay, or to diligently commence and maintain full curative payments satisfactory to the Contracting Officer within the sixty (60) calendar days' notice period;

(2) Provided, further, That the Contracting Officer shall not seek to suspend making water available or declaring Water Made Available pursuant to this Contract for non-compliance by the Contractor with the terms of this Contract or Federal law, unless the Contracting Officer has first provided at least thirty (30) calendar days written notice to the Contractor and the Contractor has failed to cure such non-compliance, or to diligently commence

curative actions satisfactory to the Contracting Officer for a non-compliance that cannot be fully cured within the thirty (30) calendar days' notice period. If the Contracting Officer has suspended making water available pursuant to this paragraph, upon cure of such non-compliance satisfactory to the to the Contracting Officer, the Contracting Officer shall resume making water available and declaring Water Made Available pursuant to this Contract;

(3) Provided, further, That this Contract may be terminated at any time by mutual consent of the parties hereto.

(b) Upon complete payment of the Repayment Obligation by the Contractor, and notwithstanding any Additional Capital Obligation that may later be established, the acreage limitations, reporting, and Full Cost pricing provisions of the Reclamation Reform Act of 1982, and subdivisions (g) Eligible Lands, (h) Excess Lands, and (k) Ineligible Lands of Article 1 of this Contract shall no longer be applicable.

(c) Notwithstanding any provision of this Contract, the Contractor reserves and shall have all rights and benefits under the Act of July 2, 1956 (70 Stat. 483), to the extent allowed by law.

(d) Notwithstanding any provision of this Contract, the Contractor reserves and shall have all rights and benefits under the Act of June 21, 1963 (77 Stat. 68), to the extent allowed by law.

WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

3. (a) Subject to the provisions set forth in Articles 11 and 12 of this Contract, and consistent with applicable State water rights, permits, and licenses, the Contractor is entitled to, and the Contracting Officer shall be obligated to make available to the Contractor up to 2,990 acre-feet of Project Water during any Year for Irrigation and/or Municipal and Industrial purposes. The quantity of Project Water delivered to the Contractor in accordance with this



subdivision of this Article 3 in any Year shall be scheduled and paid for pursuant to the provisions of Articles 4 and 7 of this Contract, and shall not exceed the quantity of Project Water the Contractor intends to put to reasonable beneficial use within the Contractor's Boundaries or sold, transferred, or exchanged pursuant to Article 9 of this Contract.

(b) The Contractor shall utilize the Project Water made available to it pursuant to this Contract in accordance with all applicable requirements of any Biological Opinion addressing the execution of this Contract developed pursuant to Section 7 of the Endangered Species Act of 1973 as amended, and in accordance with environmental documentation as may be required for specific activities, including conversion of Irrigation Water to M&I Water.

(c) The Contractor shall make reasonable and beneficial use of Project Water or other water furnished pursuant to this Contract. In addition, use of Project Water in a groundwater recharge program shall be permitted under this Contract to the extent that it is carried out in accordance with California law: Provided, however, That such groundwater recharge program cannot be undertaken unless and until the Contractor submits a groundwater management plan pursuant to California law that demonstrates that such groundwater recharge program will result in a reasonable and beneficial use of such water.

(d) If the Contracting Officer determines that Project Water, or other water available to the Project, can be made available to the Contractor in addition to the quantity of Project Water made available to the Contractor pursuant to subdivision (a) of this Article, the Contracting Officer shall so notify the Contractor. If the Contractor requests the delivery of any quantity of such water, the Contracting Officer shall make such water available to the Contractor in accordance with applicable statutes, regulations, guidelines, and policies.



(e) If the Contractor requests permission to reschedule for use during the subsequent Year some or all of the Project Water made available to the Contractor during the current Year or to use, during the current Year, that quantity of Project Water the United States has agreed to make available to the Contractor during the subsequent Year, the Contracting Officer may permit such uses in accordance with applicable statutes, regulations, guidelines, and policies.

(f) The Contractor's rights pursuant to Federal Reclamation law and applicable State law to the beneficial use of water furnished pursuant to this Contract shall not be disturbed so long as the Contractor shall fulfill all of its obligations under this Contract. Nothing in the preceding sentence shall affect the Contracting Officer's ability to impose shortages under subdivision (b) of Article 12 of this Contract.

(g) Notwithstanding subdivisions (l) and (n) of Article 1 of this Contract, Project Water furnished to the Contractor pursuant to this Contract may be delivered for purposes other than those described in subdivisions (l) and (n) of Article 1 of this Contract upon written approval by the Contracting Officer in accordance with the terms and conditions of such approval.

#### TIME FOR DELIVERY OF WATER

4. (a) On or about February 20, of each Calendar Year, the Contracting Officer shall declare the amount of Project Water estimated to be made available to the Contractor pursuant to this Contract for the upcoming Year. The declaration will be updated monthly, as necessary, based on current hydrologic conditions. The Contracting Officer shall make available the forecast of Project operations, with relevant supporting information, upon the written request of the Contractor or its representatives. Upon written request of the Contractor, the Contracting

Officer shall provide the basis of the estimate which shall include, but not be limited to, a monthly pumping forecast for the O'Neill Pumping Plant, the projected carryover of Project reservoirs, projected CVPIA impacts, projected Endangered Species Act and all other regulatory impacts.

(b) On or before each March 1, the Contractor shall submit to the Contracting Officer and at such other times as necessary, a written schedule, satisfactory to the Contracting Officer, showing the times and quantities of Project Water to be delivered by the United States to the Contractor pursuant to this Contract, and consistent with subdivision (a) of Article 3 of this Contract.

(c) Subject to the conditions set forth in subdivision (a) of Article 3 of this Contract, the United States shall deliver Project Water to the Contractor in accordance with the initial schedule submitted by the Contractor pursuant to subdivision (b) of this Article, or any revision(s) thereto submitted within a reasonable time prior to the date(s) on which the requested change(s) is(are) to be implemented.

POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

5. (a) The Project Water to be furnished to the Contractor pursuant to this Contract shall be made available to the Contractor at either of the mileposts identified in Exhibit B and any additional point or points of delivery either on Delta Division facilities or another location or locations mutually agreed to in writing by the Contracting Officer and the Contractor

(b) The Contracting Officer shall make all reasonable efforts to maintain sufficient flows and levels of water in the Delta-Mendota Canal to furnish Project Water to the Contractor at the full design capacity of the turnout(s) established as a delivery point(s) pursuant to subdivision (a) of this Article.

(c) Irrigation Water furnished to the Contractor pursuant to this Contract shall be delivered by the Contractor in accordance with any applicable land classification provisions of Federal Reclamation law and the associated regulations. Project Water shall not be delivered to land outside the Contractor's Boundaries unless approved in advance by the Contracting Officer.

(d) All Project Water delivered to the Contractor pursuant to this Contract shall be measured and recorded with equipment furnished, installed, operated, and maintained by the United States or the responsible Operating Non-Federal Entity at the point or points of delivery established pursuant to subdivision (a) of this Article. Upon the request of either party to this Contract, the Contracting Officer shall investigate the accuracy of such measurements and shall take any necessary steps to adjust any errors appearing therein. The Contractor shall advise the Contracting Officer on or before the 10th calendar day of each month of the quantity of M&I Water taken during the preceding month.

(e) Neither the United States nor any Operating Non-Federal Entity shall be responsible for the control, carriage, handling, use, disposal, or distribution of Project Water made available to the Contractor pursuant to this Contract beyond the delivery points specified in subdivision (a) of this Article. The Contractor shall indemnify the United States its officers, employees, agents, and assigns on account of damage or claim of damage of any nature whatsoever for which there is legal responsibility, including property damage, personal injury, or death arising out of or connected with the control, carriage, handling, use, disposal, or distribution of such Project Water beyond such delivery points, except for any damage or claim arising out of (i) acts performed by the United States or any of its officers, employees, agents, or assigns, including any responsible Operating Non-Federal Entity, with the intent of creating the

situation resulting in any damage or claim; (ii) willful misconduct of the United States or any of its officers, employees, agents, or assigns, including any responsible Operating Non-Federal Entity, or (iii) negligence of the United States or any of its officers, employees, agents, or assigns, including any responsible Operating Non-Federal Entity.

MEASUREMENT OF WATER WITHIN THE DISTRICT

6. (a) Within five (5)-years of the effective date of this Contract, the Contractor shall ensure that, unless the Contractor establishes an alternative measurement program satisfactory to the Contracting Officer, all surface water delivered for irrigation purposes within the Contractor's Boundaries is measured at each agricultural turnout and such water delivered for Municipal and Industrial purposes is measured at each Municipal and Industrial service connection. All water measuring devices or water measuring methods of comparable effectiveness must be acceptable to the Contracting Officer. The Contractor shall be responsible for installing, operating, and maintaining and repairing all such measuring devices and implementing all such water measuring methods at no cost to the United States. The Contractor shall use the information obtained from such water measuring devices or water measuring methods to ensure proper management of the water; to bill water users for water delivered by the Contractor; and, if applicable, to record water delivered for Municipal and Industrial purposes by customer class as defined in its water conservation plan. Nothing herein contained in this Article, however, shall preclude the Contractor from establishing and collecting any charges, assessments or other revenues authorized by California law. The Contractor shall include a summary of its annual surface water deliveries in the annual report described in subdivision (d) of Article 24 of this Contract.

(b) Omitted.

(c) All new surface water delivery systems installed within the Contractor's Boundaries after the effective date of this Contract shall also comply with the measurement provisions described in subdivision (a) of this Article.

(d) The Contractor shall inform the Contracting Officer and the State of California in writing by April 30 of each Year of the monthly volume of surface water delivered within the Contractor's Boundaries during the previous Year.

RATES, METHOD OF PAYMENT FOR WATER AND ACCELERATED REPAYMENT OF FACILITIES

7. (a) Notwithstanding the Contractor's full prepayment of the Repayment Obligation pursuant to section 4011, subsection (a)(2)(A) and subsection (a)(3)(A) of the WIIN Act, as set forth in Exhibit C, and any payments required pursuant to section 4011, subsection (b) of the WIIN Act, to reflect the adjustment for the final cost allocation as described in this Article, subsection (b), the Contractor's Project construction and other obligations shall be determined in accordance with: (i) the Secretary's ratesetting policy for Irrigation Water adopted in 1988 and the Secretary's then-existing ratesetting policy for M&I Water, consistent with the WIIN Act; and such ratesetting policies shall be amended, modified, or superseded only through a public notice and comment procedure; (ii) applicable Federal Reclamation law and associated rules and regulations, or policies, and (iii) other applicable provisions of this Contract. Payments shall be made by cash transaction, electronic funds transfers, or any other mechanism as may be agreed to in writing by the Contractor and the Contracting Officer. The Rates, Charges, and Tiered Pricing Component applicable to the Contractor upon execution of this Contract are set forth in Exhibit "A," as may be revised annually.

(1) The Contractor shall pay the United States as provided for in this Article of this Contract for all Delivered Water at Rates, Charges, and Tiered Pricing Component



in accordance with policies for Irrigation Water and M&I Water. The Contractor's Rates shall be established to recover its estimated reimbursable costs included in the operation and maintenance component of the Rate and amounts established to recover deficits and other charges, if any, including construction costs as identified in the following subdivisions.

(2) In accordance with the WIIN Act, the Contractor's allocable share of Project construction costs will be repaid pursuant to the provisions of this Contract.

(A) The amount due and payable to the United States, pursuant to the WIIN Act, shall be the Repayment Obligation. The Repayment Obligation has been computed by the Contracting Officer in a manner consistent with the WIIN Act and is set forth as a lump sum payment (M&I and Irrigation) and as four (4) approximately equal annual installments (Irrigation Only) to be repaid no later than three (3) years after the effective date of this Contract as set forth in Exhibit C. [There could be one or two exhibits in most cases due to more than one service area (For Irrigation contractors and M&I contractors)] The Repayment Obligation is due in lump sum by [Month, Day, Year] as provided by the WIIN Act. The Contractor must provide appropriate notice to the Contracting Officer in writing no later than thirty (30) days prior to [Month, Day, Year] [Division Level: consider the effective date of the contract being converted] if electing to repay the amount due using the lump sum alternative. If such notice is not provided by such date, the Contractor shall be deemed to have elected the installment payment alternative, in which case, the first such payment shall be made no later than [Month, Day, Year] [Division Level: consider the effective date of the contract being converted]. The second payment shall be made no later than the first anniversary of the first payment date. The third payment shall be made no later than the second anniversary of the first payment date. The final payment shall be made no later than [Month, Day, Year] [no later than



the third anniversary of the effective date of the contract]. If the installment payment option is elected by the Contractor, the Contractor may pre-pay the remaining portion of the Repayment Obligation by giving the Contracting Officer sixty (60) days written notice, in which case, the Contracting Officer shall re-compute the remaining amount due to reflect the pre-payment using the same methodology as was used to compute the initial annual installment payment amount, which is illustrated in Exhibit C. Notwithstanding any Additional Capital Obligation that may later be established, receipt of the Contractor's payment of the Repayment Obligation to the United States shall fully and permanently satisfy the Existing Capital Obligation.

(B) Additional Capital Obligations that are not reflected in, the schedules referenced in Exhibit C and properly assignable to the Contractor, shall be repaid as prescribed by the WIIN Act without interest except as required by law. Consistent with Federal Reclamation law, interest shall continue to accrue on the M&I portion of the Additional Capital Obligation assigned to the Contractor until such costs are paid. Increases or decreases in the Additional Capital Obligation assigned to the Contractor caused solely by annual adjustment of the Additional Capital Obligation assigned to each Project contractor by the Secretary shall not be considered in determining the amounts to be paid pursuant to this subdivision (a)(2)(B), however, will be considered under subdivision (b) of this Article. A separate agreement shall be established by the Contractor and the Contracting Officer to accomplish repayment of the Additional Capital Obligation assigned to the Contractor within the timeframe prescribed by the WIIN Act, subject to the following:

(1) If the collective Additional Capital Obligation properly assignable to the contractors exercising conversion under section 4011 of the WIIN Act is less than five million dollars (\$5,000,000), then the portion of such costs properly assignable

to the Contractor shall be repaid not more than five (5)-years after the Contracting Officer notifies the Contractor of the Additional Capital Obligation; Provided, That the reference to the amount of five million dollars (\$5,000,000) shall not be a precedent in any other context.

(2) If the collective Additional Capital Obligation properly assignable to the contractors exercising conversion under section 4011 of the WIIN Act is equal to or greater than five million dollars (\$5,000,000), then the portion of such costs properly assignable to the Contractor shall be repaid as provided by applicable Federal Reclamation law and Project ratesetting policy; Provided, That the reference to the amount of five million dollars (\$5,000,000) shall not be a precedent in any other context.

(b) In the event that the final cost allocation referenced in Section 4011(b) of the WIIN Act determines that the costs properly assignable to the Contractor are greater than what has been paid by the Contractor, the Contractor shall be obligated to pay the remaining allocated costs. The term of such additional repayment contract shall be not less than one (1) year and not more than ten (10) years, however, mutually agreeable provisions regarding the rate of repayment of such amount may be developed by the Contractor and Contracting Officer. In the event that the final cost allocation indicates that the costs properly assignable to the Contractor are less than what the Contractor has paid, the Contracting Officer shall credit such overpayment as an offset against any outstanding or future obligations of the Contractor, with the exception of Restoration Fund charges pursuant to section 3407(d) of Pub. L. 102-575.

(c) The Contracting Officer shall notify the Contractor of the Rates, Charges, and Tiered Pricing Component as follows:

(1) Prior to July 1, of each Calendar Year, the Contracting Officer shall provide the Contractor the preliminary calculation of the Charges that will be applied for

the period October 1, of the current Calendar Year, through September 30, of the following Calendar Year, and identify the statutes, regulations and guidelines used as the basis for such calculations. On or before September 15, of each Calendar Year, the Contracting Officer shall notify the Contractor in writing of the Charges to be in effect during the period October 1, of the current Calendar Year, through September 30, of the following Calendar Year, and such notification shall revise Exhibit "A."

(2) Prior to October 1 of each Calendar Year, the Contracting Officer shall make available to the Contractor an estimate of the Rates and Tiered Pricing Component for Project Water for the following Year and the computations and cost allocations upon which those Rates are based. The Contractor shall be allowed not less than two (2) months to review and comment on such computations and cost allocations. By December 31 of each Calendar Year, the Contracting Officer shall provide the Contractor with the final Rates and Tiered Pricing Component to be in effect for the upcoming Year, and such notification shall revise Exhibit "A."

(d) At the time the Contractor submits the initial schedule for the delivery of Project Water for each Year pursuant to subdivision (b) of Article 4 of this Contract, the Contractor shall pay the United States the total amount payable pursuant to the applicable Rate(s) for all Project Water scheduled to be delivered pursuant to this Contract during the first two (2) calendar months of the Year. Before the end of the first month or part thereof of the Year, and before the end of each calendar month thereafter, the Contractor shall pay pursuant to the applicable Rate(s) for all Project Water scheduled to be delivered pursuant to this Contract during the second month immediately following. Adjustments between the payments for the scheduled amount of Project Water and the appropriate payments for quantities of Delivered Water furnished pursuant to this Contract each month shall be made before the end of the

434 following month: *Provided, That* any revised schedule submitted by the Contractor pursuant to  
435 Article 4 of this Contract, which increases the amount of Project Water to be delivered pursuant  
436 to this Contract during any month shall be accompanied with appropriate payment for Rates to  
437 assure that Project Water is not furnished to the Contractor in advance of such payment. In any  
438 month in which the quantity of Delivered Water furnished to the Contractor pursuant to this  
439 Contract equals the quantity of Project Water scheduled and paid for by the Contractor, no  
440 additional Project Water shall be made available to the Contractor unless and until payment of  
441 Rates for such additional Project Water is made. Final adjustment between the payments of  
442 Rates for the Project Water scheduled and the quantities of Delivered Water furnished during  
443 each Year pursuant to this Contract shall be made as soon as possible but no later than April 30th  
444 of the following Year.

445 (c) The Contractor shall also make a payment in addition to the Rate(s) in  
446 subdivision (d) of this Article to the United States for Water Delivered, at the Charges and  
447 appropriate Tiered Pricing Component then in effect, before the end of the month following the  
448 month of delivery; Provided, That the Contractor may be granted an exception from the Tiered  
449 Pricing Component pursuant to subdivision (k)(2) of this Article. The payments shall be  
450 consistent with the quantities of Irrigation Water and M&I Water Delivered as shown in the  
451 water delivery report for the subject month prepared by the Operating Non-Federal Entity or, if  
452 there is no Operating Non-Federal Entity, by the Contracting Officer. The water delivery report  
453 shall be deemed a bill for the payment of Charges and applicable Tiered Pricing Component for  
454 Water Delivered. Adjustment for overpayment or underpayment of Charges and the Tiered  
455 Pricing Component shall be made through the adjustment of payments due to the United States

for Charges for the next month. Any amount to be paid for past due payment of Charges shall be computed pursuant to Article 18 of this Contract.

(f) The Contractor shall pay for any Project Water provided under subdivision (d) or (e) of Article 3 of this Contract as determined by the Contracting Officer pursuant to applicable statutes, regulations, guidelines, and policies.

(g) Payments to be made by the Contractor to the United States under this Contract may be paid from any revenues available to the Contractor.

(h) Revenues received by the United States pursuant to this Contract shall be allocated and applied in accordance with Federal Reclamation law, including but not limited to, subsection 3 of Section I of the Act of July 2, 1956 (70 Stat. 483), and subsection (f) of Section 3405, subsection (c)(1) of Section 3406 and subsection (d)(2)(A) of Section 3407 of the CVPIA, and the associated regulations, including but not limited to, the Project Irrigation Water ratesetting policy and the Project M&I Water ratesetting policy promulgated pursuant to the Administrative Procedures Act.

(i) At the Contractor's request, the Contracting Officer shall provide to the Contractor an accounting of all of the expenses allocated and the disposition of all revenues received pursuant to this Contract in sufficient detail to allow the Contractor to determine that the allocation of expenses and disposition of all revenues received was accomplished in conformance with Federal Reclamation law and the associated regulations. The Contracting Officer and the Contractor shall enter into good faith negotiations to resolve any discrepancies or disputes arising out of said accounting of the Contractor's review thereof.

(j) The parties acknowledge and agree that the efficient administration of this Contract is their mutual goal. Recognizing that experience has demonstrated that mechanisms,



479 policies, and procedures used for establishing Rates, Charges, and Tiered Pricing Component,  
480 and/or for making and allocating payments, other than those set forth in this Article would be in  
481 the mutual best interest of the parties, it is expressly agreed that the parties may enter into  
482 agreements to modify the mechanisms, policies and procedures for any of those purposes while  
483 this Contract is in effect without amending this Contract.

484 (k) 1. Beginning at such time as deliveries of Project Water in a Year  
485 exceed 80 percent of the Contract Total, then before the end of the month following the month of  
486 delivery the Contractor shall make an additional payment to the United States equal to the  
487 applicable Tiered Pricing Component. The Tiered Pricing Component for the amount of Water  
488 Delivered in excess of 80 percent of the Contract Total, but less than or equal to 90 percent of the  
489 Contract Total, shall equal one-half of the difference between the Rate established under  
490 subdivision (a) of this Article and the Irrigation Full Cost Water Rate or M&I Full Cost Water  
491 Rate, whichever is applicable. The Tiered Pricing Component for the amount of Water  
492 Delivered which exceeds 90 percent of the Contract Total shall equal the difference between (i)  
493 the Rate established under subdivision (a) of this Article and (ii) the Irrigation Full Cost Water  
494 Rate or M&I Full Cost Water Rate, whichever is applicable. For all Water Delivered pursuant to  
495 subdivision (a) of Article 3 of this Contract which is in excess of 80 percent of the Contract  
496 Total, this increment shall be deemed to be divided between Irrigation Water and M&I Water in  
497 the same proportion as actual deliveries of each bear to the cumulative total Water Delivered.

498 2. Subject to the Contracting Officer's written approval, the  
499 Contractor may request and receive an exemption from such Tiered Pricing Component for  
500 Project Water delivered to produce a crop which the Contracting Officer determines will provide  
501 significant and quantifiable habitat values for waterfowl in fields where the water is used and the



crops are produced; Provided, That the exemption from the Tiered Pricing Component for Irrigation Water shall apply only if such habitat values can be assured consistent with the purposes of the CVPIA through binding agreements executed with or approved by the Contracting Officer prior to use of such water.

3. For purposes of determining the applicability of the Tiered Pricing Component pursuant to this Article, Water Delivered shall include Project Water that the Contractor transfers to others but shall not include Project Water transferred to the Contractor, nor shall it include the additional water provided to the Contractor under the provisions of subdivision (d) of Article 3 of this Contract.

NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICITS

8. The Contractor and the Contracting Officer concur that at the time of execution of this Contract, the Contractor has no non-interest bearing operation and maintenance deficits and shall have no further liability therefor.

TRANSFERS OR EXCHANGES OF WATER

9. The right to Project Water provided for in this Contract may be sold, transferred, or exchanged to others for beneficial uses within the State of California if such sale, transfer, or exchange is authorized by applicable Federal laws, State laws, and applicable guidelines or regulations then in effect. The right to sell, transfer, or exchange Project Water shall include, and the Contracting Officer shall apply this Article in a manner that does not impede or restrict, lawful short-term sales, transfers, or exchanges of the type the District and Contractor historically carried out with approval of the Contracting Officer under Contract No. 14-06-200-8018, as amended, assigned, and renewed. No sale, transfer, or exchange of the right to Project Water under this Contract may take place without the prior written approval of the Contracting Officer.

APPLICATION OF PAYMENTS AND ADJUSTMENTS

10. (a) The amount of any overpayment by the Contractor shall be applied first to any accrued indebtedness arising out of this Contract then due and payable by the Contractor. Any amount of such overpayment then remaining shall, at the option of the Contractor, be refunded to the Contractor or credited upon amounts to become due to the United States from the Contractor under the provisions of this Contract in the following months. With respect to overpayment, such adjustment shall constitute the sole remedy of the Contractor or anyone having or claiming to have the right to the use of any of the water supply provide for in this Contract.

(b) All advances for miscellaneous costs incurred for work requested by the Contractor pursuant to Article 23 of this Contract shall be adjusted to reflect the actual costs when the work has been completed. If the advances exceed the actual costs incurred, the difference will be refunded to the Contractor. If the actual costs exceed the Contractor's advances, the Contractor will be billed for the additional costs pursuant to Article 23 of this Contract.

TEMPORARY REDUCTIONS – RETURN FLOWS

11. (a) Subject to: (i) the authorized purposes and priorities of the Project; and (ii) the obligations of the United States under existing contracts, or renewals thereof, providing for water deliveries from the Project, the Contracting Officer shall make all reasonable efforts to optimize Project Water deliveries to the Contractor as provided in this Contract.

(b) The United States may temporarily discontinue or reduce the quantity of Project Water to be delivered to the Contractor as herein provided for the purposes of investigation, inspection, maintenance, repair, or replacement of any of the Project facilities or any part thereof necessary for the delivery of Project Water to the Contractor, but so far as

feasible the Contracting Officer will give the Contractor due notice in advance of such temporary discontinuance or reduction, except in case of emergency, in which case no notice need be given: Provided, That the United States shall use its best efforts to avoid any discontinuance or reduction in such service. Upon resumption of service after such reduction or discontinuance, and if requested by the Contractor, the United States will, if possible, deliver the quantity of Project Water which would have been delivered hereunder in the absence of such discontinuance or reduction: Provided, further, That with respect to any quantity of Project Water not delivered after a discontinuance or reduction the Contractor shall be relieved of its scheduling and payment obligations for such quantity of Project Water.

(c) The United States reserves the right to all seepage and return flow water derived from water delivered to the Contractor under this Contract which escapes or is discharged beyond the Contractor's Boundaries: Provided, That this shall not be construed as claiming for the United States any right to seepage or return flow being put to reasonable and beneficial use pursuant to this Contract within the Contractor's Boundaries by the Contractor or those claiming by, through, or under the Contractor.

#### CONSTRAINTS ON THE AVAILABILITY OF WATER

12. (a) In its operation of the Project, the Contracting Officer will use all reasonable means to guard against a Condition of Shortage in the quantity of Project Water to be made available to the Contractor pursuant to this Contract. In the event the Contracting Officer determines that a Condition of Shortage appears probable, the Contracting Officer will notify the Contractor of said determination as soon as practicable.

(b) If there is a Condition of Shortage because of inaccurate runoff forecasting or other similar operational errors affecting the Project; drought and other physical or natural causes beyond the control of the Contracting Officer; or actions taken by the Contracting Officer to meet current and future legal obligations, then, except as provided in subdivision (a) of Article 17 of this Contract, no liability shall accrue against the United States or any of its officers, agents, or employees for any damage, direct or indirect, arising therefrom.

(c) In any Year in which there may occur a shortage for any of the reasons specified in subdivision (b) of this Article, the Contracting Officer shall apportion the available Project Water supply among the Contractor and others entitled, under existing contracts and future contracts (to the extent such future contracts are permitted under subsections (a) and (b) of Section 3404 of the CVPIA) and renewals thereof, to receive Project Water consistent with the contractual obligations of the United States.

(d) Subject to subdivision (c) of this Article, in any Year in which there may occur a shortage for any of the reasons specified in subdivision (b) of this Article, the Contracting Officer shall apportion the available Project Water among the Contractor and others entitled to receive Project Water from the Delta-Mendota Canal as follows:

(1) A determination shall be made of the total quantity of water scheduled to be delivered during the respective Year under all contracts then in force for the delivery of water from the Delta-Mendota Canal, the quantity so determined being herein referred to as the contractual commitments from the Delta-Mendota Canal.

(2) The total quantity of water scheduled to be delivered to the Contractor from the Delta-Mendota Canal during the respective Year under subdivision (a) of Article 3 of this Contract shall be divided by the contractual commitments, the quotient thus obtained being herein referred to as the Contractor's contractual entitlement from the Delta-Mendota Canal.

(3) The supply determined by the Contracting Officer to be available from the Delta-Mendota Canal shall be multiplied by the Contractor's contractual entitlement and the result shall be the quantity of water required to be delivered by the United States to the Contractor for the respective Year from the Delta-Mendota Canal.



UNAVOIDABLE GROUNDWATER PERCOLATION

13. (a) The Contractor shall not be deemed to have furnished Irrigation Water to Excess Lands or Ineligible Lands within the meaning of this Contract if such lands are irrigated with groundwater that reaches the underground strata as an unavoidable result of the furnishing of Irrigation Water by the Contractor to Eligible Lands.

(b) Upon complete payment of the Repayment Obligation by the Contractor, this Article 13 shall no longer be applicable.

COMPLIANCE WITH FEDERAL RECLAMATION LAWS

14. The parties agree that the delivery of Irrigation Water or use of Federal facilities pursuant to this Contract is subject to Federal Reclamation law, including but not limited to, the Reclamation Reform Act of 1982 (43 U.S.C. 390aa et seq.), as amended and supplemented, and the rules and regulations promulgated by the Secretary of the Interior under Federal Reclamation law.

PROTECTION OF WATER AND AIR QUALITY

15. (a) Omitted

(b) The United States will care for, operate and maintain reserved works in a manner that preserves the quality of the water at the highest level possible as determined by the Contracting Officer. The United States does not warrant the quality of the water delivered to the Contractor and is under no obligation to furnish or construct water treatment facilities to maintain or improve the quality of water delivered to the Contractor.

(c) The Contractor will comply with all applicable water and air pollution laws and regulations of the United States and the State of California; and will obtain all required permits or licenses from the appropriate Federal, State, or local authorities necessary for the delivery of water by the Contractor; and shall be responsible for compliance with all Federal, State, and local water quality standards applicable to surface and subsurface drainage and/or discharges generated through the use of Federal or Contractor facilities or Project Water provided by the Contractor within its Service Area.

(d) This Article shall not affect or alter any legal obligations of the Secretary to provide drainage or other discharge services.

WATER ACQUIRED BY THE CONTRACTOR OTHER THAN FROM THE UNITED STATES

16. (a) Water or water rights now owned or hereafter acquired by the Contractor other than from the United States and Irrigation Water furnished pursuant to the terms of this Contract may be simultaneously transported through the same distribution facilities of the Contractor subject to the following: (i) if the facilities utilized for commingling Irrigation Water and non-Project water were constructed without funds made available pursuant to Federal Reclamation law, the provisions of Federal Reclamation law will be applicable only to the Landholders of lands which receive Irrigation Water; (ii) the eligibility of land to receive Irrigation Water must be established through the certification requirements as specified in the Acreage Limitation Rules and Regulations (43 CFR Part 426); (iii) the water requirements of Eligible Lands within the Contractor's Boundaries can be established and the quantity of Irrigation Water to be utilized is less than or equal to the quantity necessary to irrigate such Eligible Lands; and (iv) if the facilities utilized for commingling Irrigation Water and non-Project water are constructed with funds made available pursuant to Federal Reclamation law, the non-Project water will be subject to Federal Reclamation law, until such funds have been repaid.

(b) Upon complete payment of the Repayment Obligation by the Contractor, this Article 16 shall no longer be applicable.

OPINIONS AND DETERMINATIONS

17. (a) Where the terms of this Contract provide for actions to be based upon the opinion or determination of either party to this Contract, said terms shall not be construed as permitting such action to be predicated upon arbitrary, capricious, or unreasonable opinions or determinations. Both parties, notwithstanding any other provisions of this Contract, expressly



reserve the right to relief from and appropriate adjustment for any such arbitrary, capricious, or unreasonable opinion or determination. Each opinion or determination by either party shall be provided in a timely manner.

(b) The Contracting Officer shall have the right to make determinations necessary to administer this Contract that are consistent with the expressed and implied provisions of this Contract, the laws of the United States and the State of California, and the rules and regulations promulgated by the Secretary. Such determinations shall be made in consultation with the Contractor to the extent reasonably practicable.

#### CHARGES FOR DELINQUENT PAYMENTS

18. (a) The Contractor shall be subject to interest, administrative, and penalty charges on delinquent payments. If a payment is not received by the due date, the Contractor shall pay an interest charge on the delinquent payment for each day the payment is delinquent beyond the due date. If a payment becomes 60 days delinquent, the Contractor shall pay, in addition to the interest charge, an administrative charge to cover additional costs of billing and processing the delinquent payment. If a payment is delinquent 90 days or more, the Contractor shall pay, in addition to the interest and administrative charges, a penalty charge for each day the payment is delinquent beyond the due date, based on the remaining balance of the payment due at the rate of 6 percent per year. The Contractor shall also pay any fees incurred for debt collection services associated with a delinquent payment.

(b) The interest rate charged shall be the greater of either the rate prescribed quarterly in the Federal Register by the Department of the Treasury for application to overdue payments, or the interest rate of 0.5 percent per month. The interest rate charged will be determined as of the due date and remain fixed for the duration of the delinquent period.

(c) When a partial payment on a delinquent account is received, the amount received shall be applied first to the penalty charges, second to the administrative charges, third to the accrued interest, and finally to the overdue payment.

#### EQUAL EMPLOYMENT OPPORTUNITY

19. During the performance of this Contract, the Contractor agrees as follows:

(a) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be

686 limited to, the following: employment, upgrading, demotion, or transfer; recruitment or  
687 recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and  
688 selection for training, including apprenticeship. The Contractor agrees to post in conspicuous  
689 places, available to employees and applicants for employment, notices to be provided by the  
690 Contracting Officer setting forth the provisions of this nondiscrimination clause.

691 (b) The Contractor will, in all solicitations or advertisements for employees  
692 placed by or on behalf of the Contractor, state that all qualified applicants will receive  
693 consideration for employment without regard to race, color, religion, sex, sexual orientation,  
694 gender identity, or national origin.

695 (c) The Contractor will not discharge or in any other manner discriminate  
696 against any employee or applicant for employment because such employee or applicant has  
697 inquired about, discussed, or disclosed the compensation of the employee or applicant or another  
698 employee or applicant. This provision shall not apply to instances in which an employee who  
699 has access to the compensation information of other employees or applicants as part of such  
700 employee's essential job functions discloses the compensation of such other employees or  
701 applicants to individuals who do not otherwise have access to such information, unless such  
702 disclosure is in response to a formal complaint or charge, in furtherance of an investigation,  
703 proceeding, hearing, or action, including an investigation conducted by the employer, or is  
704 consistent with the Contractor's legal duty to furnish information.

705 (d) The Contractor will send to each labor union or representative of workers  
706 with which it has a collective bargaining agreement or other contract or understanding, a notice,  
707 to be provided by the Contracting Officer, advising the labor union or workers' representative of  
708 the Contractor's commitments under section 202 of Executive Order No. 11246 of September  
709 24, 1965, and shall post copies of the notice in conspicuous places available to employees and  
710 applicants for employment.

711 (e) The Contractor will comply with all provisions of Executive Order No.  
712 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary  
713 of Labor.

714 (f) The Contractor will furnish all information and reports required by  
715 Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of  
716 the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and  
717 accounts by the Contracting Agency and the Secretary of Labor for purposes of investigation to  
718 ascertain compliance with such rules, regulations, and orders.

719 (g) In the event of the Contractor's noncompliance with the nondiscrimination  
720 clauses of this Contract or with any of such rules, regulations, or orders, this Contract may be  
721 canceled, terminated or suspended in whole or in part and the Contractor may be declared  
722 ineligible for further Government contracts in accordance with procedures authorized in  
723 Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed  
724 and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by  
725 rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(h) The Contractor will include the provisions of paragraphs (a) through (g) in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

#### GENERAL OBLIGATION – BENEFITS CONDITIONED UPON PAYMENT

20. (a) The obligation of the Contractor to pay the United States as provided in this Contract is a general obligation of the Contractor notwithstanding the manner in which the obligation may be distributed among the Contractor's water users and notwithstanding the default of individual water users in their obligation to the Contractor.

(b) The payment of charges becoming due pursuant to this Contract is a condition precedent to receiving benefits under this Contract. The United States shall not make water available to the Contractor through Project facilities during any period in which the Contractor is in arrears in the advance payment of water rates due the United States. The Contractor shall not deliver water under the terms and conditions of this Contract for lands or parties that are in arrears in the advance payment of water rates as levied or established by the Contractor.

#### COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

21. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352; 42 U.S.C. § 2000d), the Rehabilitation Act of 1973 (Pub. L. 93-112, Title V, as amended; 29 U.S.C. § 791, et seq.), the Age Discrimination Act of 1975 (Pub. L. 94-135, Title III; 42 U.S.C. 6101, et seq.), Title III of the Americans with Disabilities Act of 1990 (Pub. L. 101-336; 42 U.S.C. § 12181, et seq.), and any other applicable civil rights laws, and with the applicable implementing regulations and any guidelines imposed by the U.S. Department of the Interior and/or Bureau of Reclamation.

(b) These statutes prohibit any person in the United States from being excluded from participation in, being denied the benefits of, or being otherwise subjected to discrimination under any program or activity receiving financial assistance from the Bureau of Reclamation on the grounds of race, color, national origin, disability, or age. By executing this Contract, the Contractor agrees to immediately take any measures necessary to implement this obligation, including permitting officials of the United States to inspect premises, programs, and documents.

(c) The Contractor makes this Contract in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property discounts, or other Federal financial assistance extended after the date hereof to the Contractor by the Bureau of

Reclamation, including installment payments after such date on account of arrangements for Federal financial assistance which were approved before such date. The Contractor recognizes and agrees that such Federal assistance will be extended in reliance on the representations and agreements made in this Article and that the United States reserves the right to seek judicial enforcement thereof.

(d) Complaints of discrimination against the Contractor shall be investigated by the Contracting Officer's Office of Civil Rights.

#### PRIVACY ACT COMPLIANCE

22. (a) The Contractor shall comply with the Privacy Act of 1974 (Privacy Act) (5 U.S.C. § 552a) and the Department of the Interior rules and regulations under the Privacy Act (43 C.F.R. § 2.45, et seq.) in maintaining Landholder certification and reporting records required to be submitted to the Contractor for compliance with Sections 206, 224(c), and 228 of the Reclamation Reform Act of 1982 (43 U.S.C. §§ 390ff, 390ww, and 390zz), and pursuant to 43 C.F.R. § 426.18.

(b) With respect to the application and administration of the criminal penalty provisions of the Privacy Act (5 U.S.C. § 552a(i)), the Contractor and the Contractor's employees who are responsible for maintaining the certification and reporting records referenced in paragraph (a) above are considered to be employees of the Department of the Interior. See 5 U.S.C. § 552a(m).

(c) The Contracting Officer or a designated representative shall provide the Contractor with current copies of the Department of the Interior Privacy Act regulations and the Bureau of Reclamation Federal Register Privacy Act System of Records Notice (Interior/WBR-31, Acreage Limitation) which govern the maintenance, safeguarding, and disclosure of information contained in the Landholders' certification and reporting records.

(d) The Contracting Officer shall designate a full-time employee of the Bureau of Reclamation to be the System Manager responsible for making decisions on denials pursuant to 43 C.F.R. §§ 2.61 and 2.64 and amendment requests pursuant to 43 C.F.R. § 2.72. The Contractor is authorized to grant requests by individuals for access to their own records.

(e) The Contractor shall forward promptly to the System Manager each proposed denial of access under 43 C.F.R. § 2.64 and each request for amendment of records filed under 43 C.F.R. § 2.71; notify the requester accordingly of such referral; and provide the System Manager with information and records necessary to prepare an appropriate response to the requester. These requirements do not apply to individuals seeking access to their own certification and reporting forms filed with the Contractor pursuant to 43 C.F.R. § 426.18 unless the requester elects to cite the Privacy Act as an authority for the request.

(f) Upon complete payment of the Repayment Obligation by the Contractor, this Article 22 will no longer be applicable.



CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

23. In addition to all other payments to be made by the Contractor pursuant to this Contract, the Contractor shall pay to the United States, within sixty (60) days after receipt of a bill and detailed statement submitted by the Contracting Officer to the Contractor for such specific items of direct cost incurred by the United States for work requested by the Contractor associated with this Contract plus a percentage of such direct costs for administrative and general overhead in accordance with applicable Bureau of Reclamation policy and procedures. All such amounts referred to in this Article shall not exceed the amount agreed to in writing in advance by the Contractor. This Article shall not apply to costs for routine contract administration.

WATER CONSERVATION

24. (a) Prior to the delivery of water provided from or conveyed through Federally constructed or Federally financed facilities pursuant to this Contract, the Contractor shall develop a water conservation plan, as required by subsection 210(b) of the Reclamation Reform Act of 1982 and 43 C.F.R. 427.1 (Water Conservation Rules and Regulations). Additionally, an effective water conservation and efficiency program shall be based on the Contractor's water conservation plan that has been determined by the Contracting Officer to meet the conservation and efficiency criteria for evaluating water conservation plans established under Federal law. The water conservation and efficiency program shall contain definite water conservation objectives, appropriate economically feasible water conservation measures, and time schedules for meeting those objectives.

(b) Should the amount of M&I Water delivered pursuant to subdivision (a) Article 3 of this Contract equal or exceed 2,000 acre-feet per Year, the Contractor shall implement the Best Management Practices identified by and the time frames issued by the Mid-Pacific Region's then-existing conservation and efficiency criteria for such M&I Water unless any such practice is determined by the Contracting Officer to be inappropriate for the Contractor.

(c) As part of the water conservation program, the Contractor shall develop and be implementing a tiered block water pricing program that promotes conservation and the efficient management of Project Water within eighteen (18) months of the effective date of this Contract. Such pricing program for Project Water shall take into account all relevant circumstances, including without limitation, water shortages imposed under this Contract and the availability and cost of the Contractor's and individual water user's non-Project alternative sources of supply, including groundwater and other non-Project water supplies, so that the Contractor's pricing structure provides incentives for conservation and the efficient management of overall water supply available to water users served by the Contractor. Provided, That no such tiered block water pricing program need be implemented by the Contractor if the Contracting Officer determines, based on information provided by the Contractor, that (i) such a pricing structure will not result in significant conservation of water available for use within the Contractor's Boundaries, including groundwater or (ii) other pricing program, conservation, or management measures are more appropriate and/or will result in comparable or better conservation of the water supplies available within the Contractor's Boundaries. Provided, further, That if the Contractor fails to, or elects not to, comply with this subdivision of this Article 24, then any subsequent Contract shall contain a tiered pricing contractual provision pursuant to subsection (d) of Section 3405 of the CVPIA.

(d) The Contractor shall submit to the Contracting Officer by December 31, of each Calendar Year, an annual report on the status of its implementation of the water conservation program.

(e) At five (5)-year intervals, the Contractor shall revise its water conservation plan to reflect the then-existing conservation and efficiency criteria for evaluating



water conservation plans established under Federal law and submit such revised water management plan to the Contracting Officer for review and evaluation. The Contracting Officer will then determine if the water conservation plan meets the Bureau of Reclamation's then-existing conservation and efficiency criteria for evaluating water conservation plans established under Federal law.

(ef) Upon complete payment of the Repayment Obligation by the Contractor, and notwithstanding any Additional Capital Obligation that may later be established, subsection (b) of this Article 24 of this Contract shall no longer be applicable.

EXISTING OR ACQUIRED WATER OR WATER RIGHTS

25. Except as specifically provided in Article 16 of this Contract, the provisions of this Contract shall not be applicable to or affect water or water rights now owned or hereafter acquired by the Contractor or any user of such water within the Contractor's Boundaries from other than the United States by the Contractor. Any such water shall not be considered Project Water under this Contract. In addition, this Contract shall not be construed as limiting or curtailing any rights which the Contractor or any water user within the Contractor's Boundaries acquires or has available under any other contract pursuant to the Federal Reclamation law.

OPERATION AND MAINTENANCE BY THE OPERATING NON-FEDERAL ENTITY

26. (a) The responsibility for performing and, in some cases, funding the O&M of all or any portion of the Delta Division facilities may be transferred to an Operating Non-Federal Entity by one or more separate agreements between the United States and the Operating Non-Federal Entity. Any such agreement(s) shall require the Operating Non-Federal Entity to perform the O&M in compliance with the provisions of this Contract and shall not interfere with the rights and obligations of the Contractor and the United States under this Contract.

874                   (b)     The Contracting Officer has previously notified the Contractor in writing  
875     that the Operation and Maintenance of a portion of the Project facilities which serve the  
876     Contractor has been transferred to the Operating Non-Federal Entity, and therefore, the  
877     Contractor shall pay directly to the Operating Non-Federal Entity, or to any successor approved  
878     by the Contracting Officer under the terms and conditions of the separate agreement between the  
879     United States and the Operating Non-Federal Entity described in subdivision (a) of this Article,  
880     all rates, charges, or assessments of any kind, including any assessment for reserve funds, which  
881     the Operating Non-Federal Entity or such successor determines, sets, or establishes for the  
882     Operation and Maintenance of the portion of the Project facilities operated and maintained by the  
883     Operating Non-Federal Entity or such successor. Such direct payments to Operating Non-  
884     Federal Entity or such successor shall not relieve the Contractor of its obligation to pay directly  
885     to the United States the Contractor's share of the Project Rates, Charges, and Tiered Pricing  
886     Component except to the extent the Operating Non-Federal Entity collects payments on behalf of  
887     the United States in accordance with the separate agreement identified in subdivision (a) of this  
888     Article.

889                   (c)     In the event the Operation and Maintenance of the Project facilities  
890     operated and maintained by the Operating Non-Federal Entity is re-assumed by the United States  
891     during the term of this Contract, the Contracting Officer shall so notify the Contractor, in  
892     writing, and present to the Contractor a revised Exhibit "A" which shall include the portion of  
893     the Rates to be paid by the Contractor for Project Water under this Contract representing the  
894     Operation and Maintenance costs of the portion of such Project facilities which have been  
895     reassumed. The Contractor shall, thereafter, in the absence of written notification from the  
896     Contracting Officer to the contrary, pay the Rates, Charges, and Tiered Pricing Component

specified in the revised Exhibit "A" directly to the United States in compliance with Article 7 of this Contract.

CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

27. The expenditure or advance of any money or the performance of any obligation of the United States under this Contract shall be contingent upon appropriation or allotment of funds. Absence of appropriation or allotment of funds shall not relieve the Contractor from any obligations under this Contract. No liability shall accrue to the United States in case funds are not appropriated or allotted.

BOOKS, RECORDS, AND REPORTS

28. The Contractor shall establish and maintain accounts and other books and records pertaining to administration of the terms and conditions of this Contract, including the Contractor's financial transactions; water supply data; project operations, maintenance, and replacement logs; project land and rights-of-way use agreements; the water users' land-use (crop census), land-ownership, land-leasing, and water-use data; and other matters that the Contracting Officer may require. Reports shall be furnished to the Contracting Officer in such form and on such date or dates as the Contracting Officer may require. Subject to applicable Federal laws and regulations, each party to this Contract shall have the right during office hours to examine and make copies of the other party's books and records relating to matters covered by this Contract.

ASSIGNMENT LIMITED – SUCCESSORS AND ASSIGNS OBLIGATED

29. (a) The provisions of this Contract shall apply to and bind the successors and assigns of the parties hereto, but no assignment or transfer of this Contract or any right or interest therein by either party shall be valid until approved in writing by the other party.

(b) The assignment of any right or interest in this Contract by either party shall not interfere with the rights or obligations of the other party to this Contract absent the written concurrence of said other party.

SEVERABILITY

30. In the event that a person or entity who is neither (i) a party to a Project Contract, nor (ii) a person or entity that receives Project Water from a party to a Project Contract, nor (iii) an association or other form of organization whose primary function is to represent parties to Project Contracts, brings an action in a court of competent jurisdiction challenging the legality or

enforceability of a provision included in this Contract and said person, entity, association, or organization obtains a final court decision holding that such provision is legally invalid or unenforceable and the Contractor has not intervened in that lawsuit in support of the plaintiff(s), the parties to this Contract shall use their best efforts to (i) within thirty (30) days of the date of such final court decision identify by mutual agreement the provisions in this Contract which must be revised, and (ii) within three (3) months thereafter promptly agree on the appropriate revision(s). The time periods specified above may be extended by mutual agreement of the parties. Pending the completion of the actions designated above, to the extent it can do so without violating any applicable provisions of law, the United States shall continue to make the quantities of Project Water specified in this Contract available to the Contractor pursuant to the provisions of this Contract which were not found to be legally invalid or unenforceable in the final court decision.

#### OFFICIALS NOT TO BENEFIT

31. No Member of or Delegate to the Congress, Resident Commissioner, or official of the Contractor shall benefit from this Contract other than as a water user or landowner in the same manner as other water users or landowners.

#### CHANGES IN CONTRACTOR'S ORGANIZATION AND/OR SERVICE AREA

32. While this Contract is in effect, no change may be made in the Contractor's Service Area or organization, by inclusion or exclusion of lands or by any other changes which may affect the respective rights, obligations, privileges, and duties of either the United States or the Contractor under this Contract, including, but not limited to, dissolution, consolidation, or merger, except upon the Contracting Officer's written consent.

#### RECLAMATION REFORM ACT OF 1982

33. (a) Upon a Contractor's compliance with and discharge of the Repayment Obligation pursuant to this Contract, subsections (a) and (b) of Section 213 of the Reclamation Reform Act of 1982 (96 Stat. 1269) shall apply to affected lands.



954 (b) The obligation of a Contractor to pay the Additional Capital Obligation  
 955 shall not affect the Contractor's status as having repaid all of the construction costs assignable to  
 956 the Contractor or the applicability of subsections (a) and (b) of section 213 of the Reclamation  
 957 Reform Act of 1982 (96 Stat. 1269) once the Repayment Obligation is paid.

958 CERTIFICATION OF NONSEGREGATED FACILITIES

959 34. The Contractor hereby certifies that it does not maintain or provide for its  
 960 employees any segregated facilities at any of its establishments and that it does not permit its  
 961 employees to perform their services at any location under its control where segregated facilities  
 962 are maintained. It certifies further that it will not maintain or provide for its employees any  
 963 segregated facilities at any of its establishments and that it will not permit its employees to  
 964 perform their services at any location under its control where segregated facilities are  
 965 maintained. The Contractor agrees that a breach of this certification is a violation of the Equal  
 966 Employment Opportunity clause in this Contract. As used in this certification, the term  
 967 "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms,  
 968 restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas,  
 969 parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing  
 970 facilities provided for employees which are segregated by explicit directive or are in fact  
 971 segregated on the basis of race, creed, color, or national origin, because of habit, local custom,  
 972 disability, or otherwise. The Contractor further agrees that (except where it has obtained  
 973 identical certifications from proposed subcontractors for specific time periods) it will obtain  
 974 identical certifications from proposed subcontractors prior to the award of subcontracts  
 975 exceeding \$10,000 which are not exempt from the provisions of the Equal Employment  
 976 Opportunity clause; that it will retain such certifications in its files; and that it will forward the  
 977 following notice to such proposed subcontractors (except where the proposed subcontractors  
 978 have submitted identical certifications for specific time periods):

979 NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR  
 980 CERTIFICATIONS OF NONSEGREGATED FACILITIES

981 A Certification of Nonsegregated Facilities must be submitted prior to the award of a subcontract  
 982 exceeding \$10,000 which is not exempt from the provisions of the Equal Employment  
 983 Opportunity clause. The certification may be submitted either for each subcontract or for all  
 984 subcontracts during a period (i.e., quarterly, semiannually, or annually). Note: The penalty for  
 985 making false statements in offers is prescribed in 18 U.S.C. § 1001.

986 MEDIUM FOR TRANSMITTING PAYMENT

987 35. (a) All payments from the Contractor to the United States under this Contract  
 988 shall be by the medium requested by the United States on or before the date payment is due. The  
 989 required method of payment may include checks, wire transfers, or other types of payment  
 990 specified by the United States.

991 (b) Upon execution of this Contract, the Contractor shall furnish the  
992 Contracting Officer with the Contractor's taxpayer's identification number (TIN). The purpose  
993 for requiring the Contractor's TIN is for collecting and reporting any delinquent amounts arising  
994 out of the Contractor's relationship with the United States.

995 NOTICES

996 36. Any notice, demand, or request authorized or required by this Contract shall be  
997 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or  
998 delivered to the Area Manager, South-Central California Area Office, 1243 N Street, Fresno,  
999 California 93721, Bureau of Reclamation, and on behalf of the United States, when mailed,  
1000 postage prepaid, or delivered to the Board of Directors of the Westlands Water District  
1001 Distribution District No. 1, P.O. Box 6056, Fresno, California 93703-6056. The designation of  
1002 the addressee or the address may be changed by notice given in the same manner as provided in  
1003 this Article for other notices.

1004 CONTRACT DRAFTING CONSIDERATIONS

1005 37. This amended Contract has been negotiated and reviewed by the parties hereto,  
1006 each of whom is sophisticated in the matters to which this amended Contract pertains. The  
1007 double-spaced Articles of this amended Contract have been drafted, negotiated, and reviewed by  
1008 the parties, and no one party shall be considered to have drafted the stated Articles. Single-  
1009 spaced Articles are standard Articles pursuant to Bureau of Reclamation policy.

1010 CONFIRMATION OF CONTRACT

1011 38. Promptly after the execution of this amended Contract, the Contractor will  
1012 provide to the Contracting Officer a certified copy of a final decree of a court of competent  
1013 jurisdiction in the State of California, confirming the proceedings on the part of the Contractor  
1014 for the authorization of the execution of this amended Contract. This amended Contract shall not  
1015 be binding on the United States until the Contractor secures a final decree.



1016           IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the day  
1017   and year first above written.

1018                                   UNITED STATES OF AMERICA

1019                                   By: \_\_\_\_\_  
1020                                   Regional Director  
1021                                   Mid-Pacific Region  
1022                                   Bureau of Reclamation

1023                                   WESTLANDS WATER DISTRICT DISTRIBUTION  
1024                                   DISTRICT NO. 1  
1025   (SEAL)

1026                                   By: \_\_\_\_\_  
1027                                   President of the Board of Directors

1028   Attest:

1029   By: \_\_\_\_\_  
1030       Secretary of the Board of Directors

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF RECLAMATION  
Central Valley Project, California

CONTRACT BETWEEN THE UNITED STATES  
AND  
WESTLANDS WATER DISTRICT DISTRIBUTION DISTRICT NO. 1  
PROVIDING FOR PROJECT WATER SERVICE  
AND FACILITIES REPAYMENT

Exhibits

Exhibit A – Map of Contractor's Service Area

*This Exhibit is unchanged from current Contract.*

Exhibit B – Rates and Charges

*This Exhibit template is unchanged from current Contract and is updated annually. Rate Schedules may be found at: <https://www.usbr.gov/mp/cvpwaterrates/ratebooks/index.html>*

Exhibit C – Repayment Obligation

*This Exhibit template was developed during the WIIN Act Negotiations. Relevant data will be incorporated upon contract execution.*

**EXHIBIT B  
WESTLANDS WATER DISTRICT  
(ASSIGNMENT FROM WIDREN WATER DISTRICT)  
2019 Rates and Charges  
(Per Acre-Foot)**

	<b>Irrigation</b>	<b>M&amp;I <sup>3</sup></b>
	<b>Water</b>	<b>Water</b>
	<b>SLC</b>	<b>SLC</b>
<b>COST-OF-SERVICE (COS) RATE</b>		
Construction Costs	\$68.25	
DMC Aqueduct Intertie	\$1.11	
O&M Components		
Water Marketing	\$7.07	
Storage	\$14.52	
Credit for other PUE Remittance <sup>1</sup>	(\$9.74)	
Direct Pumping		
American Recovery and Reinvestment Act (ARRA)	\$0.00	
<b>TOTAL COS RATE</b>	<b>\$81.21</b>	
<b>Project Use Energy Payment <sup>2</sup></b>		
Direct Pumping	\$12.63	
Other PUE Remittance	\$9.74	
<b>IRRIGATION FULL-COST RATE</b>		
Section 202(3) Rate is applicable to a Qualified Recipient or to a Limited Recipient receiving irrigation water on or before October 1, 1981.	\$117.71	
Section 205(a)(3) Rate is applicable to a Limited Recipient that did not receive irrigation water on or before October 1, 1981.	\$151.30	
<b>CHARGES AND ASSESSMENTS (Payments in addition to Rates)</b>		
P.L. 102-575 Surcharge (Restoration Fund Payment) [Section 3407(d)(2)(A)]	\$10.63	
P.L. 106-377 Assessment (Trinity Public Utilities District) [Appendix B, Section 203]	\$0.30	

**EXPLANATORY NOTES**

- 1 Project Use Energy payment is being remitted to Western Area Power Authority for storage and direct pumping based on the deliveries of a select few contractors. The rates for the select few contractors are reduced as a credit in the O&M rates. All Contractors will ultimately pay for the storage and direct pumping service but as an offset to the amount paid by the select few.
- 2 Project Use Energy payment is in addition to the Contract Rate and Full-Cost Water Rates. Refer to the water rate books for more information.
- 3 The Contractor has not projected any delivery of M&I Water for the 2019 contract year. A temporary M&I Rate will be applied upon any M&I water delivery.

The CVP M&I Water Shortage Policy per EIS/EIR dated August 2015 and Record of Decision dated November 2015 defines the M&I Historic Use as the average quantity of CVP water put to beneficial use during the last three years of water deliveries, unconstrained (100% allocation) by the availability of CVP water for South of the Delta. Contractor's last three years in acre feet (AF) are: 2006 = 0 AF; 2011 = 0 AF; 2017 = 0 AF; equals a M&I Historic use average quantity of 0 AF.

Additional detail of rate components is available on the Internet at:  
<http://www.usbr.gov/mp/cvpwaterrates/ratebooks/index.html>

## Exhibit B

### **Points of Diversion on the San Luis Canal:**

MP-104.18 Lat.1R, MP-105.2L, MP-105.22 Lat.1L, MP-105.23 Lat.2R,  
MP-106.35 Lat.2L, MP-108.39 Lat.3L, MP-108.46 Lat.3R, MP-110.52 Lat. 4L,  
MP-111.93 Lat.5L, MP-113 Lat.6L, MP-113.77 Lat.4R, MP-114R, MP-114.64R,  
MP-114.90 Lat.5R, MP-114.92R, MP-116.02R, MP-116.32R, MP-116.91R,  
MP-117.51 Lat.8L, MP-117.51R, MP-118.44 Lat.7R, MP-118.46R, MP-119.56R  
A&B, MP-119.63 Lat.8R, MP-119.63R ABC, MP-120.77 Lat.9L, MP-120.86R,  
MP-120.87R A&B, MP-121.92 Lat.10L, MP-122.02R, MP-122.05R,  
MP-122.59R, MP-123.89R, MP-124.16R, MP-124.18 Lat.11L, MP-124.19R,  
MP-125.36R, MP-126.65 Lat.12L, MP-128.49R, MP-128.57 Lat.11R,  
MP-128.78R, MP-129.88 Lat.13L, MP-130.85 Lat.14L, MP-131.70 Lat.15L,  
MP-132.74 Lat.12R, MP-132.81 Lat.16L, MP-133.81 Lat.17L, MP-133.81  
Lat.13R, MP-134.94 Lat.18L, MP-135.96 Lat.14R, MP-136.05 Lat.19L,  
MP-137.00 Lat.15R, MP-137.11 Lat.20L, MP-138.14 Lat.16R, MP-138.29  
Lat.21L, MP-139.27 Lat.17R, MP-139.39 Lat.22L, MP-140.48 Lat.18R,  
MP-140.57 Lat.23L, MP-141.29R, MP-141.53 Lat.19R, MP-141.60 Lat.24L,  
MP-142.57R, MP-142.60R A&B, MP-143.16, MP-145.26 Lat.25L, MP-145.32  
Lat.20R, MP-147.02 Lat.26L, MP-147.75R, MP-147.77R, MP-149.12 Lat.27L,  
MP-149.55 Lat.21R, MP-149.59R, MP-150.48R, MP-150.88 Lat.28L, MP-151.19  
Lat.22R, MP-152.35 Lat.29L, MP-154.11 Lat.30L, MP-156.34 Lat.23R,  
MP-156.40 Lat.31L, MP-158.47 Lat.32L, MP-158.47 Lat.24R, MP-160.45  
Lat.33L, MP-160.45 Lat.25R, MP-161.60 Lat.34L, MP-161.60 Lat.26R,  
MP-162.63 Lat.35L, MP-163.59L, MP-163.69 Lat.36L, MP-163.69 Lat.27R,  
MP-164.79 Lat.28R, MP-167.04 Lat.37L, MP-167.84 Lat.29R, MP-169.30  
Lat.38L, MP-171.51 Lat.30R

### Exhibit C Template

#### Repayment Obligation - Current Calculation under the WIIN Act, Section 4011 (a) (2)

*Represents an Example of Cost to Repay Construction Based on Unpaid Construction (from 2018 or 2019 of the Water Rate Books)\*\**

Contractor: Contractor A  
Facility: San Luis Canal (This does not include Delta-Mendota Pool or Canal)  
Contract: Contract Number #:

Irrigation Construction Cost (2018 or 2019 Irrigation Ratebook, Schedule A-2Ba and A-2Bc)			
	Unpaid Cost	Discount	
Construction Cost (Excludes Intertie):	\$ 2,000,000	\$ 1,860,792	
Intertie Construction Cost:	\$ 50,000	\$ 36,962	
<b>Total</b>	<b>\$ 2,050,000</b>	<b>\$ 1,897,754</b>	
If Paid in Installments (1/2 of 20 yr CMT)			
	Due		
Payment 1	1-Jan-20	\$ 492,663	
Payment 2	1-Jan-21	\$ 492,663	
Payment 3	1-Jan-22	\$ 492,663	
Payment 4	1-Jan-23	\$ 492,663	
<b>Total Installment Payments</b>		<b>\$ 1,970,653</b>	
20 yr CMT Rates - 4/23/2018		3.050%	
Discount Rate: 1/2 of 20 yr CMT (WIIN Act, Section 4011(a)(2)(A) & f)		1.525%	

M&I Construction Cost (2018 or 2019 M&I Ratebook, Schedule A-2Ba)	
Construction Cost *:	\$ 300,000
* Excludes interest to payment date as interest will be computed as an annual expense as usual	

Calculation Support: Irrigation lump sum or first payment due date: 1-Jan-20  
Days Until End of Fiscal Year: 273

Fiscal Yr	Unpaid Allocated Construction Cost			Unpaid Intertie Construction Cost			Total
	Beginning Balance	Straight Line Repayment	Present Value	Beginning Balance	Straight Line Repayment	Present Value	Present Values
2018	\$ 2,000,000	\$ 153,846	\$ 153,846	\$ 50,000	\$ 1,087	\$ 1,087	\$ 154,933
2019	\$ 1,846,154	\$ 153,846	\$ 153,846	\$ 48,913	\$ 1,087	\$ 1,087	\$ 154,933
2020	\$ 1,692,308	\$ 153,846	\$ 152,116	\$ 47,826	\$ 1,087	\$ 1,075	\$ 153,191
2021	\$ 1,538,462	\$ 153,846	\$ 149,831	\$ 46,739	\$ 1,087	\$ 1,059	\$ 150,890
2022	\$ 1,384,615	\$ 153,846	\$ 147,580	\$ 45,652	\$ 1,087	\$ 1,043	\$ 148,623
2023	\$ 1,230,769	\$ 153,846	\$ 145,364	\$ 44,565	\$ 1,087	\$ 1,027	\$ 146,391
2024	\$ 1,076,923	\$ 153,846	\$ 143,180	\$ 43,478	\$ 1,087	\$ 1,012	\$ 144,192
2025	\$ 923,077	\$ 153,846	\$ 141,029	\$ 42,391	\$ 1,087	\$ 996	\$ 142,026
2026	\$ 769,231	\$ 153,846	\$ 138,911	\$ 41,304	\$ 1,087	\$ 981	\$ 139,892
2027	\$ 615,385	\$ 153,846	\$ 136,824	\$ 40,217	\$ 1,087	\$ 967	\$ 137,791
2028	\$ 461,538	\$ 153,846	\$ 134,769	\$ 39,130	\$ 1,087	\$ 952	\$ 135,721
2029	\$ 307,692	\$ 153,846	\$ 132,745	\$ 38,043	\$ 1,087	\$ 938	\$ 133,683
2030	\$ 153,846	\$ 153,846	\$ 130,751	\$ 36,957	\$ 1,087	\$ 924	\$ 131,675
2031-63				\$ 35,870	\$ 35,870	\$ 23,815	\$ 23,815
<b>Total, Lump Sum Payment</b>			<b>\$ 1,860,792</b>			<b>\$ 36,962</b>	<b>\$ 1,897,754</b>
<b>Amount of Reduction, Lump Sum</b>			<b>\$ 135,208</b>			<b>\$ 13,038</b>	<b>\$ 152,246</b>

\*\* Water Rate Charges and payments are a requirement under the existing and amendatory contract. If at a later date charges are updated based on Regional and Area Office reviews, any unpaid charges are still due.

# **EXHIBIT D**



**RESOLUTION NO. 104-20**

**WESTLANDS WATER DISTRICT DISTRIBUTION DISTRICT NO. 1**

**A RESOLUTION OF THE BOARD OF DIRECTORS:**

**AUTHORIZING THE FILING OF NOTICES OF STATUTORY EXEMPTION AND CATEGORICAL EXEMPTION FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FOR APPROVAL OF AND AUTHORIZATION TO EXECUTE THE CONTRACT BETWEEN THE UNITED STATES AND WESTLANDS WATER DISTRICT DISTRIBUTION DISTRICT NO. 1 PROVIDING FOR PROJECT WATER SERVICE AND FACILITIES REPAYMENT,**

**AUTHORIZING APPROVAL, EXECUTION, AND DELIVERY OF THE CONTRACT BETWEEN THE UNITED STATES AND WESTLANDS WATER DISTRICT DISTRIBUTION DISTRICT NO. 1 PROVIDING FOR PROJECT WATER SERVICE AND FACILITIES REPAYMENT, AND**

**AUTHORIZING ACTIONS IN FURTHERANCE THEREOF**

WHEREAS, on November 27, 1959, Broadview Water District (Broadview) and the United States entered into a contract for water service, herein referred to as, Contract No. 14-06-200-8092 (the "Original Contract") as amended on May 15, 1963, which provided for the delivery of up to 27,000 acre feet of water diverted through Central Valley Project facilities. Upon expiration of the Original Contract, Broadview entered into successive interim renewal contracts with the United States of America providing for water service, including Contract No. 14-06-200-8092-IR9 ending on February 28, 2007; and

WHEREAS, on March 1, 2007, Westlands Water District Distribution District No.1 (District), Broadview and the United States through the Bureau of Reclamation entered into an agreement for assignment (Assignment Contract 14-06-200-8092-IR9) of Broadview's water service contract. Under this Assignment Contract, Broadview assigned its right, title and interest to 27,000 acre-feet of its water service contract to the District; and

WHEREAS, the District has entered into successive interim renewal contracts with the United States of America providing for water service including the current Contract No. 14-06-200-8092-IR16 (Existing Interim Renewal Contract) ending on February 29, 2020; and

WHEREAS, the United States has tendered a form of an interim renewal contract to the District, Renewal Contract No. 14-06-200-8092-IR17, (Interim Renewal Contract) which provides for the delivery of water diverted through Central Valley Project facilities under terms that are substantially the same as the Existing Interim Renewal Contract, which if executed, would remain in effect through February 28, 2022; and

WHEREAS, on December 16, 2016, the 114th Congress of the United States of America enacted the Water Infrastructure Improvements for the Nation Act (Pub. L. 114-322, 130 Stat. 1628) (WIIN Act); and

WHEREAS, Section 4011(a)(1) of the WIIN Act provides that "upon request of the contractor, the Secretary of the Interior shall convert any water service contract in effect on the date of enactment of this subtitle and between the United States and a water users' association [Contractor] to allow for prepayment of the repayment contract pursuant to paragraph (2) under mutually agreeable terms and conditions."; and

WHEREAS, Section 4011(a)(1) further provides that "the manner of conversion under this paragraph shall be as follows: (A) Water service contracts that were entered into under section (e) of the Act of August 4, 1939 (53 Stat. 1196), to be converted under this section shall be converted to repayment contracts under section 9(d) of that Act (53 Stat. 1195)"; and "(B) Water service contracts that were entered under subsection (c)(2) of section 9 of the Act of August 4, 1939 (53 Stat. 1194), to be converted under this section shall be converted to a contract under subsection (c)(1) of section 9 of that Act (53 Stat. 1195)."; and

WHEREAS, Section 4011(a)(4)(C) provides all contracts entered into pursuant to Section 4011(a)(1), (2), and (3) shall "not modify other water service, repayment, exchange and transfer contractual rights between the water users' association [Contractor], and the Bureau of Reclamation, or any rights, obligations, or relationships of the water users' association [Contractor] and their landowners as provided under State law."; and

WHEREAS, Section 4011(d)(3) and (4) of the WIIN Act provides that "implementation of the provisions of this subtitle shall not alter... (3) the priority of a water service or repayment contractor to receive water; or (4) except as expressly provided in this section, any obligations under the Federal Reclamation law, including the continuation of Restoration Fund charges pursuant to section 3407(d) (Pub. L. 102-575), of the water service and repayment contractors making prepayments pursuant to this section."; and

WHEREAS, on or about April 23, 2018, pursuant to WIIN Act, 4011(a)(1), the District requested that United States Bureau of Reclamation initiate the process to convert its water service contract to a repayment contract.

WHEREAS, pursuant to and consistent with the WIIN Act, the United States and the District negotiated terms and conditions that convert the Existing Interim Renewal Contract to a repayment contract, and those terms and conditions are reflected in the attached Converted Contract between the United States and Westlands Water District Distribution District No. 1 providing for Project Water Service and Facilities Repayment, which is incorporated herein by this reference (Converted Contract); and

WHEREAS, the Converted Contract also reflects the current standard terms and conditions required by the Reclamation Manual; and

WHEREAS, the Converted Contract continues water service to the District within established parameters, in the same scope and nature of the ongoing Central Valley Project and its existing facilities; and

WHEREAS, the United States has determined that the District has fulfilled all of its obligations under the Existing Interim Renewal Contract; and

WHEREAS, the District has demonstrated to the satisfaction of the Contracting Officer that the District has utilized the Project Water supplies available to it for reasonable and beneficial use and expects to utilize fully for reasonable and beneficial use the quantity of Project Water to be made available to it pursuant to the Converted Contract; and

WHEREAS, water obtained from the Project has been relied upon by urban and agricultural areas within California for more than 50 years, and is considered by the District as an essential portion of its water supply; and

WHEREAS, the economies of regions within the Project, including the District's, depend upon the continued availability of water, including water service from the Project; and

WHEREAS, it is imperative to the District and its landowners that the District continue water service to lands within the District for beneficial use, and the District therefore proposes to enter into the Converted Contract; and

WHEREAS, under the Converted Contract, ongoing receipt and delivery of water will continue with no expansion of service and no new facilities constructed because the District will deliver the water received under the Converted Contract: (1) to lands within the District's boundaries for beneficial use and that have been in production, and (2) through existing facilities; and

WHEREAS, the District has reviewed the terms and conditions of the Converted Contract and finds the form and content thereof to be acceptable to the District and appropriate for execution; and

WHEREAS, the District maintains in its records copies of contracts, water delivery reports, crop information and other data supporting these factual findings.

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED as follows:

1. The facts set forth in the recitals above and in the documents referenced therein are true and correct, and the Board so finds and determines.
2. The Converted Contract will not create any effects specified in Title 14 of the California Code of Regulations, Section 15300.2.
3. Executing the Converted Contract is statutorily exempt from compliance with the California Environmental Quality Act as provided in the California Public Resources Code and implemented through Title 14 of the California Code of Regulations, Sections 15260 through 15285, with particular reference to Section 15261, because it is merely a continuation of a project approved, funded and fully operated prior to November 23, 1970, and no modification or alteration in the Central Valley Project or the amount of water delivered is proposed.
4. Execution of the Converted Contract is exempt from the California Environmental Quality Act based on its record of proceedings showing that the Converted Contract continues water service to the District within established parameters, in the same scope and nature of the ongoing Central Valley Project and its existing facilities; it involves no increase in existing service; and no new construction, expansion, or any modification to the existing distribution system; nor any change in the source of water to be delivered, or the uses to which such supplies will be put.
5. Execution of the Converted Contract is categorically exempt from compliance with the California Environmental Quality Act as provided in Title 14 of the California Code of Regulations, Section 15300 through 15333, with particular reference to Section 15301, because it merely provides for continued operation of existing facilities.
6. The District shall prepare and file a Notice of Exemption with the Clerks of Fresno and Kings Counties and the Office of Planning and Research (State Clearinghouse) as provided for in Title 14 of the California Code of Regulations, Section 15062(b), in substantially the forms attached hereto as Exhibit A.
7. The Converted Contract in substantially the form presented to the Board and on file with the Secretary is hereby approved.
8. The President of the District is hereby authorized to execute and deliver the Converted Contract in substantially the form attached hereto, with such additional changes and/or modifications as are approved by the President of the District, its General Manager, and its General Counsel.

9. The District's officers, staff, and consultants are authorized and directed to take all additional actions they deem necessary or appropriate in order to carry out the intent of this resolution.

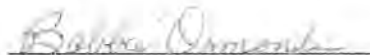
10. A certified copy of this resolution shall be prepared and transmitted by the District's Secretary to the United States Bureau of Reclamation.

Adopted at a regular meeting of the Board of Directors, at Fresno, California, this 21st day of January, 2020.

AYES: Directors Anderson, Bourdeau, Coelho, Errotabere, Enos, Ferguson,  
Neves, Nunn and Peracchi

NOES: None

ABSENT: None

  
Bobbie Ormonde, District Secretary

## Notice of Exemption

## Appendix E

To: Office of Planning and Research  
P.O. Box 3044, Room 113  
Sacramento, CA 95812-3044

County Clerk

County of: Fresno

2221 Kern Street

Fresno, CA 93721

From: (Public Agency): Westlands Water District

P.O. Box 6056

Fresno, CA 93703-6056

(Address)

Project Title: Westlands Water District Distribution District No. 1 Central Valley Project Water Repayment Contract #14-06-200-8092-XXX (Broadview Assignment Conversion to Repayment)

Project Applicant: Westlands Water District - Distribution District No. 1

Project Location - Specific:

Within the boundaries of the Westlands Water District

Project Location - City: Not Applicable Project Location - County: Fresno and Kings

Description of Nature, Purpose and Beneficiaries of Project:

The project is the execution of Contract #14-06-200-8092-XXX (Broadview Assignment), which would convert Westlands Water District Distribution District No. 1's (District) existing water service contract to a repayment contract that provides the terms and conditions for water service with the United States Bureau of Reclamation (USBR) for the purpose of continuing delivery of Central Valley Project water within established parameters to lands within the District's existing service area boundary. The beneficiaries of the project are the District, its landowners, and water users. The USBR is a party to the bilateral agreement and as such is a recipient of the District's approval (Pub. Resources Code, §§21065, 21167.6.5). The project is entirely administrative in scope.

Name of Public Agency Approving Project: Westlands Water District - Distribution District No. 1

Name of Person or Agency Carrying Out Project: Westlands Water District - Distribution District No. 1

Exempt Status: (check one):

- ☐ Ministerial (Sec. 21080(b)(1); 15268);
- ☐ Declared Emergency (Sec. 21080(b)(3); 15269(a));
- ☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- ☒ Categorical Exemption. State type and section number: CEQA Guidelines, §15301
- ☒ Statutory Exemptions. State code number: CEQA Guidelines, §15261

Reasons why project is exempt:

The project is statutorily exempt from compliance with the California Environmental Quality Act as provided in Title 14 of the California Code of Regulations, Section 15261, because it is merely a continuation of a project approved, funded and fully operated prior to November 23, 1970 and no modification or alteration in the Central Valley Project or the amount of water delivered is proposed.

The project is also exempt under 14 CCR 15301 as it provides for the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use. The Project is wholly administrative in scope as the project involves no construction, alteration, or expansion of an existing use.

Lead Agency

Contact Person: Jose Gutierrez Area Code/Telephone/Extension: (559) 241-6215

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? ☒ Yes ☐ No

Signature: \_\_\_\_\_ Date: January 22, 2020 Title: Chief Operating Officer

☒ Signed by Lead Agency ☒ Signed by Applicant

Authority cited: Sections 21083 and 21110, Public Resources Code.  
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.

Date Received for filing at OPR: \_\_\_\_\_



## NOTICE OF EXEMPTION

Appendix E

To: ☒ Office of Planning and Research/State Clearinghouse  
P.O. Box 3044, 1400 Tenth Street, Room 222  
Sacramento, CA 95812-3044

☐ County Clerk/County Recorder  
County of Fresno  
2220 Tulare Street  
Fresno, CA 93721

☒ County Clerk/County Recorder  
County of Kings  
County Government Center  
1400 West Lacey Boulevard  
Hanford, CA 93230

From: ☒ Westlands Water District  
P.O. Box 6056  
Fresno, CA 93703

**Project Title:** Westlands Water District Distribution District No. 1 Central Valley Project Water Repayment Contract #14-06-200-8092-XXX (Broadview Assignment Conversion to Repayment).

**Project Applicant:** Westlands Water District - Distribution District No. 1

**Project Location – Specific:** Within the boundaries of the Westlands Water District.

**Project Location – City:** Not Applicable

**Project Location – County:** Fresno and Kings.

### Description of Nature, Purpose and Beneficiaries of Project:

The project is the execution of Contract #14-06-200-8092-XXX (Broadview Assignment), which would convert Westlands Water District Distribution District No. 1's (District) existing water service contract to a repayment contract that provides the terms and conditions for water service with the United States Bureau of Reclamation (USBR) for the purpose of continuing delivery of Central Valley Project water within established parameters to lands within the District's existing service area boundary. The beneficiaries of the project are the District, its landowners, and water users. The USBR is a party to the bilateral agreement and as such is a recipient of the District's approval (Pub. Resources Code, §§21065, 21167.6.5). The project is entirely administrative in scope.

**Name of Public Agency Approving Project:** Westlands Water District - Distribution District No. 1

**Name of Person or Agency Carrying Out Project:** Westlands Water District - Distribution District No. 1

**Exempt Status:** (check one)

- ☐ Ministerial (Sec. 21080(b)(1); 15268);
- ☐ Declared Emergency (Sec. 21080(b)(3); 15269(a));
- ☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- ☒ Categorical Exemption. State type and section number: CEQA Guidelines, §15301
- ☒ Statutory Exemptions. State code number: CEQA Guidelines, §15261

**Reasons why project is exempt:**

The project is statutorily exempt from compliance with the California Environmental Quality Act as provided in Title 14 of the California Code of Regulations, Section 15261, because it is merely a continuation of a project approved, funded and fully operated prior to November 23, 1970 and no modification or alteration in the Central Valley Project or the amount of water delivered is proposed.

The project is also exempt under 14 CCR 15301 as it provides for the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use. The Project is wholly administrative in scope as the project involves no construction, alteration, or expansion of an existing use.

**Lead Agency**

**Contact Person:** Jose Gutierrez

**Area Code/Telephone/Extension:** (559) 241-6215

**If filed by applicant:**

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? ☒ YES ☐ NO

**Signature:** \_\_\_\_\_ **Date:** January 22, 2020 **Title:** Chief Operating Officer

☒ Signed by Lead Agency   ☒ Signed by Applicant

Authority cited: Sections 21083 and 21110, Public Resources Code.

Date Received for filing at OPR: \_\_\_\_\_

Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.

Revised 2011

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF RECLAMATION  
Central Valley Project, California

CONTRACT BETWEEN THE UNITED STATES  
AND  
WESTLANDS WATER DISTRICT DISTRIBUTION DISTRICT NO. 1  
PROVIDING FOR PROJECT WATER SERVICE  
AND FACILITIES REPAYMENT

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UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF RECLAMATION  
Central Valley Project California

CONTRACT BETWEEN THE UNITED STATES  
AND  
WESTLANDS WATER DISTRICT DISTRIBUTION DISTRICT NO. 1  
PROVIDING FOR PROJECT WATER SERVICE  
AND FACILITIES REPAYMENT

1        THIS CONTRACT, made this \_\_\_\_ day of \_\_\_\_\_ 20\_\_, in pursuance generally of  
2        the Act of June 17, 1902 (32 Stat. 388), and acts amendatory or supplementary thereto,  
3        including, but not limited to, the Acts of August 26, 1937 (50 Stat. 844), as amended and  
4        supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented, July 2, 1956 (70  
5        Stat. 483), June 21, 1963 (77 Stat. 68), October 12, 1982 (96 Stat. 1263), October 27, 1986 (100  
6        Stat. 3050), as amended Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706), as  
7        amended, and the Water Infrastructure Improvements for the Nation Act (Public Law 114-322,  
8        130 Stat. 1628), Section 4011 (a-d) and (f) ("WIIN Act"), all collectively hereinafter referred to  
9        as Federal Reclamation law, between THE UNITED STATES OF AMERICA, hereinafter  
10       referred to as the United States, and WESTLANDS WATER DISTRICT DISTRIBUTION  
11       DISTRICT NO. 1, hereinafter referred to as the Contractor, a public agency of the State of  
12       California, duly organized, existing, and acting pursuant to the laws thereof;

13       WITNESSETH, That:

EXPLANATORY RECITALS

[1<sup>st</sup>] WHEREAS, the United States has constructed and is operating the Central Valley Project, California, for diversion, storage, carriage, distribution, and beneficial use, for flood control, irrigation, municipal, domestic, industrial, fish and wildlife mitigation, protection and restoration, generation and distribution of electric energy, salinity control, navigation, and other beneficial uses, of waters of the Sacramento River, the American River, the Trinity River, and the San Joaquin River and their tributaries; and

[2<sup>nd</sup>] WHEREAS, the United States constructed the Delta-Mendota Canal and related facilities, hereinafter collectively referred to as the Delta Division facilities, and the San Luis Canal and related facilities, hereinafter collectively referred to as the San Luis Canal, which will be used in part for the furnishing of water to the Contractor pursuant to the terms of this Contract; and

[3<sup>rd</sup>] WHEREAS, the Broadview Water District (District) and the United States entered into Contract No. 14-06-200-8092, which provided the District, Central Valley Project water from the Delta-Mendota Canal from November 27, 1959 to February 28, 1995; and

[4<sup>th</sup>] WHEREAS, the United States and the District entered into Contract No. 14-06-200-8092-IR1 and subsequent Interim Renewal Contracts 14-06-200-8092-IR2 through 14-06-200-8092-IR9, which provided for the continued water service to the District from March 1, 1995, through February 29, 2008; and

[5<sup>th</sup>] WHEREAS, the Contractor and the District executed an agreement on March 1, 2007, which assigned to the Contractor all right, title, and interest to Contract No. 14-06-200-8092-IR9; and

[6<sup>th</sup>] WHEREAS, the United States and the Contractor entered into Contract Number 14-06-200-8092-IR10 and subsequent Interim Renewal Contracts 14-06-200-8092-IR11 through



38 14-06-200-8092-IR16, the last of which is hereinafter referred to as the “Existing Contract”,  
39 which established terms for the delivery of Project Water to the Contractor from the Delta  
40 Division and San Luis Canal, and which was in effect the date the WIIN Act was enacted; and

41 [7<sup>th</sup>] WHEREAS, on December 16, 2016, the 114th Congress of the United States of  
42 America enacted the WIIN Act; and

43 [8<sup>th</sup>] WHEREAS, Section 4011(a)(1) provides that “upon request of the contractor, the  
44 Secretary of the Interior shall convert any water service contract in effect on the date of  
45 enactment of this subtitle and between the United States and a water users’ association  
46 [Contractor] to allow for prepayment of the repayment contract pursuant to paragraph (2) under  
47 mutually agreeable terms and conditions.”; and

48 [9<sup>th</sup>] WHEREAS, Section 4011(a)(1) further provides that “the manner of conversion  
49 under this paragraph shall be as follows: (A) Water service contracts that were entered into  
50 under section (e) of the Act of August 4, 1939 (53 Stat. 1196), to be converted under this section  
51 shall be converted to repayment contracts under section 9(d) of that Act (53 Stat. 1195)”; and  
52 “(B) Water service contracts that were entered under subsection (c)(2) of section 9 of the Act of  
53 August 4, 1939 (53 Stat. 1194), to be converted under this section shall be converted to a  
54 contract under subsection (c)(1) of section 9 of that Act (53 Stat. 1195).”; and

55 [10<sup>th</sup>] WHEREAS, Section 4011(a)(4)(C) further provides all contracts entered into  
56 pursuant to Section 4011(a)(1), (2), and (3) shall “not modify other water service, repayment,  
57 exchange, and transfer contractual rights between the water users’ association [Contractor], and  
58 the Bureau of Reclamation, or any rights, obligations, or relationships of the water users’  
59 association [Contractor] and their landowners as provided under State law.”; and

60           [11<sup>th</sup>] WHEREAS, Section 4011(d)(3) and (4) of the WIIN Act provides that  
61   “implementation of the provisions of this subtitle shall not alter...(3) the priority of a water  
62   service or repayment contractor to receive water; or (4) except as expressly provided in this  
63   section, any obligations under the Federal Reclamation law, including the continuation of  
64   Restoration Fund charges pursuant to section 3407(d) (Pub. L. 102-575), of the water service and  
65   repayment contractors making prepayments pursuant to this section.”; and

66           [12<sup>th</sup>] WHEREAS, upon the request of the Contractor, the WIIN Act directs the  
67   Secretary to convert irrigation water service contracts and Municipal and Industrial (M&I) water  
68   service contracts into repayment contracts, amend existing repayment contracts, and allow  
69   contractors to prepay their construction cost obligations pursuant to applicable Federal  
70   Reclamation law; and

71           [13<sup>th</sup>] WHEREAS, the United States has determined that the Contractor has to date  
72   fulfilled all of its obligations under the Existing Contract; and

73           [14<sup>th</sup>] WHEREAS, the Contracting Officer has determined that the Contractor has the  
74   capability to fully utilize for reasonable and beneficial use, or shown projected future reasonable  
75   and beneficial use for, the quantity of Project Water to be made available to it pursuant to this  
76   Contract; and

77           [15<sup>th</sup>] WHEREAS, the Contracting Officer and the Contractor agree that this Contract  
78   complies with Section 4011 of the WIIN Act; and

79           [16<sup>th</sup>] WHEREAS, the Contracting Officer and the Contractor agree to amend and  
80   convert the Existing Contract pursuant to section 4011 of the WIIN Act and other Federal  
81   Reclamation law on the terms and conditions set forth below;

NOW, THEREFORE, in consideration of the mutual and dependent covenants herein contained, it is hereby mutually agreed by the parties hereto as follows:

DEFINITIONS

1. When used herein unless otherwise distinctly expressed, or manifestly incompatible with the intent of the parties as expressed in this Contract, the term:

(a) "Additional Capital Obligation" shall mean construction costs or other capitalized costs incurred after the effective date of Contract or not reflected in the Existing Capital Obligation as defined herein and in accordance with Section 4011, subsection (a)(2)(B) and (a)(3)(B) of the Water Infrastructure Improvements for the Nation Act (Pub. L. 114-322, 130 Stat. 1628) ("WIIN Act");

(b) "Calendar Year" shall mean the period January 1 through December 31, both dates inclusive;

(c) "Charges" shall mean the payments required by Federal Reclamation law in addition to the Rates and Tiered Pricing Component specified in this Contract as determined annually by the Contracting Officer pursuant to this Contract;

(d) "Contractor's Boundaries" shall mean the area to which the Contractor is permitted to provide Project Water under this Contract;

(e) "CVPIA" shall mean the Central Valley Project Improvement Act, Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706);

(f) "Delivered Water" or "Water Delivered" shall mean Project Water made available to the Contractor and diverted at the point(s) of delivery approved by the Contracting Officer;

(g) "Eligible Lands" shall mean all lands to which Irrigation Water may be delivered in accordance with Section 204 of the Reclamation Reform Act of October 12, 1982 (96 Stat. 1263), as amended;

(h) "Excess Lands" shall mean all lands defined as excess in Section 204 of the Reclamation Reform Act of 1982, other than those lands exempt from acreage limitation under Federal Reclamation law;

(i) "Existing Capital Obligation" shall mean the remaining amount of construction costs or other capitalized costs allocable to the Contractor as described in section 4011, subsections (a)(2)(A) and (a)(3)(A) of the WIIN Act, and as identified in the Central Valley Project Irrigation Water Rates and/or Municipal and Industrial Water Rates, respectively, dated Month/Day/Year [specify ratebook year for all contractors.] [contractor specific to address the intertie], as adjusted to reflect payments not reflected in such schedule. The Contracting Officer has computed the Existing Capital Obligation and such amount is set forth in Exhibit C, which is incorporated herein by reference;

(j) "Full Cost Rate" shall mean that water rate described in Sections 205(a)(3) or 202(3) of the Reclamation Reform Act of 1982, whichever is applicable;

(k) "Ineligible Lands" shall mean all lands to which Irrigation Water may not be delivered in accordance with Section 204 of the Reclamation Reform Act of 1982;

(l) "Irrigation Water" shall mean the use of Project Water to irrigate lands primarily for the production of commercial agricultural crops or livestock, and domestic and other uses that are incidental thereto;

(m) "Landholder" shall mean an individual or entity attributed with the total irrigable acreage of one or more tracts of land situated in one or more districts owned and/or operated under a lease which is served with Irrigation Water pursuant to a contract with the United States;

(n) "Municipal and Industrial (M&I) Water" shall mean the use of Project Water for municipal, industrial, and miscellaneous other purposes not falling under the definition of "Irrigation Water" or within another category of water use under an applicable Federal authority;

(o) "Operation and Maintenance" or "O&M" shall mean normal and reasonable care, control, operation, repair, replacement and maintenance of Project facilities;

(p) "Operating Non-Federal Entity" shall mean a Non-Federal entity which has the obligation to operate and maintain all or a portion of the Delta Division facilities and/or San Luis Canal pursuant to an agreement with the United States;

(q) "Project" shall mean the Central Valley Project owned by the United States and operated by the Department of the Interior, Bureau of Reclamation;

(r) "Project Contractors" shall mean all parties who have contracts for water service for Project Water from the Project with the United States pursuant to Federal Reclamation law;

(s) "Project Water" shall mean all water that is developed, diverted, stored, or delivered by the United States in accordance with the statutes authorizing the Project and in accordance with the terms and conditions of applicable water rights permits and licenses acquired by and/or issued to the United States pursuant to California law;

(t) "Rates" shall mean the payments determined annually by the Contracting Officer in accordance with the then current applicable water ratesetting policies for the Project;

(u) "Repayment Obligation" for Water Delivered as Irrigation Water shall mean the Existing Capital Obligation discounted by  $\frac{1}{2}$  of the Treasury rate, which shall be the amount due and payable to the United States, pursuant to section 4011(a)(2)(A) of the WIIN Act; and for Water Delivered as M&I Water shall mean the amount due and payable to the United States, pursuant to section 4011(a)(3)(A) of the WIIN Act;



(v) "Secretary" or "Contracting Officer" shall mean the Secretary of the United States Department of the Interior or his duly authorized representative;

(w) "Tiered Pricing Component" shall be the incremental amount to be paid for each acre-foot of Water Delivered as described in Article 7 of this Contract and as provided for in Exhibit A;

(x) "Water Made Available" shall mean the estimated amount of Project Water that can be delivered to the Contractor for the upcoming Year as declared by the Contracting Officer, pursuant to subdivision (a) of Article 4 of this Contract;

(y) "Year" shall mean the period from and including March 1 of each Calendar Year through the last day of February of the following Calendar Year.

TERM OF CONTRACT – RIGHT TO USE OF WATER

2. (a) This Contract shall be effective March 1, 2020, hereinafter known as the "Effective Date", and shall continue so long as the Contractor pays applicable Rates and Charges under this Contract, consistent with Section 9(d) or 9(c)(1) of the Act of August 4, 1939 (53 Stat. 1195) as applicable, and applicable law;

(1) Provided, That the Contracting Officer shall not seek to terminate this Contract for failure to fully or timely pay applicable Rates and Charges by the Contractor, unless the Contracting Officer has first provided at least sixty (60) calendar days written notice to the Contractor of such failure to pay and the Contractor has failed to cure such failure to pay, or to diligently commence and maintain full curative payments satisfactory to the Contracting Officer within the sixty (60) calendar days' notice period;

(2) Provided, further, That the Contracting Officer shall not seek to suspend making water available or declaring Water Made Available pursuant to this Contract for non-compliance by the Contractor with the terms of this Contract or Federal law, unless the



Contracting Officer has first provided at least thirty (30) calendar days written notice to the Contractor and the Contractor has failed to cure such non-compliance, or to diligently commence curative actions satisfactory to the Contracting Officer for a non-compliance that cannot be fully cured within the thirty (30) calendar days' notice period. If the Contracting Officer has suspended making water available pursuant to this paragraph, upon cure of such non-compliance satisfactory to the to the Contracting Officer, the Contracting Officer shall resume making water available and declaring Water Made Available pursuant to this Contract;

(3) Provided, further, That this Contract may be terminated at any time by mutual consent of the parties hereto.

(b) Upon complete payment of the Repayment Obligation by the Contractor, and notwithstanding any Additional Capital Obligation that may later be established, the acreage limitations, reporting, and Full Cost pricing provisions of the Reclamation Reform Act of 1982, and subdivisions (g) Eligible Lands, (h) Excess Lands, and (k) Ineligible Lands of Article 1 of this Contract shall no longer be applicable.

(c) Notwithstanding any provision of this Contract, the Contractor reserves and shall have all rights and benefits under the Act of July 2, 1956 (70 Stat. 483), to the extent allowed by law.

(d) Notwithstanding any provision of this Contract, the Contractor reserves and shall have all rights and benefits under the Act of June 21, 1963 (77 Stat. 68), to the extent allowed by law.

#### WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

3. (a) Subject to the provisions set forth in Articles 11 and 12 of this Contract, and consistent with applicable State water rights, permits, and licenses, the Contractor is entitled to, and the Contracting Officer shall be obligated to make available to the Contractor up to

27,000 acre-feet of Project Water during any Year for Irrigation and/or Municipal and Industrial purposes. The quantity of Project Water delivered to the Contractor in accordance with this subdivision of this Article 3 in any Year shall be scheduled and paid for pursuant to the provisions of Articles 4 and 7 of this Contract, and shall not exceed the quantity of Project Water the Contractor intends to put to reasonable beneficial use within the Contractor's Boundaries or sold, transferred, or exchanged pursuant to Article 9 of this Contract.

(b) The Contractor shall utilize the Project Water made available to it pursuant to this Contract in accordance with all applicable requirements of any Biological Opinion addressing the execution of this Contract developed pursuant to Section 7 of the Endangered Species Act of 1973 as amended, and in accordance with environmental documentation as may be required for specific activities, including conversion of Irrigation Water to M&I Water.

(c) The Contractor shall make reasonable and beneficial use of Project Water or other water furnished pursuant to this Contract. In addition, use of Project Water in a groundwater recharge program shall be permitted under this Contract to the extent that it is carried out in accordance with California law: Provided, however, That such groundwater recharge program cannot be undertaken unless and until the Contractor submits a groundwater management plan pursuant to California law that demonstrates that such groundwater recharge program will result in a reasonable and beneficial use of such water.

(d) If the Contracting Officer determines that Project Water, or other water available to the Project, can be made available to the Contractor in addition to the quantity of Project Water made available to the Contractor pursuant to subdivision (a) of this Article, the Contracting Officer shall so notify the Contractor. If the Contractor requests the delivery of any

quantity of such water, the Contracting Officer shall make such water available to the Contractor in accordance with applicable statutes, regulations, guidelines, and policies.

(e) If the Contractor requests permission to reschedule for use during the subsequent Year some or all of the Project Water made available to the Contractor during the current Year or to use, during the current Year, that quantity of Project Water the United States has agreed to make available to the Contractor during the subsequent Year, the Contracting Officer may permit such uses in accordance with applicable statutes, regulations, guidelines, and policies.

(f) The Contractor's rights pursuant to Federal Reclamation law and applicable State law to the beneficial use of water furnished pursuant to this Contract shall not be disturbed so long as the Contractor shall fulfill all of its obligations under this Contract. Nothing in the preceding sentence shall affect the Contracting Officer's ability to impose shortages under subdivision (b) of Article 12 of this Contract.

(g) Notwithstanding subdivisions (l) and (n) of Article 1 of this Contract, Project Water furnished to the Contractor pursuant to this Contract may be delivered for purposes other than those described in subdivisions (l) and (n) of Article 1 of this Contract upon written approval by the Contracting Officer in accordance with the terms and conditions of such approval.

(h) The Contractor's right pursuant to Federal Reclamation law and applicable State law to the reasonable and beneficial use of the Water Delivered pursuant to this Contract shall not be disturbed, and this Contract shall continue so long as the Contractor pays applicable Rates and Charges under this Contract consistent with Section 9(d) or 9(c)(1) of the Act of August 4, 1939 (53 Stat. 1195) as applicable, and applicable law. Nothing in the preceding

sentence shall affect the Contracting Officer's ability to impose shortages under Article 11 or subdivision (b) of Article 12 of this Contract.

TIME FOR DELIVERY OF WATER

4. (a) On or about February 20, of each Calendar Year, the Contracting Officer shall declare the amount of Project Water estimated to be made available to the Contractor pursuant to this Contract for the upcoming Year. The declaration will be updated monthly, as necessary, based on current hydrologic conditions. The Contracting Officer shall make available the forecast of Project operations, with relevant supporting information, upon the written request of the Contractor or its representatives. Upon written request of the Contractor, the Contracting Officer shall provide the basis of the estimate which shall include, but not be limited to, a monthly pumping forecast for the O'Neill Pumping Plant, the projected carryover of Project reservoirs, projected CVPIA impacts, projected Endangered Species Act and all other regulatory impacts.

(b) On or before each March 1, the Contractor shall submit to the Contracting Officer and at such other times as necessary, a written schedule, satisfactory to the Contracting Officer, showing the times and quantities of Project Water to be delivered by the United States to the Contractor pursuant to this Contract, and consistent with subdivision (a) of Article 3 of this Contract.

(c) Subject to the conditions set forth in subdivision (a) of Article 3 of this Contract, the United States shall deliver Project Water to the Contractor in accordance with the initial schedule submitted by the Contractor pursuant to subdivision (b) of this Article, or any revision(s) thereto submitted within a reasonable time prior to the date(s) on which the requested change(s) is(are) to be implemented.

POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

5. (a) The Project Water to be furnished to the Contractor pursuant to this Contract shall be made available to the Contractor at either of the mileposts identified in Exhibit B in the quantities scheduled by the Contractor or at any additional point or points of delivery either on Delta Division facilities, the San Luis Canal, or another location or locations mutually agreed to in writing by the Contracting Officer and the Contractor: Provided, That prior to furnishing Project Water to the Contractor at the milepost on the San Luis Canal identified in Exhibit B, the Contractor shall obtain all necessary permits and/or licenses for the construction of the turnout facility on the San Luis Canal and complete the construction thereof. The Contracting Officer shall cooperate with the Contractor in obtaining any necessary permits and/or licenses.

(b) The Contracting Officer shall make all reasonable efforts to maintain sufficient flows and levels of water in the Delta-Mendota Canal and/or the San Luis Canal to furnish Project Water to the Contractor at the full design capacity of the turnout(s) established as a delivery point(s) pursuant to subdivision (a) of this Article.

(c) Irrigation Water furnished to the Contractor pursuant to this Contract shall be delivered by the Contractor in accordance with any applicable land classification provisions of Federal Reclamation law and the associated regulations. Project Water shall not be delivered to land outside the Contractor's Boundaries unless approved in advance by the Contracting Officer.

(d) All Project Water delivered to the Contractor pursuant to this Contract shall be measured and recorded with equipment furnished, installed, operated, and maintained by the United States or the responsible Operating Non-Federal Entity at the point or points of delivery established pursuant to subdivision (a) of this Article. Upon the request of either party



to this Contract, the Contracting Officer shall investigate the accuracy of such measurements and shall take any necessary steps to adjust any errors appearing therein. The Contractor shall advise the Contracting Officer on or before the 10th calendar day of each month of the quantity of M&I Water taken during the preceding month.

(e) Neither the United States nor any Operating Non-Federal Entity shall be responsible for the control, carriage, handling, use, disposal, or distribution of Project Water made available to the Contractor pursuant to this Contract beyond the delivery points specified in subdivision (a) of this Article. The Contractor shall indemnify the United States its officers, employees, agents, and assigns on account of damage or claim of damage of any nature whatsoever for which there is legal responsibility, including property damage, personal injury, or death arising out of or connected with the control, carriage, handling, use, disposal, or distribution of such Project Water beyond such delivery points, except for any damage or claim arising out of (i) acts performed by the United States or any of its officers, employees, agents, or assigns, including any responsible Operating Non-Federal Entity, with the intent of creating the situation resulting in any damage or claim; (ii) willful misconduct of the United States or any of its officers, employees, agents, or assigns, including any responsible Operating Non-Federal Entity, or (iii) negligence of the United States or any of its officers, employees, agents, or assigns, including any responsible Operating Non-Federal Entity.

#### MEASUREMENT OF WATER WITHIN THE DISTRICT

6. (a) Within five (5)-years of the effective date of this Contract, the Contractor shall ensure that, unless the Contractor establishes an alternative measurement program satisfactory to the Contracting Officer, all surface water delivered for irrigation purposes within the Contractor's Boundaries is measured at each agricultural turnout and such water delivered for Municipal and Industrial purposes is measured at each Municipal and Industrial service



connection. All water measuring devices or water measuring methods of comparable effectiveness must be acceptable to the Contracting Officer. The Contractor shall be responsible for installing, operating, and maintaining and repairing all such measuring devices and implementing all such water measuring methods at no cost to the United States. The Contractor shall use the information obtained from such water measuring devices or water measuring methods to ensure proper management of the water; to bill water users for water delivered by the Contractor; and, if applicable, to record water delivered for Municipal and Industrial purposes by customer class as defined in its water conservation plan. Nothing herein contained in this Article, however, shall preclude the Contractor from establishing and collecting any charges, assessments or other revenues authorized by California law. The Contractor shall include a summary of its annual surface water deliveries in the annual report described in subdivision (d) of Article 24 of this Contract.

(b) Omitted.

(c) All new surface water delivery systems installed within the Contractor's Boundaries after the effective date of this Contract shall also comply with the measurement provisions described in subdivision (a) of this Article.

(d) The Contractor shall inform the Contracting Officer and the State of California in writing by April 30 of each Year of the monthly volume of surface water delivered within the Contractor's Boundaries during the previous Year.

RATES, METHOD OF PAYMENT FOR WATER AND ACCELERATED REPAYMENT OF FACILITIES

7. (a) Notwithstanding the Contractor's full prepayment of the Repayment Obligation pursuant to section 4011, subsection (a)(2)(A) and subsection (a)(3)(A) of the WIIN Act, as set forth in Exhibit C, and any payments required pursuant to section 4011, subsection (b)

of the WIIN Act, to reflect the adjustment for the final cost allocation as described in this Article, subsection (b), the Contractor's Project construction and other obligations shall be determined in accordance with: (i) the Secretary's ratesetting policy for Irrigation Water adopted in 1988 and the Secretary's then-existing ratesetting policy for M&I Water, consistent with the WIIN Act; and such ratesetting policies shall be amended, modified, or superseded only through a public notice and comment procedure; (ii) applicable Federal Reclamation law and associated rules and regulations, or policies, and (iii) other applicable provisions of this Contract. Payments shall be made by cash transaction, electronic funds transfers, or any other mechanism as may be agreed to in writing by the Contractor and the Contracting Officer. The Rates, Charges, and Tiered Pricing Component applicable to the Contractor upon execution of this Contract are set forth in Exhibit "A," as may be revised annually

(1) The Contractor shall pay the United States as provided for in this Article of this Contract for all Delivered Water at Rates, Charges, and Tiered Pricing Component in accordance with policies for Irrigation Water and M&I Water. The Contractor's Rates shall be established to recover its estimated reimbursable costs included in the Operation and Maintenance component of the Rate and amounts established to recover deficits and other charges, if any, including construction costs as identified in the following subdivisions.

(2) In accordance with the WIIN Act, the Contractor's allocable share of Project construction costs will be repaid pursuant to the provisions of this Contract.

(A) The amount due and payable to the United States, pursuant to the WIIN Act, shall be the Repayment Obligation. The Repayment Obligation has been computed by the Contracting Officer in a manner consistent with the WIIN Act and is set forth as a lump sum payment (M&I and Irrigation) and as four (4) approximately equal annual

installments (Irrigation Only) to be repaid no later than three (3) years after the effective date of this Contract as set forth in Exhibit C. [There could be one or two exhibits in most cases due to more than one service area (For Irrigation contractors and M&I contractors)] The Repayment Obligation is due in lump sum by [Month, Day, Year] as provided by the WIIN Act. The Contractor must provide appropriate notice to the Contracting Officer in writing no later than thirty (30) days prior to [Month, Day, Year] [Division Level: consider the effective date of the contract being converted] if electing to repay the amount due using the lump sum alternative. If such notice is not provided by such date, the Contractor shall be deemed to have elected the installment payment alternative, in which case, the first such payment shall be made no later than [Month, Day, Year] [Division Level: consider the effective date of the contract being converted]. The second payment shall be made no later than the first anniversary of the first payment date. The third payment shall be made no later than the second anniversary of the first payment date. The final payment shall be made no later than [Month, Day, Year] [no later than the third anniversary of the effective date of the contract]. If the installment payment option is elected by the Contractor, the Contractor may pre-pay the remaining portion of the Repayment Obligation by giving the Contracting Officer sixty (60) days written notice, in which case, the Contracting Officer shall re-compute the remaining amount due to reflect the pre-payment using the same methodology as was used to compute the initial annual installment payment amount, which is illustrated in Exhibit C. Notwithstanding any Additional Capital Obligation that may later be established, receipt of the Contractor's payment of the Repayment Obligation to the United States shall fully and permanently satisfy the Existing Capital Obligation.

(B) Additional Capital Obligations that are not reflected in, the schedules referenced in Exhibit C and properly assignable to the Contractor, shall be repaid as

prescribed by the WIIN Act without interest except as required by law. Consistent with Federal Reclamation law, interest shall continue to accrue on the M&I portion of the Additional Capital Obligation assigned to the Contractor until such costs are paid. Increases or decreases in the Additional Capital Obligation assigned to the Contractor caused solely by annual adjustment of the Additional Capital Obligation assigned to each Project contractor by the Secretary shall not be considered in determining the amounts to be paid pursuant to this subdivision (a)(2)(B), however, will be considered under subdivision (b) of this Article. A separate agreement shall be established by the Contractor and the Contracting Officer to accomplish repayment of the Additional Capital Obligation assigned to the Contractor within the timeframe prescribed by the WIIN Act, subject to the following:

(1) If the collective Additional Capital Obligation properly assignable to the contractors exercising conversion under section 4011 of the WIIN Act is less than five million dollars (\$5,000,000), then the portion of such costs properly assignable to the Contractor shall be repaid not more than five (5)-years after the Contracting Officer notifies the Contractor of the Additional Capital Obligation; Provided, That the reference to the amount of five million dollars (\$5,000,000) shall not be a precedent in any other context.

(2) If the collective Additional Capital Obligation properly assignable to the contractors exercising conversion under section 4011 of the WIIN Act is equal to or greater than five million dollars (\$5,000,000), then the portion of such costs properly assignable to the Contractor shall be repaid as provided by applicable Federal Reclamation law and Project ratesetting policy; Provided, That the reference to the amount of five million dollars (\$5,000,000) shall not be a precedent in any other context.

(b) In the event that the final cost allocation referenced in Section 4011(b) of the WIIN Act determines that the costs properly assignable to the Contractor are greater than what has been paid by the Contractor, the Contractor shall be obligated to pay the remaining allocated costs. The term of such additional repayment contract shall be not less than one (1) year and not more than ten (10) years, however, mutually agreeable provisions regarding the rate of repayment of such amount may be developed by the Contractor and Contracting Officer. In the event that the final cost allocation indicates that the costs properly assignable to the Contractor are less than what the Contractor has paid, the Contracting Officer shall credit such overpayment as an offset against any outstanding or future obligations of the Contractor, with the exception of Restoration Fund charges pursuant to section 3407(d) of Pub. L. 102-575.

(c) The Contracting Officer shall notify the Contractor of the Rates, Charges, and Tiered Pricing Component as follows:

(1) Prior to July 1, of each Calendar Year, the Contracting Officer shall provide the Contractor the preliminary calculation of the Charges that will be applied for the period October 1, of the current Calendar Year, through September 30, of the following Calendar Year, and identify the statutes, regulations and guidelines used as the basis for such calculations. On or before September 15, of each Calendar Year, the Contracting Officer shall notify the Contractor in writing of the Charges to be in effect during the period October 1, of the current Calendar Year, through September 30, of the following Calendar Year, and such notification shall revise Exhibit "A."

(2) Prior to October 1 of each Calendar Year, the Contracting Officer shall make available to the Contractor an estimate of the Rates and Tiered Pricing Component for Project Water for the following Year and the computations and cost allocations upon which



those Rates are based. The Contractor shall be allowed not less than two (2) months to review and comment on such computations and cost allocations. By December 31 of each Calendar Year, the Contracting Officer shall provide the Contractor with the final Rates and Tiered Pricing Component to be in effect for the upcoming Year, and such notification shall revise Exhibit "A."

(d) At the time the Contractor submits the initial schedule for the delivery of Project Water for each Year pursuant to subdivision (b) of Article 4 of this Contract, the Contractor shall pay the United States the total amount payable pursuant to the applicable Rate(s) for all Project Water scheduled to be delivered pursuant to this Contract during the first two (2) calendar months of the Year. Before the end of the first month or part thereof of the Year, and before the end of each calendar month thereafter, the Contractor shall pay pursuant to the applicable Rate(s) for all Project Water scheduled to be delivered pursuant to this Contract during the second month immediately following. Adjustments between the payments for the scheduled amount of Project Water and the appropriate payments for quantities of Delivered Water furnished pursuant to this Contract each month shall be made before the end of the following month: *Provided, That* any revised schedule submitted by the Contractor pursuant to Article 4 of this Contract, which increases the amount of Project Water to be delivered pursuant to this Contract during any month shall be accompanied with appropriate payment for Rates to assure that Project Water is not furnished to the Contractor in advance of such payment. In any month in which the quantity of Delivered Water furnished to the Contractor pursuant to this Contract equals the quantity of Project Water scheduled and paid for by the Contractor, no additional Project Water shall be made available to the Contractor unless and until payment of Rates for such additional Project Water is made. Final adjustment between the payments of Rates for the Project Water scheduled and the quantities of Delivered Water furnished during



each Year pursuant to this Contract shall be made as soon as possible but no later than April 30th of the following Year.

(e) The Contractor shall also make a payment in addition to the Rate(s) in subdivision (d) of this Article to the United States for Water Delivered, at the Charges and appropriate Tiered Pricing Component then in effect, before the end of the month following the month of delivery; Provided, That the Contractor may be granted an exception from the Tiered Pricing Component pursuant to subdivision (k)(2) of this Article. The payments shall be consistent with the quantities of Irrigation Water and M&I Water Delivered as shown in the water delivery report for the subject month prepared by the Operating Non-Federal Entity or, if there is no Operating Non-Federal Entity, by the Contracting Officer. The water delivery report shall be deemed a bill for the payment of Charges and applicable Tiered Pricing Component for Water Delivered. Adjustment for overpayment or underpayment of Charges and the Tiered Pricing Component shall be made through the adjustment of payments due to the United States for Charges for the next month. Any amount to be paid for past due payment of Charges shall be computed pursuant to Article 18 of this Contract.

(f) The Contractor shall pay for any Project Water provided under subdivision (d) or (e) of Article 3 of this Contract as determined by the Contracting Officer pursuant to applicable statutes, regulations, guidelines, and policies.

(g) Payments to be made by the Contractor to the United States under this Contract may be paid from any revenues available to the Contractor.

(h) Revenues received by the United States pursuant to this Contract shall be allocated and applied in accordance with Federal Reclamation law, including but not limited to, subsection 3 of Section 1 of the Act of July 2, 1956 (70 Stat. 483), and subsection (f) of Section

3405, subsection (c)(l) of Section 3406 and subsection (d)(2)(A) of Section 3407 of the CVPIA, and the associated regulations, including but not limited to, the Project Irrigation Water ratesetting policy and the Project M&I Water ratesetting policy promulgated pursuant to the Administrative Procedures Act.

(i) At the Contractor's request, the Contracting Officer shall provide to the Contractor an accounting of all of the expenses allocated and the disposition of all revenues received pursuant to this Contract in sufficient detail to allow the Contractor to determine that the allocation of expenses and disposition of all revenues received was accomplished in conformance with Federal Reclamation law and the associated regulations. The Contracting Officer and the Contractor shall enter into good faith negotiations to resolve any discrepancies or disputes arising out of said accounting of the Contractor's review thereof.

(j) The parties acknowledge and agree that the efficient administration of this Contract is their mutual goal. Recognizing that experience has demonstrated that mechanisms, policies, and procedures used for establishing Rates, Charges, and Tiered Pricing Component, and/or for making and allocating payments, other than those set forth in this Article would be in the mutual best interest of the parties, it is expressly agreed that the parties may enter into agreements to modify the mechanisms, policies and procedures for any of those purposes while this Contract is in effect without amending this Contract.

(k) 1. Beginning at such time as deliveries of Project Water in a Year exceed 80 percent of the Contract Total, then before the end of the month following the month of delivery the Contractor shall make an additional payment to the United States equal to the applicable Tiered Pricing Component. The Tiered Pricing Component for the amount of Water Delivered in excess of 80 percent of the Contract Total, but less than or equal to 90 percent of the

Contract Total, shall equal one-half of the difference between the Rate established under subdivision (a) of this Article and the Irrigation Full Cost Water Rate or M&I Full Cost Water Rate, whichever is applicable. The Tiered Pricing Component for the amount of Water Delivered which exceeds 90 percent of the Contract Total shall equal the difference between (i) the Rate established under subdivision (a) of this Article and (ii) the Irrigation Full Cost Water Rate or M&I Full Cost Water Rate, whichever is applicable. For all Water Delivered pursuant to subdivision (a) of Article 3 of this Contract which is in excess of 80 percent of the Contract Total, this increment shall be deemed to be divided between Irrigation Water and M&I Water in the same proportion as actual deliveries of each bear to the cumulative total Water Delivered.

2. Subject to the Contracting Officer's written approval, the Contractor may request and receive an exemption from such Tiered Pricing Component for Project Water delivered to produce a crop which the Contracting Officer determines will provide significant and quantifiable habitat values for waterfowl in fields where the water is used and the crops are produced; Provided, That the exemption from the Tiered Pricing Component for Irrigation Water shall apply only if such habitat values can be assured consistent with the purposes of the CVPIA through binding agreements executed with or approved by the Contracting Officer prior to use of such water.

3. For purposes of determining the applicability of the Tiered Pricing Component pursuant to this Article, Water Delivered shall include Project Water that the Contractor transfers to others but shall not include Project Water transferred to the Contractor, nor shall it include the additional water provided to the Contractor under the provisions of subdivision (d) of Article 3 of this Contract.

NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICITS

8. The Contractor and the Contracting Officer concur that at the time of execution of this Contract, the Contractor has no non-interest bearing O&M deficits and shall have no further liability therefor.

TRANSFERS OR EXCHANGES OF WATER

9. The right to Project Water provided for in this Contract may be sold, transferred, or exchanged to others for beneficial uses within the State of California if such sale, transfer, or exchange is authorized by applicable Federal laws, State laws, and applicable guidelines or regulations then in effect. The right to sell, transfer, or exchange Project Water shall include, and the Contracting Officer shall apply this Article in a manner that does not impede or restrict, lawful short-term sales, transfers, or exchanges of the type the District and Contractor historically carried out with approval of the Contracting Officer under Contract No. 14-06-200-8092, as amended, assigned, and renewed. No sale, transfer, or exchange of the right to Project Water under this Contract may take place without the prior written approval of the Contracting Officer.

APPLICATION OF PAYMENTS AND ADJUSTMENTS

10. (a) The amount of any overpayment by the Contractor shall be applied first to any accrued indebtedness arising out of this Contract then due and payable by the Contractor. Any amount of such overpayment then remaining shall, at the option of the Contractor, be refunded to the Contractor or credited upon amounts to become due to the United States from the Contractor under the provisions of this Contract in the following months. With respect to overpayment, such adjustment shall constitute the sole remedy of the Contractor or anyone having or claiming to have the right to the use of any of the water supply provide for in this Contract.

(b) All advances for miscellaneous costs incurred for work requested by the Contractor pursuant to Article 23 of this Contract shall be adjusted to reflect the actual costs when the work has been completed. If the advances exceed the actual costs incurred, the difference will be refunded to the Contractor. If the actual costs exceed the Contractor's advances, the Contractor will be billed for the additional costs pursuant to Article 23 of this Contract.

TEMPORARY REDUCTIONS – RETURN FLOWS

11. (a) Subject to: (i) the authorized purposes and priorities of the Project; and (ii) the obligations of the United States under existing contracts, or renewals thereof, providing for water deliveries from the Project, the Contracting Officer shall make all reasonable efforts to optimize Project Water deliveries to the Contractor as provided in this Contract.

(b) The United States may temporarily discontinue or reduce the quantity of Project Water to be delivered to the Contractor as herein provided for the purposes of investigation, inspection, maintenance, repair, or replacement of any of the Project facilities or any part thereof necessary for the delivery of Project Water to the Contractor, but so far as feasible the Contracting Officer will give the Contractor due notice in advance of such temporary discontinuance or reduction, except in case of emergency, in which case no notice need be given: Provided, That the United States shall use its best efforts to avoid any discontinuance or reduction in such service. Upon resumption of service after such reduction or discontinuance, and if requested by the Contractor, the United States will, if possible, deliver the quantity of Project Water which would have been delivered hereunder in the absence of such discontinuance or reduction: Provided, further, That with respect to any quantity of Project Water not delivered after a discontinuance or reduction the Contractor shall be relieved of its scheduling and payment obligations for such quantity of Project Water.



(c) The United States reserves the right to all seepage and return flow water derived from water delivered to the Contractor under this Contract which escapes or is discharged beyond the Contractor's Boundaries: Provided, That this shall not be construed as claiming for the United States any right to seepage or return flow being put to reasonable and beneficial use pursuant to this Contract within the Contractor's Boundaries by the Contractor or those claiming by, through, or under the Contractor.

CONSTRAINTS ON THE AVAILABILITY OF WATER

12. (a) In its operation of the Project, the Contracting Officer will use all reasonable means to guard against a Condition of Shortage in the quantity of Project Water to be made available to the Contractor pursuant to this Contract. In the event the Contracting Officer determines that a Condition of Shortage appears probable, the Contracting Officer will notify the Contractor of said determination as soon as practicable.

(b) If there is a Condition of Shortage because of inaccurate runoff forecasting or other similar operational errors affecting the Project; drought and other physical or natural causes beyond the control of the Contracting Officer; or actions taken by the Contracting Officer to meet current and future legal obligations, then, except as provided in subdivision (a) of Article 17 of this Contract, no liability shall accrue against the United States or any of its officers, agents, or employees for any damage, direct or indirect, arising therefrom.

(c) In any Year in which there may occur a shortage for any of the reasons specified in subdivision (b) of this Article, the Contracting Officer shall apportion the available Project Water supply among the Contractor and others entitled, under existing contracts and future contracts (to the extent such future contracts are permitted under subsections (a) and (b) of Section 3404 of the CVPIA) and renewals thereof, to receive Project Water consistent with the contractual obligations of the United States.

(d) Subject to subdivision (c) of this Article, in any Year in which there may occur a shortage for any of the reasons specified in subdivision (b) of this Article, the Contracting Officer shall apportion the available Project Water among the Contractor and others entitled to receive Project Water from the Delta-Mendota Canal as follows:



(1) A determination shall be made of the total quantity of water scheduled to be delivered during the respective Year under all contracts then in force for the delivery of water from the Delta-Mendota Canal, the quantity so determined being herein referred to as the contractual commitments from the Delta-Mendota Canal.

(2) The total quantity of water scheduled to be delivered to the Contractor from the Delta-Mendota Canal during the respective Year under subdivision (a) of Article 3 of this Contract shall be divided by the contractual commitments, the quotient thus obtained being herein referred to as the Contractor's contractual entitlement from the Delta-Mendota Canal.

(3) The supply determined by the Contracting Officer to be available from the Delta-Mendota Canal shall be multiplied by the Contractor's contractual entitlement and the result shall be the quantity of water required to be delivered by the United States to the Contractor for the respective Year from the Delta-Mendota Canal.

#### UNAVOIDABLE GROUNDWATER PERCOLATION

13. (a) The Contractor shall not be deemed to have furnished Irrigation Water to Excess Lands or Ineligible Lands within the meaning of this Contract if such lands are irrigated with groundwater that reaches the underground strata as an unavoidable result of the furnishing of Irrigation Water by the Contractor to Eligible Lands.

(b) Upon complete payment of the Repayment Obligation by the Contractor, this Article 13 shall no longer be applicable.

#### COMPLIANCE WITH FEDERAL RECLAMATION LAWS

14. The parties agree that the delivery of Irrigation Water or use of Federal facilities pursuant to this Contract is subject to Federal Reclamation law, including but not limited to, the Reclamation Reform Act of 1982 (43 U.S.C. 390aa et seq.), as amended and supplemented, and the rules and regulations promulgated by the Secretary of the Interior under Federal Reclamation law.

PROTECTION OF WATER AND AIR QUALITY

15. (a) Omitted

(b) The United States will care for, operate and maintain reserved works in a manner that preserves the quality of the water at the highest level possible as determined by the Contracting Officer. The United States does not warrant the quality of the water delivered to the Contractor and is under no obligation to furnish or construct water treatment facilities to maintain or improve the quality of water delivered to the Contractor.

(c) The Contractor will comply with all applicable water and air pollution laws and regulations of the United States and the State of California; and will obtain all required permits or licenses from the appropriate Federal, State, or local authorities necessary for the delivery of water by the Contractor; and shall be responsible for compliance with all Federal, State, and local water quality standards applicable to surface and subsurface drainage and/or discharges generated through the use of Federal or Contractor facilities or Project Water provided by the Contractor within its Service Area.

(d) This Article shall not affect or alter any legal obligations of the Secretary to provide drainage or other discharge services.

WATER ACQUIRED BY THE CONTRACTOR OTHER THAN FROM THE UNITED STATES

16. (a) Water or water rights now owned or hereafter acquired by the Contractor other than from the United States and Irrigation Water furnished pursuant to the terms of this Contract may be simultaneously transported through the same distribution facilities of the Contractor subject to the following: (i) if the facilities utilized for commingling Irrigation Water and non-Project water were constructed without funds made available pursuant to Federal Reclamation law, the provisions of Federal Reclamation law will be applicable only to the Landholders of lands which receive Irrigation Water; (ii) the eligibility of land to receive Irrigation Water must be established through the certification requirements as specified in the Acreage Limitation Rules and Regulations (43 CFR Part 426); (iii) the water requirements of Eligible Lands within the Contractor's Boundaries can be established and the quantity of Irrigation Water to be utilized is less than or equal to the quantity necessary to irrigate such Eligible Lands; and (iv) if the facilities utilized for commingling Irrigation Water and non-

Project water are constructed with funds made available pursuant to Federal Reclamation law, the non-Project water will be subject to Federal Reclamation law, until such funds have been repaid.

(b) Upon complete payment of the Repayment Obligation by the Contractor, this Article 16 shall no longer be applicable.

#### OPINIONS AND DETERMINATIONS

17. (a) Where the terms of this Contract provide for actions to be based upon the opinion or determination of either party to this Contract, said terms shall not be construed as permitting such action to be predicated upon arbitrary, capricious, or unreasonable opinions or determinations. Both parties, notwithstanding any other provisions of this Contract, expressly reserve the right to relief from and appropriate adjustment for any such arbitrary, capricious, or unreasonable opinion or determination. Each opinion or determination by either party shall be provided in a timely manner.

(b) The Contracting Officer shall have the right to make determinations necessary to administer this Contract that are consistent with the expressed and implied provisions of this Contract, the laws of the United States and the State of California, and the rules and regulations promulgated by the Secretary. Such determinations shall be made in consultation with the Contractor to the extent reasonably practicable.

#### CHARGES FOR DELINQUENT PAYMENTS

18. (a) The Contractor shall be subject to interest, administrative, and penalty charges on delinquent payments. If a payment is not received by the due date, the Contractor shall pay an interest charge on the delinquent payment for each day the payment is delinquent beyond the due date. If a payment becomes 60 days delinquent, the Contractor shall pay, in addition to the interest charge, an administrative charge to cover additional costs of billing and processing the delinquent payment. If a payment is delinquent 90 days or more, the Contractor shall pay, in addition to the interest and administrative charges, a penalty charge for each day the payment is delinquent beyond the due date, based on the remaining balance of the payment due

at the rate of 6 percent per year. The Contractor shall also pay any fees incurred for debt collection services associated with a delinquent payment.

(b) The interest rate charged shall be the greater of either the rate prescribed quarterly in the Federal Register by the Department of the Treasury for application to overdue payments, or the interest rate of 0.5 percent per month. The interest rate charged will be determined as of the due date and remain fixed for the duration of the delinquent period.

(c) When a partial payment on a delinquent account is received, the amount received shall be applied first to the penalty charges, second to the administrative charges, third to the accrued interest, and finally to the overdue payment.

#### EQUAL EMPLOYMENT OPPORTUNITY

19. During the performance of this Contract, the Contractor agrees as follows:

(a) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of this nondiscrimination clause.

(b) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(c) The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.

(d) The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the Contracting Officer, advising the labor union or workers' representative of the Contractor's commitments under section 202 of Executive Order No. 11246 of September



24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(e) The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(f) The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the Contracting Agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(g) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Contract or with any of such rules, regulations, or orders, this Contract may be canceled, terminated or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(h) The Contractor will include the provisions of paragraphs (a) through (g) in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

#### GENERAL OBLIGATION – BENEFITS CONDITIONED UPON PAYMENT

20. (a) The obligation of the Contractor to pay the United States as provided in this Contract is a general obligation of the Contractor notwithstanding the manner in which the obligation may be distributed among the Contractor's water users and notwithstanding the default of individual water users in their obligation to the Contractor.

(b) The payment of charges becoming due pursuant to this Contract is a condition precedent to receiving benefits under this Contract. The United States shall not make water available to the Contractor through Project facilities during any period in which the Contractor is in arrears in the advance payment of water rates due the United States. The Contractor shall not deliver water under the terms and conditions of this Contract for lands or parties that are in arrears in the advance payment of water rates as levied or established by the Contractor.

762 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

763 21. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964  
 764 (Pub. L. 88-352; 42 U.S.C. § 2000d), the Rehabilitation Act of 1973 (Pub. L. 93-112, Title V, as  
 765 amended; 29 U.S.C. § 791, et seq.), the Age Discrimination Act of 1975 (Pub. L. 94-135, Title  
 766 III; 42 U.S.C. 6101, et seq.), Title III of the Americans with Disabilities Act of 1990 (Pub. L.  
 767 101-336; 42 U.S.C. § 12181, et seq.), and any other applicable civil rights laws, and with the  
 768 applicable implementing regulations and any guidelines imposed by the U.S. Department of the  
 769 Interior and/or Bureau of Reclamation.

770 (b) These statutes prohibit any person in the United States from being  
 771 excluded from participation in, being denied the benefits of, or being otherwise subjected to  
 772 discrimination under any program or activity receiving financial assistance from the Bureau of  
 773 Reclamation on the grounds of race, color, national origin, disability, or age. By executing this  
 774 Contract, the Contractor agrees to immediately take any measures necessary to implement this  
 775 obligation, including permitting officials of the United States to inspect premises, programs, and  
 776 documents.

777 (c) The Contractor makes this Contract in consideration of and for the  
 778 purpose of obtaining any and all Federal grants, loans, contracts, property discounts, or other  
 779 Federal financial assistance extended after the date hereof to the Contractor by the Bureau of  
 780 Reclamation, including installment payments after such date on account of arrangements for  
 781 Federal financial assistance which were approved before such date. The Contractor recognizes  
 782 and agrees that such Federal assistance will be extended in reliance on the representations and  
 783 agreements made in this Article and that the United States reserves the right to seek judicial  
 784 enforcement thereof.

785 (d) Complaints of discrimination against the Contractor shall be investigated  
 786 by the Contracting Officer's Office of Civil Rights.

787 PRIVACY ACT COMPLIANCE

788 22. (a) The Contractor shall comply with the Privacy Act of 1974 (Privacy Act)  
 789 (5 U.S.C. § 552a) and the Department of the Interior rules and regulations under the Privacy Act  
 790 (43 C.F.R. § 2.45, et seq.) in maintaining Landholder certification and reporting records required  
 791 to be submitted to the Contractor for compliance with Sections 206, 224(c), and 228 of the  
 792 Reclamation Reform Act of 1982 (43 U.S.C. §§ 390ff, 390ww, and 390zz), and pursuant to 43  
 793 C.F.R. § 426.18.

794 (b) With respect to the application and administration of the criminal penalty  
 795 provisions of the Privacy Act (5 U.S.C. § 552a(i)), the Contractor and the Contractor's  
 796 employees who are responsible for maintaining the certification and reporting records referenced  
 797 in paragraph (a) above are considered to be employees of the Department of the Interior. See 5  
 798 U.S.C. § 552a(m).

799 (c) The Contracting Officer or a designated representative shall provide the  
 800 Contractor with current copies of the Department of the Interior Privacy Act regulations and the  
 801 Bureau of Reclamation Federal Register Privacy Act System of Records Notice (Interior/WBR-



31, Acreage Limitation) which govern the maintenance, safeguarding, and disclosure of information contained in the Landholders' certification and reporting records.

(d) The Contracting Officer shall designate a full-time employee of the Bureau of Reclamation to be the System Manager responsible for making decisions on denials pursuant to 43 C.F.R. §§ 2.61 and 2.64 and amendment requests pursuant to 43 C.F.R. § 2.72. The Contractor is authorized to grant requests by individuals for access to their own records.

(e) The Contractor shall forward promptly to the System Manager each proposed denial of access under 43 C.F.R. § 2.64 and each request for amendment of records filed under 43 C.F.R. § 2.71; notify the requester accordingly of such referral; and provide the System Manager with information and records necessary to prepare an appropriate response to the requester. These requirements do not apply to individuals seeking access to their own certification and reporting forms filed with the Contractor pursuant to 43 C.F.R. § 426.18 unless the requester elects to cite the Privacy Act as an authority for the request.

(f) Upon complete payment of the Repayment Obligation by the Contractor, this Article 22 will no longer be applicable.

#### CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

23. In addition to all other payments to be made by the Contractor pursuant to this Contract, the Contractor shall pay to the United States, within sixty (60) days after receipt of a bill and detailed statement submitted by the Contracting Officer to the Contractor for such specific items of direct cost incurred by the United States for work requested by the Contractor associated with this Contract plus a percentage of such direct costs for administrative and general overhead in accordance with applicable Bureau of Reclamation policy and procedures. All such amounts referred to in this Article shall not exceed the amount agreed to in writing in advance by the Contractor. This Article shall not apply to costs for routine contract administration.

#### WATER CONSERVATION

24. (a) Prior to the delivery of water provided from or conveyed through Federally constructed or Federally financed facilities pursuant to this Contract, the Contractor shall develop a water conservation plan, as required by subsection 210(b) of the Reclamation Reform Act of 1982 and 43 C.F.R. 427.1 (Water Conservation Rules and Regulations).

831 Additionally, an effective water conservation and efficiency program shall be based on the  
832 Contractor's water conservation plan that has been determined by the Contracting Officer to meet  
833 the conservation and efficiency criteria for evaluating water conservation plans established under  
834 Federal law. The water conservation and efficiency program shall contain definite water  
835 conservation objectives, appropriate economically feasible water conservation measures, and  
836 time schedules for meeting those objectives.

837           (b)     Should the amount of M&I Water delivered pursuant to subdivision (a)  
838 Article 3 of this Contract equal or exceed 2,000 acre-feet per Year, the Contractor shall  
839 implement the Best Management Practices identified by and the time frames issued by the Mid-  
840 Pacific Region's then-existing conservation and efficiency criteria for such M&I Water unless  
841 any such practice is determined by the Contracting Officer to be inappropriate for the Contractor.

842           (c)     As part of the water conservation program, the Contractor shall develop  
843 and be implementing a tiered block water pricing program that promotes conservation and the  
844 efficient management of Project Water within eighteen (18) months of the effective date of this  
845 Contract. Such pricing program for Project Water shall take into account all relevant  
846 circumstances, including without limitation, water shortages imposed under this Contract and the  
847 availability and cost of the Contractor's and individual water user's non-Project alternative  
848 sources of supply, including groundwater and other non-Project water supplies, so that the  
849 Contractor's pricing structure provides incentives for conservation and the efficient management  
850 of overall water supply available to water users served by the Contractor. Provided, That no  
851 such tiered block water pricing program need be implemented by the Contractor if the  
852 Contracting Officer determines, based on information provided by the Contractor, that (i) such a  
853 pricing structure will not result in significant conservation of water available for use within the

Contractor's Boundaries, including groundwater or (ii) other pricing program, conservation, or management measures are more appropriate and/or will result in comparable or better conservation of the water supplies available within the Contractor's Boundaries. Provided, further, That if the Contractor fails to, or elects not to, comply with this subdivision of this Article 24, then any subsequent Contract shall contain a tiered pricing contractual provision pursuant to subsection (d) of Section 3405 of the CVPIA.

(d) The Contractor shall submit to the Contracting Officer by December 31, of each Calendar Year, an annual report on the status of its implementation of the water conservation program.

(e) At five (5)-year intervals, the Contractor shall revise its water conservation plan to reflect the then-existing conservation and efficiency criteria for evaluating water conservation plans established under Federal law and submit such revised water management plan to the Contracting Officer for review and evaluation. The Contracting Officer will then determine if the water conservation plan meets the Bureau of Reclamation's then-existing conservation and efficiency criteria for evaluating water conservation plans established under Federal law.

(f) Upon complete payment of the Repayment Obligation by the Contractor, and notwithstanding any Additional Capital Obligation that may later be established, subsection (c) of this Article 24 of this Contract shall no longer be applicable.

#### EXISTING OR ACQUIRED WATER OR WATER RIGHTS

25. Except as specifically provided in Article 16 of this Contract, the provisions of this Contract shall not be applicable to or affect water or water rights now owned or hereafter acquired by the Contractor or any user of such water within the Contractor's Boundaries from other than the United States by the Contractor. Any such water shall not be considered Project

Water under this Contract. In addition, this Contract shall not be construed as limiting or curtailing any rights which the Contractor or any water user within the Contractor's Boundaries acquires or has available under any other contract pursuant to the Federal Reclamation law.

OPERATION AND MAINTENANCE BY THE OPERATING NON-FEDERAL ENTITY

26. (a) The responsibility for performing and, in some cases, funding the O&M of all or any portion of the Delta Division facilities and/or the San Luis Canal may be transferred to an Operating Non-Federal Entity by one or more separate agreements between the United States and the Operating Non-Federal Entity. Any such agreement(s) shall require the Operating Non-Federal Entity to perform the O&M in compliance with the provisions of this Contract and shall not interfere with the rights and obligations of the Contractor and the United States under this Contract.

(b) The Contracting Officer has previously notified the Contractor in writing that the Operation and Maintenance of a portion of the Project facilities which serve the Contractor has been transferred to the Operating Non-Federal Entity, and therefore, the Contractor shall pay directly to the Operating Non-Federal Entity, or to any successor approved by the Contracting Officer under the terms and conditions of the separate agreement between the United States and the Operating Non-Federal Entity described in subdivision (a) of this Article, all rates, charges, or assessments of any kind, including any assessment for reserve funds, which the Operating Non-Federal Entity or such successor determines, sets, or establishes for the Operation and Maintenance of the portion of the Project facilities operated and maintained by the Operating Non-Federal Entity or such successor. Such direct payments to Operating Non-Federal Entity or such successor shall not relieve the Contractor of its obligation to pay directly to the United States the Contractor's share of the Project Rates, Charges, and Tiered Pricing Component except to the extent the Operating Non-Federal Entity collects payments on behalf of



the United States in accordance with the separate agreement identified in subdivision (a) of this Article.

(c) In the event the Operation and Maintenance of the Project facilities operated and maintained by the Operating Non-Federal Entity is re-assumed by the United States during the term of this Contract, the Contracting Officer shall so notify the Contractor, in writing, and present to the Contractor a revised Exhibit "A" which shall include the portion of the Rates to be paid by the Contractor for Project Water under this Contract representing the Operation and Maintenance costs of the portion of such Project facilities which have been re-assumed. The Contractor shall, thereafter, in the absence of written notification from the Contracting Officer to the contrary, pay the Rates, Charges, and Tiered Pricing Component specified in the revised Exhibit "A" directly to the United States in compliance with Article 7 of this Contract.

#### CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

27. The expenditure or advance of any money or the performance of any obligation of the United States under this Contract shall be contingent upon appropriation or allotment of funds. Absence of appropriation or allotment of funds shall not relieve the Contractor from any obligations under this Contract. No liability shall accrue to the United States in case funds are not appropriated or allotted.

#### BOOKS, RECORDS, AND REPORTS

28. The Contractor shall establish and maintain accounts and other books and records pertaining to administration of the terms and conditions of this Contract, including the Contractor's financial transactions; water supply data; project operations, maintenance, and replacement logs; project land and rights-of-way use agreements; the water users' land-use (crop census), land-ownership, land-leasing, and water-use data; and other matters that the Contracting Officer may require. Reports shall be furnished to the Contracting Officer in such form and on such date or dates as the Contracting Officer may require. Subject to applicable Federal laws and regulations, each party to this Contract shall have the right during office hours to examine and make copies of the other party's books and records relating to matters covered by this Contract.



ASSIGNMENT LIMITED – SUCCESSORS AND ASSIGNS OBLIGATED

29. (a) The provisions of this Contract shall apply to and bind the successors and assigns of the parties hereto, but no assignment or transfer of this Contract or any right or interest therein by either party shall be valid until approved in writing by the other party.

(b) The assignment of any right or interest in this Contract by either party shall not interfere with the rights or obligations of the other party to this Contract absent the written concurrence of said other party.

SEVERABILITY

30. In the event that a person or entity who is neither (i) a party to a Project Contract, nor (ii) a person or entity that receives Project Water from a party to a Project Contract, nor (iii) an association or other form of organization whose primary function is to represent parties to Project Contracts, brings an action in a court of competent jurisdiction challenging the legality or enforceability of a provision included in this Contract and said person, entity, association, or organization obtains a final court decision holding that such provision is legally invalid or unenforceable and the Contractor has not intervened in that lawsuit in support of the plaintiff(s), the parties to this Contract shall use their best efforts to (i) within thirty (30) days of the date of such final court decision identify by mutual agreement the provisions in this Contract which must be revised, and (ii) within three (3) months thereafter promptly agree on the appropriate revision(s). The time periods specified above may be extended by mutual agreement of the parties. Pending the completion of the actions designated above, to the extent it can do so without violating any applicable provisions of law, the United States shall continue to make the quantities of Project Water specified in this Contract available to the Contractor pursuant to the provisions of this Contract which were not found to be legally invalid or unenforceable in the final court decision.

OFFICIALS NOT TO BENEFIT

31. No Member of or Delegate to the Congress, Resident Commissioner, or official of the Contractor shall benefit from this Contract other than as a water user or landowner in the same manner as other water users or landowners.

CHANGES IN CONTRACTOR'S ORGANIZATION AND/OR SERVICE AREA

32. While this Contract is in effect, no change may be made in the Contractor's Service Area or organization, by inclusion or exclusion of lands or by any other changes which may affect the respective rights, obligations, privileges, and duties of either the United States or the Contractor under this Contract, including, but not limited to, dissolution, consolidation, or merger, except upon the Contracting Officer's written consent.

RECLAMATION REFORM ACT OF 1982

33. (a) Upon a Contractor's compliance with and discharge of the Repayment Obligation pursuant to this Contract, subsections (a) and (b) of Section 213 of the Reclamation Reform Act of 1982 (96 Stat. 1269) shall apply to affected lands.

(b) The obligation of a Contractor to pay the Additional Capital Obligation shall not affect the Contractor's status as having repaid all of the construction costs assignable to the Contractor or the applicability of subsections (a) and (b) of section 213 of the Reclamation Reform Act of 1982 (96 Stat. 1269) once the Repayment Obligation is paid.

CERTIFICATION OF NONSEGREGATED FACILITIES

34. The Contractor hereby certifies that it does not maintain or provide for its employees any segregated facilities at any of its establishments and that it does not permit its employees to perform their services at any location under its control where segregated facilities are maintained. It certifies further that it will not maintain or provide for its employees any segregated facilities at any of its establishments and that it will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The Contractor agrees that a breach of this certification is a violation of the Equal Employment Opportunity clause in this Contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, creed, color, or national origin, because of habit, local custom, disability, or otherwise. The Contractor further agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) it will obtain

identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Employment Opportunity clause; that it will retain such certifications in its files; and that it will forward the following notice to such proposed subcontractors (except where the proposed subcontractors have submitted identical certifications for specific time periods):

NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR  
CERTIFICATIONS OF NONSEGREGATED FACILITIES

A Certification of Nonsegregated Facilities must be submitted prior to the award of a subcontract exceeding \$10,000 which is not exempt from the provisions of the Equal Employment Opportunity clause. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semiannually, or annually). Note: The penalty for making false statements in offers is prescribed in 18 U.S.C. § 1001.

MEDIUM FOR TRANSMITTING PAYMENT

35. (a) All payments from the Contractor to the United States under this Contract shall be by the medium requested by the United States on or before the date payment is due. The required method of payment may include checks, wire transfers, or other types of payment specified by the United States.

(b) Upon execution of this Contract, the Contractor shall furnish the Contracting Officer with the Contractor's taxpayer's identification number (TIN). The purpose for requiring the Contractor's TIN is for collecting and reporting any delinquent amounts arising out of the Contractor's relationship with the United States.

NOTICES

36. Any notice, demand, or request authorized or required by this Contract shall be deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or delivered to the Area Manager, South-Central California Area Office, 1243 N Street, Fresno, California 93721, Bureau of Reclamation, and on behalf of the United States, when mailed, postage prepaid, or delivered to the Board of Directors of the Westlands Water District Distribution District No. 1, P.O. Box 6056, Fresno, California 93703-6056. The designation of the addressee or the address may be changed by notice given in the same manner as provided in this Article for other notices.

CONTRACT DRAFTING CONSIDERATIONS

37. This amended Contract has been negotiated and reviewed by the parties hereto, each of whom is sophisticated in the matters to which this amended Contract pertains. The double-spaced Articles of this amended Contract have been drafted, negotiated, and reviewed by the parties, and no one party shall be considered to have drafted the stated Articles. Single-spaced Articles are standard Articles pursuant to Bureau of Reclamation policy.

1031 IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the day  
1032 and year first above written.

1033 UNITED STATES OF AMERICA

1034 By: \_\_\_\_\_  
1035 Regional Director  
1036 Mid-Pacific Region  
1037 Bureau of Reclamation

1038 WESTLANDS WATER DISTRICT DISTRIBUTION  
1039 DISTRICT NO. 1  
1040 (SEAL)

1041 By: \_\_\_\_\_  
1042 President of the Board of Directors

1043 Attest:

1044 By: \_\_\_\_\_  
1045 Secretary of the Board of Directors

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF RECLAMATION  
Central Valley Project, California

CONTRACT BETWEEN THE UNITED STATES  
AND  
WESTLANDS WATER DISTRICT DISTRIBUTION DISTRICT NO. 1  
PROVIDING FOR PROJECT WATER SERVICE  
AND FACILITIES REPAYMENT

Exhibits

Exhibit A – Rates and Charges

*This Exhibit template is unchanged from current Contract and is updated annually. Rate Schedules may be found at: <https://www.usbr.gov/mp/cvpwaterrates/ratebooks/index.html>*

Exhibit B – Points of Diversion

*This Exhibit has been updated to reflect Westlands Water District's points of diversion..*

Exhibit C – Repayment Obligation

*This Exhibit template was developed during the WIIN Act Negotiations. Relevant data will be incorporated upon contract execution.*



**EXHIBIT A**  
**WESTLANDS WATER DISTRICT**  
**(ASSIGNMENT OF BROADVIEW WATER DISTRICT)**  
**2019 Rates and Charges**  
**(Per Acre-Foot)**

	<b>Irrigation</b>	<b>M&amp;I</b>
	<b>Water</b>	<b>Water</b>
	<b>SLC</b>	<b>SLC</b>
<b>COST-OF-SERVICE (COS) RATE</b>		
Construction Costs	\$68.25	\$9.26
DMC Aqueduct Intertie	\$1.11	
O&M Components		
Water Marketing	\$7.07	\$7.34
Storage	\$14.52	\$15.90
Credit for other PUE Remittance <sup>1</sup>	(\$9.74)	(\$3.14)
Direct Pumping		
American Recovery and Reinvestment Act (ARRA)	\$0.00	\$0.00
<b>TOTAL COS RATE</b>	<b>\$81.21</b>	<b>\$29.36</b>
<b>Project Use Energy Payment<sup>2</sup></b>		
Direct Pumping	\$12.63	\$11.44
Other PUE Remittance	\$9.74	\$3.14
<b>IRRIGATION FULL-COST RATE</b>		
Section 202(3) Rate is applicable to a Qualified Recipient or to a Limited Recipient receiving irrigation water on or before October 1, 1981.	\$117.71	
Section 205(a)(3) Rate is applicable to a Limited Recipient that did not receive irrigation water on or before October 1, 1981.	\$151.30	
<b>M&amp;I FULL COST RATE</b>		
<b>CHARGES AND ASSESSMENTS (Payments in addition to Rates)</b>		
P.L. 102-575 Surcharge (Restoration Fund Payment) [Section 3407(d)(2)(A)]	\$10.63	\$21.26
P.L. 106-377 Assessment (Trinity Public Utilities District) [Appendix B, Section 203]	\$0.30	\$0.30

**EXPLANATORY NOTES**

<sup>1</sup> Project Use Energy payment is being remitted to Western Area Power Authority for storage and direct pumping based on the deliveries of a select few contractors. The rates for the select few contractors are reduced as a credit in the O&M rates. All Contractors will ultimately pay for the storage and direct pumping service but as an offset to the amount paid by the select few.

<sup>2</sup> Project Use Energy payment is in addition to the Contract Rate and Full-Cost Water Rates. Refer to the water rate books for more information.

The CVP M&I Water Shortage Policy per EIS/EIR dated August 2015 and Record of Decision dated November 2015 defines the M&I Historic Use as the average quantity of CVP water put to beneficial use during the last three years of water deliveries, unconstrained (100% allocation) by the availability of CVP water for South of the Delta. Contractor's last three years in acre feet (AF) are: 2006 = 56 AF; 2011 = 0 AF; 2017 = 0 AF; equals a M&I Historic use average quantity of 19 AF.

Additional detail of rate components is available on the Internet at:

<http://www.usbr.gov/mp/cvpwaterrates/ratebooks/index.html>

## Exhibit B

### **Points of Diversion on the San Luis Canal:**

MP-104.18 Lat.1R, MP-105.2L, MP-105.22 Lat.1L, MP-105.23 Lat.2R,  
MP-106.35 Lat.2L, MP-108.39 Lat.3L, MP-108.46 Lat.3R, MP-110.52 Lat. 4L,  
MP-111.93 Lat.5L, MP-113 Lat.6L, MP-113.77 Lat.4R, MP-114R, MP-114.64R,  
MP-114.90 Lat.5R, MP-114.92R, MP-116.02R, MP-116.32R, MP-116.91R,  
MP-117.51 Lat.8L, MP-117.51R, MP-118.44 Lat.7R, MP-118.46R, MP-119.56R  
A&B, MP-119.63 Lat.8R, MP-119.63R ABC, MP-120.77 Lat.9L, MP-120.86R,  
MP-120.87R A&B, MP-121.92 Lat.10L, MP-122.02R, MP-122.05R,  
MP-122.59R, MP-123.89R, MP-124.16R, MP-124.18 Lat.11L, MP-124.19R,  
MP-125.36R, MP-126.65 Lat.12L, MP-128.49R, MP-128.57 Lat.11R,  
MP-128.78R, MP-129.88 Lat.13L, MP-130.85 Lat.14L, MP-131.70 Lat.15L,  
MP-132.74 Lat.12R, MP-132.81 Lat.16L, MP-133.81 Lat.17L, MP-133.81  
Lat.13R, MP-134.94 Lat.18L, MP-135.96 Lat.14R, MP-136.05 Lat.19L,  
MP-137.00 Lat.15R, MP-137.11 Lat.20L, MP-138.14 Lat.16R, MP-138.29  
Lat.21L, MP-139.27 Lat.17R, MP-139.39 Lat.22L, MP-140.48 Lat.18R,  
MP-140.57 Lat.23L, MP-141.29R, MP-141.53 Lat.19R, MP-141.60 Lat.24L,  
MP-142.57R, MP-142.60R A&B, MP-143.16, MP-145.26 Lat.25L, MP-145.32  
Lat.20R, MP-147.02 Lat.26L, MP-147.75R, MP-147.77R, MP-149.12 Lat.27L,  
MP-149.55 Lat.21R, MP-149.59R, MP-150.48R, MP-150.88 Lat.28L, MP-151.19  
Lat.22R, MP-152.35 Lat.29L, MP-154.11 Lat.30L, MP-156.34 Lat.23R,  
MP-156.40 Lat.31L, MP-158.47 Lat.32L, MP-158.47 Lat.24R, MP-160.45  
Lat.33L, MP-160.45 Lat.25R, MP-161.60 Lat.34L, MP-161.60 Lat.26R,  
MP-162.63 Lat.35L, MP-163.59L, MP-163.69 Lat.36L, MP-163.69 Lat.27R,  
MP-164.79 Lat.28R, MP-167.04 Lat.37L, MP-167.84 Lat.29R, MP-169.30  
Lat.38L, MP-171.51 Lat.30R

## Exhibit C Template

### Repayment Obligation - Current Calculation under the WIIN Act, Section 4011 (a) (2)

Represents an Example of Cost to Repay Construction Based on Unpaid Construction (From 2018 or 2019 of the Water Rate Books\*\*)

Contractor: Contractor A  
Facility: San Luis Canal (This does not include Delta-Mendota Pool or Canal)  
Contract: Contract Number #:

Irrigation Construction Cost (2018 or 2019 Irrigation Ratebook, Schedule A-2Ba and A-2Bc)			
	Unpaid Cost	Discount	
Construction Cost (Excludes Intertie):	\$ 2,000,000	\$ 1,860,792	
Intertie Construction Cost:	\$ 50,000	\$ 36,962	
Total	\$ 2,050,000	\$ 1,897,754	
If Paid in Installments (1/2 of 20 yr CMT)			
	Due		
Payment 1	1-Jan-20	\$ 492,663	
Payment 2	1-Jan-21	\$ 492,663	
Payment 3	1-Jan-22	\$ 492,663	
Payment 4	1-Jan-23	\$ 492,663	
Total Installment Payments		\$ 1,970,653	
20 yr CMT Rates - 4/23/2018		3.050%	
Discount Rate: 1/2 of 20 yr CMT (WIIN Act, Section 4011(a)(2)(A) & f)		1.525%	

M&I Construction Cost (2018 or 2019 M&I Ratebook, Schedule A-2Ba)	
Construction Cost *:	Unpaid Cost: \$ 300,000
* Excludes Interest to payment date as interest will be computed as an annual expense as usual	

Calculation Supports: Irrigation lump sum or first payment due date 1-Jan-20  
Days Until End of Fiscal Year 273

Fiscal Yr	Unpaid Allocated Construction Cost			Unpaid Intertie Construction Cost			Total
	Beginning Balance	Straight Line Repayment	Present Value	Beginning Balance	Straight Line Repayment	Present Value	Present Values
2018	\$ 2,000,000	\$ 153,846	\$ 153,846	\$ 50,000	\$ 1,087	\$ 1,087	\$ 154,933
2019	\$ 1,846,154	\$ 153,846	\$ 153,846	\$ 48,913	\$ 1,087	\$ 1,087	\$ 154,933
2020	\$ 1,692,308	\$ 153,846	\$ 152,116	\$ 47,826	\$ 1,087	\$ 1,075	\$ 153,191
2021	\$ 1,538,462	\$ 153,846	\$ 149,831	\$ 46,739	\$ 1,087	\$ 1,059	\$ 150,890
2022	\$ 1,384,615	\$ 153,846	\$ 147,580	\$ 45,652	\$ 1,087	\$ 1,043	\$ 148,623
2023	\$ 1,230,769	\$ 153,846	\$ 145,364	\$ 44,565	\$ 1,087	\$ 1,027	\$ 146,391
2024	\$ 1,076,923	\$ 153,846	\$ 143,180	\$ 43,478	\$ 1,087	\$ 1,012	\$ 144,192
2025	\$ 923,077	\$ 153,846	\$ 141,029	\$ 42,391	\$ 1,087	\$ 996	\$ 142,026
2026	\$ 769,231	\$ 153,846	\$ 138,911	\$ 41,304	\$ 1,087	\$ 981	\$ 139,892
2027	\$ 615,385	\$ 153,846	\$ 136,824	\$ 40,217	\$ 1,087	\$ 967	\$ 137,791
2028	\$ 461,538	\$ 153,846	\$ 134,769	\$ 39,130	\$ 1,087	\$ 952	\$ 135,721
2029	\$ 307,692	\$ 153,846	\$ 132,745	\$ 38,043	\$ 1,087	\$ 938	\$ 133,683
2030	\$ 153,846	\$ 153,846	\$ 130,751	\$ 36,957	\$ 1,087	\$ 924	\$ 131,675
2031-63				\$ 35,870	\$ 35,870	\$ 23,815	\$ 23,815
Total, Lump Sum Payment			\$ 1,860,792			\$ 36,962	\$ 1,897,754
Amount of Reduction, Lump Sum			\$ 139,208			\$ 13,038	\$ 152,246

\*\* Water Rate Charges and payments are a requirement under the existing and amendatory contract. If at a later date charges are updated based on Regional and Area Office reviews, any unpaid charges are still due.

# **EXHIBIT E**

# **WESTLANDS WATER DISTRICT**

## **NOTICE OF REGULAR MEETING AND AGENDA**

### **NOTICE**

Notice is hereby given that a regular meeting of the Board of Directors of Westlands Water District will be held on January 21, 2020 at 1:00 p.m. at the District's Fresno Office, 3130 N. Fresno Street, Fresno, California 93703.

**Public Comment** - Any member of the public may address the Board concerning any matter on the agenda before or, for open session items, during its consideration of that matter. Public comment is limited to three minutes per person and no more than fifteen minutes per topic. For good cause, the Board President may waive these limitations.

### **AGENDA**

- 1. Call to Order**
- 2. Board to Consider Corrections or Additions to the Agenda of Items, as Authorized by Government Code Section 54950 et seq.**
- 3. Board to Consider Approval of the Minutes of the following:**
  - a. Special Board Meeting of December 11, 2019
  - b. Regular Board Meeting of December 17, 2019
  - c. Special Board Meeting and Hearing of December 18, 2019
  - d. Special Board Meeting of January 6, 2020
  - e. Special Board Meeting and Hearing of January 8, 2020
- 4. General Manager's Report (Birmingham)**
  - a. Water supply, water operations and Projected Water Supply and Use and Central Valley Project/ State Water Project Operations, drainage, energy, Bay-Delta Water Quality Control Plan-Voluntary Agreement Update, ROC on LTO and other resources activities
  - b. Federal & State Legislative Affairs
  - c. Public Outreach
  - d. Other District Activities
- 5. Outside Agency Activities (Board)** - Reports on activities of outside agencies (FFA, SLDMWA, ACWA and SFCWA, etc.) will be presented.
- 6. Legal Affairs Committee (Coelho)** - The Committee Chair will report on items within the Committee's jurisdiction.
- 7. Operations & Maintenance Committee (Coelho)** - The Committee Chair will report on items within the Committee's jurisdiction.



## WESTLANDS WATER DISTRICT

January 21, 2020 at 1:00 p.m.

**Public Comment** - Any member of the public may address the Board concerning any matter on the agenda before or, for open session items, during its consideration of that matter. Public comment is limited to three minutes per person and no more than fifteen minutes per topic. For good cause, the Board President may waive these limitations.

8. **Personnel Committee (Enos)** - The Committee Chair will report on items within the Committee's jurisdiction.
9. **Water Policy Committee (Errotabere)** – The Committee Chair will report and the Board will act upon recommendations of the Committee, if any, regarding the following items:
  - a. Consider a Recommendation that the Board of Directors Adopt Resolution No. 101-20 Certifying the Final Environmental Impact Statement/Environmental Impact Report, SCH #2013041028, for the Mendota Pool Group 20-Year Exchange Program Pursuant to the California Environmental Quality Act
  - b. Consider a Recommendation that the Board of Directors Adopt Resolution No. 102-20 Approving and Adopting the Mendota Pool Group 20-Year Exchange Program, and Related Actions
10. **Sustainable Groundwater Management Act** - Serving as the Groundwater Sustainability Agency of the Westside Subbasin, Board to receive an update and provide input on Sustainable Groundwater Management Act of 2014 (SGMA) implementation/compliance activities, including actions to implement the Groundwater Sustainability Plan.
11. **Finance & Administration Committee (Enos)** - The Committee will report and the Board will act upon recommendations of the Committee, if any, regarding the following items:
  - a. Board to Consider Selection of Underwriting Team for 2020A Revenue Bonds
  - b. Consider Recommendation that the Board of Directors Approve Budget Transfers and Augmentations
    - 1) 2019-2020 Budget Augmentation and Transfer for Power – Temporary Facilities
  - c. Consider Recommendation that the Board of Directors Approve Accounts Payable Reports
  - d. Receive Report on Investments and Financial Reports
12. **Consider a Recommendation that the Board of Directors Adopt Resolution No. 103-20 Authorizing Execution and Delivery of a Joint Exercise of Powers Agreement to Create the San Luis Unit/Westlands Water District Financing Authority and a Joint Exercise of Powers Agreement to Create the San Luis Unit/San Luis Water District Financing Authority, and Authorizing Certain Other Matters in Connection Therewith**
13. **Board to Consider Request by Brownstein, Hyatt, Farber, Schreck for Waiver of Potential Conflict of Interest and Informed Consent**

## **WESTLANDS WATER DISTRICT**

January 21, 2020 at 1:00 p.m.

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- 14. Board to Consider (a) Appointment of a District Representative to the San Luis & Delta-Mendota Water Authority Board of Directors, and (b) Recommendation for an Appointment of a District Representative to the San Luis & Delta-Mendota Water Authority Finance and Administration Committee**
- 15. Board to Consider Appointment of Director Dan Errotabere to the Westlands Water District Financing Corporation Board of Directors**
- 16. Sitting as the Board of Directors of Distribution District No. 1 – The Board will act upon the recommendations, if any, regarding the following items:**
  1. Call to Order
  2. Board to Consider Corrections or Additions to the Agenda of Items, as Authorized by Government Code Section 54950 et seq.
  3. Approval of the Minutes of the Regular Board Meeting of December 17, 2019
  4. Consider Recommendation that the Board of Directors Adopt Resolution Nos. 101-20, 102-20, 103-20 and 104-20, Authorizing the Filing of Notices of Statutory Exemption and Categorical Exemption from the California Environmental Quality Act for Approval of and Authorization to Execute the Contract Between the United States and Westlands Water District Providing for Project Water Service and Facilities Repayment, Authorizing Approval and Execution of the Contract Between the United States and Westlands Water District Providing for Project Water Service and Facilities Repayment, and Authorizing Actions Furtherance Thereof
  5. Public Comment – Any member of the public may address the Board concerning any matter not on the Agenda within the Board's jurisdiction. Public comment is limited to three minutes per person and no more than fifteen minutes per topic. For good cause, the Board President may waive these limitations.
  6. Adjournment
- 17. Sitting as the Board of Directors of Distribution District No. 2 – The Board will act upon the recommendations, if any, regarding the following items:**
  1. Call to Order
  2. Board to Consider Corrections or Additions to the Agenda of Items, as Authorized by Government Code Section 54950 et seq.
  3. Board to Consider Approval of the Minutes of the Regular Board Meeting of December 17, 2019

## WESTLANDS WATER DISTRICT

January 21, 2020 at 1:00 p.m.

**Public Comment** - Any member of the public may address the Board concerning any matter on the agenda before or, for open session items, during its consideration of that matter. Public comment is limited to three minutes per person and no more than fifteen minutes per topic. For good cause, the Board President may waive these limitations.

4. Consider Recommendation that the Board of Directors Adopt Resolution Nos. 101-20, Authorizing the Filing of Notices of Statutory Exemption and Categorical Exemption from the California Environmental Quality Act for Approval of and Authorization to Execute the Contract Between the United States and Westlands Water District Providing for Project Water Service and Facilities Repayment, Authorizing Approval and Execution of the Contract Between the United States and Westlands Water District Providing for Project Water Service and Facilities Repayment, and Authorizing Actions Furtherance Thereof
  5. Public Comment – Any member of the public may address the Board concerning any matter not on the Agenda within the Board's jurisdiction. Public comment is limited to three minutes per person and no more than fifteen minutes per topic. For good cause, the Board President may waive these limitations.
  6. Adjournment
- 
18. **Public Comment** - Any member of the public may address the Board concerning any matter not on the Agenda but within the Board's jurisdiction. Public comment is limited to three minutes per person and no more than fifteen minutes per topic. For good cause, the Board President may waive these limitations.
  19. **Closed Session** - The Board will meet in closed session pursuant to the Government Code sections noted to discuss the following:
    - a. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION  
Significant exposure to litigation pursuant to paragraph (2) or (3) of subdivision (d) of Government Code Section 54956.9 – 2 potential cases
    - b. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION  
Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Government Code Section 54956.9 – 3 potential cases
    - c. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION  
Existing Litigation Pursuant to paragraph (1) of Subdivision (d) of Section 54956.9
      - 1) Firebaugh Canal Water District et al. v. United States of America et al., United States District Court, Eastern District of California, Case Nos. 1:88-cv-634-LJO/SKO, 1:91-cv-048-LJO/SKO
      - 2) Westlands Water District v. United States, United States Court of Appeal for the Federal Circuit, Case No. 13-5069

## WESTLANDS WATER DISTRICT

January 21, 2020 at 1:00 p.m.

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- 3) San Luis & Delta-Mendota Water Authority and Westlands Water District v. Delta Stewardship Council et al., Sacramento County Superior Court Case No. 34-2013-80001500 (Delta Plan Litigation). Appeals in Delta Plan Litigation:

City of Stockton v. Delta Stewardship Council et al. (Sacramento County Superior Court JCCP No. 4758)(Third District Court of Appeal Case No. C082994); State Water Contractors, et al. v. Delta Stewardship Council et al. (Sacramento County Superior Court JCCP No. 4758) (Third District Court of Appeal Case No. C082944); California Water Impact Network, et al. v. Delta Stewardship Council et al. (Sacramento County Superior Court JCCP No. 4758) (Third District Court of Appeal Case No. C082994); Central Delta Water Agency, et al. v. Delta Stewardship Council et al. (Sacramento County Superior Court JCCP No. 4758) (Third District Court of Appeal Case No. C082994); North Coast Rivers Alliance, et al. v. Delta Stewardship Council et al. (Sacramento County Superior Court JCCP No. 4758) (Third District Court of Appeal Case No. C082994); San Luis & Delta-Mendota Water Agency et al. v. Delta Stewardship Council et al. (Sacramento County Superior Court JCCP No. 4758) (Third District Court of Appeal Case No. C082994); Save the California Delta Alliance v. Delta Stewardship Council et al. (Sacramento County Superior Court JCCP No. 4758) (Third District Court of Appeal Case No. C082994)

- 4) California Sportfishing Protection Alliance et al. vs. California State Water Resources Control Board, et al., Alameda County Superior Court, Case No. RG15780498 (State WQCP/TUCP) (2015 TUCP Orders)
- 5) North Coast Rivers Alliance et al. v. U.S. Department of the Interior et al., United States District Court, Eastern District of California, Case No. 1:16-cv-00307-LJO-MJS (2016-2018 Interim Renewal Contract EA)
- 6) Natural Resources Defense Council et al. v. Bernhardt et al., United States District Court, Eastern District of California, Case No. 1:05-cv-01207-LJO-EPG (2005 DMC Contract Renewals Litigation)
- 7) City of Fresno, et al. v. United States, United States Court of Federal Claims, Case No. 16-1276L (Friant Takings Suit)
- 8) North Coast Rivers Alliance v. Delta Stewardship Council, Sacramento County Superior Court, Case No. 34- 2018-80002898; Central Delta Water Agency v. Delta Stewardship Council, Sacramento County Superior Court, Case No. 34-2018-80002900; Friends of the River v. Delta Stewardship Council, Sacramento County Superior Court, Case No. 34-2018-80002901; California Water Impact



## **WESTLANDS WATER DISTRICT**

January 21, 2020 at 1:00 p.m.

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Network v. Delta Stewardship Council, Sacramento County Superior Court, Case No. 34-2018-80002904 (Delta Plan Amendment Litigation)

- 9) Westlands Water District v. State Water Resources Control Board, Fresno County Superior Court, Case No. 19CECG00165 (WQCP Phase 1 Litigation)
- 10) North Coast Rivers Alliance et al. v. Department of Water Resources, Sacramento Superior Court Case No. 34-2019-80003057 (COA Addendum-WaterFix No Harm Litigation)
- 11) People of the State of California v. Westlands Water District, Shasta Superior Court, Case No. 192487 (Public Resources Code Section 5093.542)
- 12) Friends of the River et al. v. Westlands Water District, Shasta Superior Court, Case No. 192490 (Public Resources Code Section 5093.542)
- 13) North Coast Rivers Alliance et al. v. Westlands Water District, Shasta Superior Court, Case No. 192958 (Public Resources Code Section 5093.542)
- 14) Westlands Water District v. All Persons Interested in the Matter of the Contract Between the United States and Westlands Water District Providing Project Water Service, San Luis Unit and Delta Division and Facilities Repayment, Fresno Superior Court, Case No. 19CECG03887 (Validation Action)
- 15) Pacific Coast Federation of Fishermen's Association et al. v. Ross et al., United States District Court, Northern District of California, Case No. 3:19-cv-07897 (2019 ROC on LTO BiOps Litigation)
- 16) Mound Farms v. California Department of General Services et al., Yolo County Superior Court, Case No. PT19-2766 (Yolo Ranch CEQA Challenge)

20. **Report from Closed Session, if any Required by Government Code Section 54957.1**
21. **Board to Consider Election of One of its Members to Serve as Vice President of the Board**
22. **Board to Consider Authorizing Amendment to the Term of the General Manager's Employment Agreement**
23. **Adjournment**

I, Original Signed by District Secretary, declare that the foregoing agenda for the January 21, 2020 regular meeting of the Westlands Water District Board of Directors was posted on January 16, 2020, at the District's Fresno Office, 3130 N. Fresno Street, Fresno, CA 93703, at the District's Five Points Field Office, 23050 W. Mt. Whitney Avenue, Five Points, CA 93624, and on the District's website, at <https://wwd.ca.gov> and was available for public inspection.



## WESTLANDS WATER DISTRICT

January 21, 2020 at 1:00 p.m.

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Written materials related to an item on this agenda to be considered in open session that are public records and that are distributed less than 72 hours prior to the meeting will be made available for public inspection, (1) when distributed if said materials were prepared by the District or a member of the Board of Directors or (2) after the meeting if said materials were prepared by others, at the District's Fresno office, 3130 N. Fresno St., Fresno, California during normal business hours.

A person with a qualifying disability under the Americans with Disabilities Act of 1990 may request the District provide a disability-related modification or accommodation in order to participate in any public meeting of the District. Such assistance includes appropriate alternative formats for the agendas and agenda packets used for any public meetings of the District. Requests for such assistance and for agendas and agenda packets shall be made in person, by telephone, facsimile, or written correspondence.