

USBR CVP-Wide WIIN Act: Exhibit #6
CONTRACTORS' CVP-WIDE WIIN Act: Exhibit #1

Contract No.
R.O. 05.29.2019
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UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
Insert Division/Unit, Central Valley Project, California

AMENDMENT TO THE **EXISTING** CONTRACT BETWEEN THE UNITED STATES
AND
PROVIDING FOR
PROJECT WATER SERVICE AND FACILITIES REPAYMENT
Table of Contents

<u>Article No.</u>	<u>Title</u>	<u>Page No.</u>
	Preamble	
	Explanatory Recitals	
1	Definitions	
2	Term of Contract.....	
3	Rates, Method of Payment for Water and Accelerated Repayment of Facilities	
4	Constraints on the Availability of Water	
5	Compliance with Federal Reclamation Laws or Rules, Regulations, and Determinations.....	
6	Protection of Water and Air Quality	
7	Redesignation of Article Numbers in Existing Contract	
8	Charges for Delinquent Payments	
9	Equal Employment Opportunity	
10	General Obligation – Benefits Conditioned Upon Payment.....	
11	Compliance with Civil Rights Laws and Regulations	
12	Privacy Act Compliance	
13	Water Conservation	
14	Operation and Maintenance of Transferred Works	
15	Books, Records, and Reports.....	
16	Assignment Limited – Successors and Assigns Obligated.....	
17	Officials Not to Benefit.....	
18	Changes in Contractor’s Organization.....	
19	Notices	
20	Confirmation of Contract	

21 Emergency Reserve Fund
22 Examination, Inspection and Audit of Project Works, Records, and
Reports for Determining Adequacy of Operations and Maintenance

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Table of Contents – continued

<u>Article No.</u>	<u>Title</u>	<u>Page No.</u>
23	Administration of Federal Project Lands	
24	Contamination or Pollution of Federal Property	
25	Reclamation Reform Act of 1982	
26	Certification of Nonsegregated Facilities	
27	Pest Management	
28	Medium for Transmitting Payments	
29	Incorporation of Exhibits	
30	Contract Drafting Considerations	
31	Existing Contract	

Signature Page

- Exhibit A – Contractor’s Boundary Map
- Exhibit B –
- Exhibit C – Repayment Obligation and Payoff Schedule
- Exhibit D –

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AMENDMENT TO THE EXISTING CONTRACT BETWEEN THE UNITED STATES
AND
PROVIDING FOR WATER SERVICE AND FACILITIES REPAYMENT

1 THIS AMENDMENT to [Contractor-Specific, specifically named contract]
2 (“Amendment” or “Contract”), is made this ____ day of _____, 20____, in pursuance
3 generally of the Act of June 17, 1902, (32 Stat. 388), and acts amendatory thereof or
4 supplementary thereto, including but not limited to, the Acts of August 26, 1937 (50 Stat. 844),
5 as amended and supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented,
6 July 2, 1956 (70 Stat. 483), June 21, 1963 (77 Stat. 68), October 12, 1982 (96 Stat. 1263),
7 October 27, 1982 (100 Stat. 3050), as amended, Title XXXIV of the Act of October 30, 1992
8 (106 Stat. 4706), as amended, and the Water Infrastructure Improvements for the Nation Act
9 (Public Law 114-322,130 Stat. 1628), Section 4011 (a-d) and (f) (WIIN Act), all collectively
10 hereinafter referred to as Federal Reclamation law, between the UNITED STATES OF
11 AMERICA, hereinafter referred to as the United States, represented by the officer executing this
12 Amendment, hereinafter referred to as the Contracting Officer, and , hereinafter referred to as the
13 Contractor.

14 WITNESSETH, That:

15 EXPLANATORY RECITALS

16 [1st] WHEREAS, the United States and the Contractor entered into (**DIVISION**
17 **LEVEL**) Contract Number **XXXXXXXX**, which established terms for the delivery of Project

18 Water to the Contractor from the ~~XXXXXX~~ Division, as in effect the date the WIIN Act was
19 enacted, and as may have been amended, hereinafter referred to as the “Existing Contract”; and

20 **[1.1] [DIVISIONAL LEVEL] Address long-form IRC and last IRC for**
21 **consistency with need identified in Article 2(c) of this Amendment.**

22 **[1.2] [CONTRACTOR SPECIFIC] Address Distribution System Loans, if**
23 **applicable, and Existing Repayment Contracts.**

24 [2nd] WHEREAS, on December 16, 2016, the 114th Congress of the United States of
25 America enacted the WIIN Act; and

26 [3rd] WHEREAS, the Contracting Officer and the Contractor agree to amend the
27 Existing Contract with the execution of this Amendment; and

28 [4th] WHEREAS, Section 4011(a)(1) provides that “upon request of the contractor, the
29 Secretary of the Interior shall convert any water service contract in effect on the date of
30 enactment of this subtitle and between the United States and a water users’ association
31 [Contractor] to allow for prepayment of the repayment contract pursuant to paragraph (2) under
32 mutually agreeable terms and conditions.”; and

33 [5th] WHEREAS, Section 4011(a)(1) further provides that “the manner of conversion
34 under this paragraph shall be as follows: (A) Water service contracts that were entered into under
35 section (e) of the Act of 1939 (53 Stat. 1196), to be converted under this section shall be
36 converted to repayment contracts under section 9(d) of that Act (53 Stat. 1195)”; and “(B) Water
37 service contracts that were entered under subsection (c)(2) of section 9 of the Act of August 4,
38 1939 (53 Stat. 1194), to be converted under this section shall be converted to a contract under
39 subsection (c)(1) of section 9 of that Act (53 Stat. 1195).”

40 [6th] WHEREAS, Section 4011(a)(4)(C) further provides all contracts entered into
41 pursuant to Section 4011(a)(1), (2), and (3) shall “not modify other water service, repayment,
42 exchange and transfer contractual rights between the water users’ association [Contractor], and
43 the Bureau of Reclamation, or any rights, obligations, or relationships of the water users’
44 association [Contractor] and their landowners as provided under State law.”

45 [7th] WHEREAS, Section 4011(d)(3) and (4) of the WIIN Act provides that
46 “implementation of the provisions of this subtitle shall not alter...(3) the priority of a water
47 service or repayment contractor to receive water; or (4) except as expressly provided in this
48 section, any obligations under the reclamation law, including the continuation of Restoration
49 Fund charges pursuant to section 3407(d) (Public Law 102-575), of the water service and
50 repayment contractors making prepayments pursuant to this section.”

51 [8th] WHEREAS, upon the request of the Contractor, the WIIN Act directs the
52 Secretary to convert (**IRRIGATION CONTRACTOR SPECIFIC**) irrigation and (**M&I**
53 **CONTRACTOR SPECIFIC**) municipal and industrial (M&I) water service contracts into
54 repayment contracts, amend existing repayment contracts, and allow contractors to prepay their
55 construction cost obligations pursuant to applicable Federal Reclamation law.

56 [9th] [**Divisional Level**] WHEREAS, [ensure Division or Contractor – specific terms
57 are not replaced or overridden by this Amendment].

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

60 1. **Article 1 of the Contract, entitled DEFINITIONS, is amended as follows:**

61 a. **[DIVISIONAL] Upon complete payment of the Repayment**
62 **Obligation, Subdivision (b) of Article 1 of the Contract is amended to delete the reference**
63 **to Tiered Pricing:**

64 (b) “Charges” shall mean the payments required by Federal Reclamation law
65 in addition to the Rates specified in this Contract as determined annually by the Contracting
66 Officer pursuant to this Contract;

67 **b. Subdivisions (m) and (o) of Article 1 of the Existing Contract are amended**
68 **and replaced in their entirety with the following new subdivisions (m) and (o):**

69 (m) “Irrigation Water” shall mean the use of Project Water to irrigate
70 land primarily for the production of commercial agricultural crops or livestock, and domestic and
71 other uses that are incidental thereto.

72 (o) “Municipal and Industrial Water” shall mean the use of Project
73 Water for municipal, industrial, and miscellaneous other purposes not falling under the definition
74 of “irrigation use” or within another category of water use under an applicable Federal authority.

75 **b. Subdivisions (xx) through (xx) are added at the end of**
76 **Article 1 of the Contract as follows:**

77 (xx) “Additional Capital Obligation” shall mean construction costs or
78 other capitalized costs incurred after _____ or not reflected in the Existing
79 Capital Obligation as defined herein and in accordance with Section 4011, subsection (a)(2)(B)
80 and (a)(3)(B) of the WIIN Act.(xx) “Existing Capital Obligation” shall mean the remaining
81 amount of construction costs or other capitalized costs allocable to the Contractor as described in
82 section 4011, subsections (a)(2)(A) and (a)(3)(A) of the WIIN Act, and as identified in the
83 Central Valley Project Irrigation Water Rates and/or Municipal and Industrial Water Rates,
84 respectively, dated Month/Day/Year **[specify ratebook year for all contractors.] [contractor**
85 **specific to address the intertie]**, as adjusted to reflect payments not reflected in such schedule.

86 The Contracting Officer has computed the Existing Capital Obligation and such amount is set
87 forth in Exhibit C, which is incorporated herein by reference.

88 (xx) “Repayment Obligation” [**Irrigation**
89 **Contractors**] shall mean the Existing Capital Obligation discounted by ½ of the Treasury rate,
90 which shall be the amount due and payable to the United States, pursuant to section
91 4011(a)(2)(A) of the WIIN Act.

92 (xx) “Repayment Obligation” [**Municipal Contractors**] shall mean the
93 amount due and payable to the United States, pursuant to the section 4011(a)(3)(A) of the WIIN
94 Act.

95
96 **2. Article 2 of the Contract, entitled TERM OF CONTRACT, is amended and**
97 **replaced in its entirety with the following new Article 2:**

98 2. (a) This Contract shall become effective on _____ and shall continue
99 so long as the Contractor pays applicable charges, consistent with Section 9(d) or 9(c)(1) of the
100 Act of August 4, 1939 (53 Stat. 1195) as applicable, and applicable law;

101 (1) Provided, That the Contracting Officer shall not seek to
102 terminate this Contract for failure to fully or timely pay applicable charges by the Contractor,
103 unless the Contracting Officer has first provided at least sixty (60) calendar days written notice
104 to the Contractor of such failure to pay;

105 (2) Provided further, That for other than termination of this
106 Contract for failure to pay applicable charges by the Contractor, the Contracting Officer shall not
107 seek to terminate water service pursuant to this Contract for non-compliance with Federal law,

108 unless the Contracting Officer has first provided at least thirty (30) calendar days written notice
109 to the Contractor and the Contractor has failed to cure such non-compliance, or to diligently
110 commence curative actions satisfactory to the Contracting Officer for a non-compliance that
111 cannot be fully cured within the thirty (30) calendar days' notice period;

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

114 (b) **[DIVISION LEVEL]** Upon complete payment of the Repayment
115 Obligation by the Contractor, and notwithstanding any Additional Capital Obligation that may
116 later be established, the Tiered Pricing Component as that term is utilized in this Contract, the
117 acreage limitations, reporting, and Full Cost pricing provisions of Federal Reclamation law, and
118 subdivisions **[Enter number of subdivisions/articles that would no longer be applicable]** of
119 this Contract shall no longer be applicable to the Contractor.

120 (c) If this Contract is terminated or determined to be invalid or
121 unenforceable by a court of competent jurisdiction for any reason other than a material uncured
122 breach of this Contract by the Contractor, the Existing Contract shall not be amended but shall be
123 in full force and effect for the remainder of its term, as if this Contract had never been amended.

124 (1) In the event that the term for the Existing Contract has
125 expired or the remaining term is insufficient to cover a lapse in water service to the Contractor,
126 the Contracting Officer and the Contractor shall cooperate to develop a short term contract under
127 mutually agreeable terms and conditions that will provide water service to the contractor until a
128 contract envisioned by the WIIN Act may be successfully executed.

129 (d) [Irrigation only] Notwithstanding any provision of this Contract,
130 the Contractor reserves and shall have all rights and benefits, to the extent otherwise allowed by
131 law, under the Act of July 2, 1956 (70 Stat. 483)

132 (e) [Municipal & Industrial Contractor Specific] Notwithstanding any
133 provision of this Contract, the Contractor reserves and shall have all rights and benefits, to the
134 extent otherwise allowed by law, under the Act of June 21, 1963 (77.Stat. 68).

135 **3. (IRRIGATION CONTRACTOR SPECIFIC) and (MUNICIPAL**
136 **CONTRACTOR SPECIFIC) Article 3, of the Contract, entitled WATER TO BE MADE**
137 **AVAILABLE AND DELIVERED TO THE CONTRACTOR, is amended as follows:**

138 **a. Subdivision (h) of Article 3 of the Contract is amended and replaced in its**
139 **entirety with the following new subdivision (h):**

140 (h) **(IRRIGATION CONTRACTOR SPECIFIC) and (MUNICIPAL**
141 **CONTRACTOR SPECIFIC)** The Contractor’s right pursuant to Federal Reclamation law
142 and applicable State law to the reasonable and beneficial use of the Water Delivered pursuant to
143 this Contract shall not be disturbed, and this Contract shall continue so long as the Contractor
144 pays applicable charges, consistent with Section 9(d) or 9(c)(1) of the Act of August 4, 1939 (53
145 Stat. 1195) as applicable, and applicable law. Nothing in the preceding sentence shall affect the
146 Contracting Officer’s ability to impose shortages under Article [“**Temporary Reductions**”] or
147 subdivision (b) of Article [“**Constraints on the Availability of Water**”] of this Contract.

148 **4. Article 7 of the Contract, entitled RATES AND METHOD OF**
149 **PAYMENT FOR WATER, is amended as follows: The heading of the Existing Contract is**

150 **amended and replaced in its entirety with RATES, METHOD OF PAYMENT FOR**
151 **WATER AND ACCELERATED REPAYMENT OF FACILITIES.**

152 **(b) Subdivision (a) of Article 7 of the Contract is amended and**
153 **replaced in its entirety with the following new subdivision (a):**

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

168 (1) The Contractor shall pay the United States as provided for in this
169 Article of this Contract for all Delivered Water at Rates, Charges, and other costs in accordance
170 with policies for Irrigation Water and M&I Water. The Contractor's Rates shall be established to
171 recover its estimated reimbursable costs included in the operation & maintenance component of

172 the Rate and amounts established to recover deficits and other charges, if any, including
173 construction costs as identified in the following subdivisions.

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

176 (A) The amount due and payable to the United States, pursuant
177 to the WIIN Act, shall be the Repayment Obligation. The Repayment Obligation has been
178 computed by the Contracting Officer in a manner consistent with the WIIN Act and is set forth
179 as a lump sum payment (M&I and Irrigation) and as four (4) approximately equal annual
180 installments (Irrigation Only) to be **repaid** as set forth in Exhibit D. **There could be one or two**
181 **exhibits in most cases due to more than one service area [For Irrigation contractors and**
182 **M&I contractors]** The Repayment Obligation is due in lump sum by **[Month Day, Year]** as
183 provided by the WIIN Act. The Irrigation Contractor must provide appropriate notice to the
184 Contracting Officer in writing no later than thirty (30) days prior to **[Month Day, Year]**
185 **[Division Level: consider the effective date of the contract being converted]** if electing to
186 repay the amount due using the lump sum alternative. If such notice is not provided by such
187 date, the Contractor shall be deemed to have elected the installment payment alternative, in
188 which case, the first such payment shall be made no later than **[Month Day, Year]** **[Division**
189 **Level: consider the effective date of the contract being converted]**. The second payment
190 shall be made no later than the first anniversary of the first payment date. The third payment
191 shall be made no later than the second anniversary of the first payment date. The final payment
192 shall be made no later than **[Month Day, Year]** **[no later than the third anniversary of the**
193 **effective date of the contract]**. If the installment payment option is elected by the Contractor,

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

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

213 (1) If the collective Additional Capital Obligation
214 properly assignable to the contractors exercising conversion is less than five million dollars
215 (\$5,000,000), then the portion of such costs properly assignable to the Contractor shall be repaid

216 not more than five (5) years after the Contracting Officer notifies the Contractor of the
217 Additional Capital Obligation. ; Provided, that the reference to the amount of five million
218 dollars (\$5,000,000) shall not be a precedent in any other context.

219 (2) If the collective Additional Capital Obligation
220 properly assignable to the contractors is equal to or greater than five million dollars
221 (\$5,000,000), then the portion of such costs properly assignable to the Contractor shall be repaid
222 as provided by applicable Federal Reclamation law and Project ratesetting policy; Provided, that
223 the reference to the amount of five million dollars (\$5,000,000) shall not be a precedent in any
224 other context.

225 (c) **Article 7 of the Contract is amended to add a new subdivision**

226 (b):

227 (b) In the event that the final cost allocation referenced in
228 Section 4011(b) of the WIIN Act indicates that the costs properly assignable to the Contractor
229 are greater than what has been paid by the Contractor, the Contractor shall be obligated to pay the
230 remaining allocated costs. The term of such additional repayment contract shall be not less than
231 one (1) year and not more than ten (10) years, however, mutually agreeable provisions regarding
232 the rate of repayment of such amount may be developed by the Contractor and Contracting
233 Officer. In the event that the final cost allocation indicates that the costs properly assignable to
234 the Contractor are less than what the Contractor has paid, the Contracting Officer shall credit
235 such overpayment as an offset against any outstanding or future obligations of the Contractor,
236 with the exception of Restoration Fund charges pursuant to section 3407(d) of Public Law 102-
237 575.

238 **(d) Subdivision (b) of Article 7 of the Contract is amended and**
239 **redesignated subdivision (c); [DIVISIONAL] and Upon complete payment of the**
240 **Repayment Obligation, is amended to delete the reference to the Tiered Pricing**
241 **Component, as follows:**

242 (c) The Contracting Officer shall notify the Contractor of the Rates
243 and Charges as follows:

244 **(e) [DIVISIONAL] Upon complete payment of the Repayment Obligation,**
245 **Redesignated subdivision (c)(2) of Article 7 of the Contract is amended to delete the**
246 **reference to the Tiered Pricing Component, as follows:**

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

254 **(g) Subdivision (j) of Article 7 of the Contract is deleted in its entirety.**

255 **(h) [DIVISIONAL] Upon complete payment of the Repayment**
256 **Obligation, Subdivision (d) of Article 7 of the Contract is amended to delete the reference**
257 **to Tiered Pricing Component:**

258 (d) The Contractor shall also make a payment in addition to the
259 Rate(s) in subdivision (c) of this Article to the United States for Water Delivered, at the Charges

260 then in effect, before the end of the month following the month of delivery. The payments shall
261 be consistent with the quantities of Irrigation Water and M&I Water Delivered as shown in the
262 water delivery report for the subject month prepared by the Operating Non-Federal Entity(ies) or,
263 if there is no Operating Non-Federal Entity(ies), by the Contracting Officer. The water delivery
264 report shall be deemed a bill for the payment of Charges for Water Delivered. Adjustment for
265 overpayment or underpayment of Charges shall be made through the adjustment of payments due
266 to the United States for Charges for the next month. Any amount to be paid for past due payment
267 of Charges shall be computed pursuant to Article 20 of this Contract.

268 **(h) [DIVISIONAL] Upon complete payment of the Repayment**
269 **Obligation, Subdivision (i) of Article 7 of the Contract is amended to delete the reference to**
270 **the Tiered Pricing Component:**

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

278 **4. Article X of the Existing Contract, entitled CONSTRAINTS ON THE**
279 **AVAILABILITY OF WATER, is amended as follows:**

280 **(a) Subdivisions (a) and (b) of Article X of the Existing Contract are**
281 **amended and replaced in their entirety with the following new subdivisions (a) and (b):**

282 (a) In its operation of the Project, the Contracting Officer will use all
283 reasonable means to guard against a Condition of Shortage in the quantity of Project Water to be

284 made available to the Contractor pursuant to this Contract. In the event the Contracting Officer
285 determines that a Condition of Shortage appears probable, the Contracting Officer will notify the
286 Contractor of said determination as soon as practicable.

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

292 [PENDING APPROVAL: revised (b)]: If there is a Condition of Shortage because of inaccurate
293 runoff forecasting or other similar operational errors affecting the Project; drought and other
294 physical or natural causes beyond the control of the Contracting Officer; or actions taken by the
295 Contracting Officer to meet current and future legal obligations, then, *except as provided in*
296 *subdivision (a) of Article 18 [Opinions & Determinations]* no liability shall accrue against the
297 United States or any of its officers, agents, or employees for any damage, direct or indirect,
298 arising therefrom.

299 **5. Article X of the Existing Contract, entitled COMPLIANCE WITH**
300 **FEDERAL RECLAMATION LAWS, is amended and replaced in its entirety with the**
301 **following new Article X:**

302 **Version A.**
303 **COMPLIANCE WITH FEDERAL RECLAMATION LAWS**

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

309 **Version B.**
310 **RULES, REGULATIONS, AND DETERMINATIONS**

311 (a) The parties agree that the delivery of water or the use of Federal facilities
312 pursuant to this Contract is subject to Federal reclamation law, as amended and supplemented,
313 and the rules and regulations promulgated by the Secretary of the Interior under Federal
314 reclamation law.

315 (b) The Contracting Officer shall have the right to make determinations
316 necessary to administer this Contract that are consistent with its expressed and implied
317 provisions, the laws of the United States **[and the State(s) of _____]**, and the rules and
318 regulations promulgated by the Secretary of the Interior. Such determinations shall be made in
319 consultation with the Contractor.

355 overdue payments, or the interest rate of 0.5 percent per month. The interest rate charged will be
356 determined as of the due date and remain fixed for the duration of the delinquent period.

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

360 **9. Article 21 of the Contract, entitled EQUAL OPPORTUNITY, is amended**
361 **and replaced in its entirety with the following new Article 21:**

362 **(NOT APPLICABLE IF WITH STATE OR LOCAL GOVERNMENT CONTRACTORS)**

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

364

365 (a) The Contractor will not discriminate against any employee or
366 applicant for employment because of race, color, religion, sex, sexual orientation, gender
367 identity, disability, or national origin. The Contractor will take affirmative action to ensure that
368 applicants are employed, and that employees are treated during employment, without regard to
369 their race, color, religion, sex, sexual orientation, gender identity, disability, or national origin.
370 Such action shall include, but not be limited to the following: employment, upgrading,
371 demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay
372 or other forms of compensation; and selection for training, including apprenticeship. The
373 Contractor agrees to post in conspicuous places, available to employees and applicants for
374 employment, notices to be provided by the Contracting Officer setting forth the provisions of this
375 nondiscrimination clause.

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

380 (c) The Contractor will send to each labor union or representative of
381 workers with which it has a collective bargaining agreement or other contract or understanding, a
382 notice, to be provided by the Contracting Officer, advising the labor union or workers'
383 representative of the Contractor's commitments under section 202 of Executive Order 11246 of
384 September 24, 1965 (EO 11246), and shall post copies of the notice in conspicuous places
385 available to employees and applicants for employment.

386 (d) The Contractor will comply with all provisions of EO 11246, and
387 of the rules, regulations, and relevant orders of the Secretary of Labor.

388 (e) The Contractor will furnish all information and reports required by
389 EO 11246, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant
390 thereto, and will permit access to his books, records, and accounts by the Contracting Agency

391 and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules,
392 regulations, and orders.

393 (f) In the event of the Contractor's noncompliance with the
394 nondiscrimination clauses of this Contract or with any of such rules, regulations, or orders, this
395 Contract may be canceled, terminated or suspended in whole or in part and the Contractor may
396 be declared ineligible for further Government contracts in accordance with procedures
397 authorized in EO 11246, and such other sanctions may be imposed and remedies invoked as
398 provided in EO 11246 or by rule, regulation, or order of the Secretary of Labor, or as otherwise
399 provided by law.

400 (g) The Contractor will include the provisions of paragraphs (a)
401 through (g) in every subcontract or purchase order unless exempted by the rules, regulations, or
402 orders of the Secretary of Labor issued pursuant to section 204 of EO 11246, so that such
403 provisions will be binding upon each subcontractor or vendor. The Contractor will take such
404 action with respect to any subcontract or purchase order as may be directed by the Secretary of
405 Labor as a means of enforcing such provisions, including sanctions for noncompliance:
406 *Provided, however,* that in the event the Contractor becomes involved in, or is threatened with,
407 litigation with a subcontractor or vendor as a result of such direction, the Contractor may request
408 the United States to enter into such litigation to protect the interests of the United States.

409 **10. Article 22, redesignated Article 21, of the Existing Contract, entitled**
410 **GENERAL OBLIGATION – BENEFITS CONDITIONED UPON PAYMENT, is amended**
411 **as follows:**

412 (a) **Subdivisions (a) and (b) of Article 21 of the Existing Contract are**
413 **amended and replaced in their entirety with the following new subdivisions (a) and (b):**

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

418 (b) The payment of charges becoming due pursuant to this Contract is
419 a condition precedent to receiving benefits under this Contract. The United States shall not make
420 water available to the Contractor through Project facilities during any period in which the
421 Contractor is in arrears in the advance payment of **[water rates] [any operation and**
422 **maintenance charges]** due the United States **[or in arrears for more than 12 months in the**
423 **payment of any construction charges due the United States]**. The Contractor shall not
424 deliver water under the terms and conditions of this Contract for lands or parties that are in
425 arrears in the advance payment of **[water rates] [operation and maintenance charges] [or in**

426 **arrears more than 12 months in the payment of construction charges]** as levied or
427 established by the Contractor.

428 **23 of the Contract, entitled COMPLIANCE WITH CIVIL RIGHTS LAWS AND**
429 **REGULATIONS, is amended and replaced in its entirety with the following new Article**
430 **23:**

431 **(ONLY IF CONTRACTOR IS THE WATER USER)**

432 23. (a) The Contractor shall comply with Title VI of the Civil Rights Act
433 of 1964 (Pub. L. 88-352; 42 U.S.C. § 2000d), the Rehabilitation Act of 1973 (Pub. L. 93-112,
434 Title V, as amended; 29 U.S.C. § 791, et seq.), the Age Discrimination Act of 1975 (Pub. L. 94-
435 135, Title III; 42 U.S.C. § 6101, et seq.), [If Contractor is a State or local government entity]
436 [Title II of the Americans with Disabilities Act of 1990 (Pub. L. 101-336; 42 U.S.C. § 12131, et
437 seq.)] [If Contractor is a non-government entity] [Title III of the Americans with Disabilities Act
438 of 1990 (Pub. L. 101-336; 42 U.S.C. § 12181, et seq.)], and any other applicable civil rights
439 laws, and with the applicable implementing regulations and any guidelines imposed by the U.S.
440 Department of the Interior and/or Bureau of Reclamation.

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

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

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

458 **11. Article 24 of the Contract, entitled PRIVACY ACT COMPLIANCE, is**
459 **amended and replaced in its entirety with the following new Article 24 [IRRIGATION**
460 **SPECIFIC, Omit for M&I]:**

461 24. (a) The Contractor shall comply with the Privacy Act of 1974 (Privacy
462 Act) (5 U.S.C. § 552a) and the Department of the Interior rules and regulations under the Privacy
463 Act (43 C.F.R. § 2.45, et seq.) in maintaining landholder certification and reporting records
464 required to be submitted to the Contractor for compliance with sections 206, 224(c), and 228 of
465 the Reclamation Reform Act of 1982 (43 U.S.C. §§ 390ff, 390ww, and 390zz), and pursuant to
466 43 C.F.R. § 426.18.

467 (b) With respect to the application and administration of the criminal
468 penalty provisions of the Privacy Act (5 U.S.C. § 552a(i)), the Contractor and the Contractor's
469 employees who are responsible for maintaining the certification and reporting records referenced
470 in paragraph (a) above are considered to be employees of the Department of the Interior. See
471 5 U.S.C. § 552a(m).

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

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

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

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

490 **12. [DIVISIONAL] Article 26 of the Contract, entitled WATER**
491 **CONSERVATION, is amended as follows:**

492 **(a) The first sentence of subdivision (a) of Article 26 of the Contract is**
493 **amended and replaced with the following:**

494 (a) Prior to the delivery of water provided from or conveyed through
495 federally constructed or federally financed facilities pursuant to this Contract, the Contractor
496 shall develop a water conservation plan, as required by subsection 210(b) of the Reclamation
497 Reform Act of 1982 and 43 C.F.R. 427.1 (Water Conservation Rules and Regulations).

498 Additionally, an effective water conservation and efficiency program shall be based on the
499 Contractor's water conservation plan that has been determined by the Contracting Officer to meet
500 the conservation and efficiency criteria for evaluating water conservation plans established under
501 Federal law.

502 **(b) Subdivision (b) of Article 26 of the Contract is amended to strike**
503 **California Urban Water Conservation Council and insert Mid-Pacific Region's then-**
504 **existing conservation and efficiency criteria:**

505 (b) Should the amount of M&I Water delivered pursuant to
506 subdivision (a) of Article 3 of this Contract equal or exceed two thousand (2,000) acre-feet per
507 Year, the Contractor shall implement the Best Management Practices identified by the time
508 frames issued by the Mid-Pacific Region's then-existing conservation and efficiency criteria for
509 such M&I Water unless any such practice is determined by the Contracting Officer to be
510 inappropriate for the Contractor.

511 **(c) Subdivision (d) of Article 26 of the Contract is amended to strike**
512 **then-current and insert then-existing:**

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

518 conservation and efficiency criteria for evaluating water conservation plans established under
519 Federal law.

520 **13. Article 28 of the Contract, entitled OPERATION AND MAINTENANCE OF**
521 **TRANSFERRED WORKS, is amended and replaced in its entirety with the following new**

522 **Article 28:**

523 **(APPLIES TO DIVISION LEVEL, IF NOT DELETE)**

524 28. (a) Upon substantial completion of the project works, or as otherwise
525 determined by the Contracting Officer, and following written notification, the care, operation,
526 and maintenance of any or all of the project works may be transferred to the Contractor. Title to
527 the transferred works will remain in the name of the United States, unless otherwise provided by
528 the Congress of the United States.

529 (b) The Contractor, without expense to the United States, shall care
530 for, operate, and maintain the transferred works in full compliance with the terms of this
531 Contract and in such a manner that the transferred works remain in good and efficient condition.

532 (c) Necessary repairs of the transferred works shall be made promptly
533 by the Contractor. In case of unusual conditions or serious deficiencies in the care, operation,
534 and maintenance of the transferred works threatening or causing interruption of water service,
535 the Contracting Officer may issue to the Contractor a special written notice of those necessary
536 repairs. Except in the case of an emergency, the Contractor will be given 60 days to either make
537 the necessary repairs or submit a plan for accomplishing the repairs acceptable to the Contracting
538 Officer. In the case of an emergency, or if the Contractor fails to either make the necessary
539 repairs or submit a plan for accomplishing the repairs acceptable to the Contracting Officer
540 within 60 days of receipt of the notice, the Contracting Officer may cause the repairs to be made,
541 and the cost of those repairs shall be paid by the Contractor as directed by the Contracting
542 Officer.

543 (d) The Contractor shall not make any substantial changes in the
544 transferred works without first obtaining written consent of the Contracting Officer. The
545 Contractor shall ensure that no unauthorized encroachment occurs on project land and rights-of-
546 way.

547 (e) The Contractor agrees to indemnify the United States for, and hold
548 the United States and all of its representatives harmless from, all damages resulting from suits,
549 actions, or claims of any character brought on account of any injury to any person or property
550 arising out of any act, omission, neglect, or misconduct in the manner or method of performing
551 any construction, care, operation, maintenance, supervision, examination, inspection, or other
552 duties of the Contractor or the United States on transferred works required under this Contract,

553 regardless of who performs those duties. The Contractor does not agree to indemnify the United
554 States for any damages arising from intentional torts or malicious actions committed by
555 employees of the United States.

556 (f) The Contractor shall cooperate with the Contracting Officer in
557 implementing an effective dam safety program. The United States agrees to provide the
558 Contractor and the appropriate agency of the State or States in which the project facilities are
559 located with design data, designs, and an operating plan for the dam(s) and related facilities
560 consistent with the current memorandum of understanding between the United States and the
561 State(s) of relating to the coordination of planning, design, construction, operation,
562 and maintenance processes for dams and related facilities.

563 (g) In the event the Contractor is found to be operating the transferred
564 works or any part thereof in violation of this Contract or the Contractor is found to be failing any
565 financial commitments or other commitments to the United States under the terms and conditions
566 of this Contract, then upon the election of the Contracting Officer, the United States may take
567 over from the Contractor the care, operation, and maintenance of the transferred works by giving
568 written notice to the Contractor of such election and the effective date thereof. Thereafter,
569 during the period of operation by the United States, upon notification by the Contracting Officer
570 the Contractor shall pay to the United States, annually in advance, the cost of operation and
571 maintenance of the works as determined by the Contracting Officer. Following written
572 notification from the Contracting Officer the care, operation, and maintenance of the works may
573 be transferred back to the Contractor.

574 (h) In addition to all other payments to be made by the Contractor
575 under this Contract, the Contractor shall reimburse to the United States, following the receipt of
576 a statement from the Contracting Officer, all miscellaneous costs incurred by the United States
577 for any work involved in the administration and supervision of this contract.

578 **14. [DIVISION LEVEL] Upon complete payment of the Repayment Obligation,**
579 **Subdivisions (b) and (d) of Article 28 of the Existing Contract, entitled Operation and**
580 **Maintenance by a Non-Federal Entity, is amended to delete the reference to Tiered Pricing:**

581 (b) The Contracting Officer has previously notified the Contractor in writing
582 that the Operation and Maintenance of a portion of the Project facilities which serve the
583 Contractor has been transferred to the Operating Non-Federal Entity, and therefore, the
584 Contractor shall pay directly to the Operating Non-Federal Entity, or to any successor approved
585 by the Contracting Officer under the terms and conditions of the separate agreement between the

586 United States and the Operating Non-Federal Entity described in subdivision (a) of this Article,
587 all rates, charges, or assessments of any kind, including any assessment for reserve funds, which
588 the Operating Non-Federal Entity or such successor determines, sets, or establishes for the
589 Operation and Maintenance of the portion of the Project facilities operated and maintained by the
590 Operating Non-Federal Entity or such successor. Such direct payments to the Operating Non-
591 Federal Entity or such successor shall not relieve the Contractor of its obligation to pay directly
592 to the United States the Contractor's share of the Project Rates and Charges except to the extent
593 the Operating Non-Federal Entity collects payments on behalf of the United States in accordance
594 with the separate agreement identified in subdivision (a) of this Article.

595 (d) In the event the Operation and Maintenance of the Project facilities
596 operated and maintained by the Operating Non-Federal Entity is re-assumed by the United States
597 during the term of this Contract, the Contracting Officer shall so notify the Contractor, in
598 writing, and present to the Contractor a revised Exhibit "B" which shall include the portion of
599 the Rates to be paid by the Contractor for Project Water under this Contract representing the
600 Operation and Maintenance costs of the portion of such Project facilities which have been re-
601 assumed. The Contractor shall, thereafter, in the absence of written notification from the
602 Contracting Officer to the contrary, pay the Rates and Charges specified in the revised Exhibit
603 "B" directly to the United States in compliance with Article 7 of this Contract.

604 **15. (a) Subdivisions (a) of Article 29 of the Existing Contract are amended**
605 **and replaced in their entirety with the following new subdivisions (a):**(a) The
606 Contractor shall establish and maintain accounts and other books and records pertaining to
607 administration of the terms and conditions of this Contract, including the Contractor's financial

608 transactions; water supply data; project operation, maintenance, and replacement logs; project
609 land and rights-of-way use agreements; the water users' land-use (crop census), land-ownership,
610 land-leasing, and water-use data; and other matters that the Contracting Officer may require.

611 Reports shall be furnished to the Contracting Officer in such form and on such date or dates as
612 the Contracting Officer may require. Subject to applicable Federal laws and regulations, each
613 party to this Contract shall have the right during office hours to examine and make copies of the

614 other party's books and records relating to matters covered by this contract. **Subdivision (a) of**

615 **Article 31 of the Contract, entitled ASSIGNMENT LIMITED – SUCCESSORS AND**

616 **ASSIGNS OBLIGATED, is amended and replaced in its entirety with the following new**

617 **subdivision (a):**

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

621 **16. Article 34 of the Contract, entitled OFFICIALS NOT TO BENEFIT, is**

622 **amended and replaced in its entirety with the following new Article 34:**

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

626 **18. Subdivision (a) of Article 35, redesignated Article 34, of the Existing**

627 **Contract, entitled CHANGES IN CONTRACTOR'S ORGANIZATION, is amended and**

628 **replaced in its entirety with the following new subdivision (a):**

629 (a) While this Contract is in effect, no change may be made in the
630 Contractor's [**Contractor Specific**] organization, by inclusion or exclusion of lands or by any
631 other changes which may affect the respective rights, obligations, privileges, and duties of either

632 the United States or the Contractor under this contract including, but not limited to, dissolution,
633 consolidation, or merger, except upon the Contracting Officer's written consent.

634 **17. Article 37 of the Contract, entitled NOTICES, is amended and replaced in its**

635 **entirety with the following new Article 37:**

636 37. Any notice, demand, or request authorized or required by this Contract
637 shall be deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid,
638 or delivered to the Area Manager, **[DIVISION LEVEL insert appropriate Area Office]**,
639 Bureau of Reclamation, _____, _____, and on behalf of the United States, when mailed,
640 postage prepaid, or delivered to the _____ of the Contractor, _____, _____.
641 The designation of the addressee or the address may be changed by notice given in the same
642 manner as provided in this article for other notices.

18. Article 38 of the Contract, entitled CONFIRMATION OF CONTRACT, is amended and replaced in its entirety with the following new Article 38:

Version A: Court Confirmation.

643 **(IRRIGATION ONLY) CONFIRMATION OF CONTRACT**

644 38. Promptly after the execution of this Amendment, Contractor shall
645 provide to the Contracting Officer a certified copy of a final decree of a court of competent
646 jurisdiction in the State of California, confirming the proceedings on the part of the Contractor
647 for the authorization of the execution of this Amendment.

Version B: Confirmation by Contractor.

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650 **(M&I ONLY) CONFIRMATION OF CONTRACT**

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652 38. Promptly after the execution of this Amendment, Contractor shall provide
653 evidence to the Contracting Officer that, pursuant to the laws of the State of California, the
654 Contractor is a legally constituted entity and the Amendment is lawful, valid, and binding on the

655 Contractor.

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657 **19. Article X of the Contract, entitled EMERGENCY RESERVE FUND, is**

658 **amended and replaced in its entirety with the following new Article X:**

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(DIVISION LEVEL)

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Either retain this revised Standard Article as applicable

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or the Existing double-spaced Contract Article Remains Unchanged.

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If the latter, DELETE this Article. See the Friant Division Model

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X. (a) Commencing on [execution of this contract] [date], the Contractor shall accumulate and maintain a reserve fund or demonstrate to the satisfaction of the Contracting Officer that other funds are available for use as an emergency reserve fund. The Contractor shall establish and maintain that emergency reserve fund to meet costs incurred during periods of special stress caused by damaging droughts, storms, earthquakes, floods, or other emergencies threatening or causing interruption of water service.

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(b) The Contractor shall accumulate the reserve fund with annual deposits or investments of not less than \$ _____ to a Federally insured, interest- or dividend-bearing account or in securities guaranteed by the Federal Government: Provided, That money in the reserve fund, including accrued interest, shall be available within a reasonable time to meet expenses for such purposes as those identified in paragraph (d) herein. Such annual deposits and the accumulation of interest to the reserve fund shall continue until the basic amount of \$ _____ is accumulated. Following an emergency expenditure from the fund, the annual deposits shall continue from the year following the emergency expenditure until the previous balance is restored. After the initial amount is accumulated or after the previous balance is restored, the annual deposits may be discontinued, and the interest earnings shall continue to accumulate and be retained as part of the reserve fund.

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(c) Upon mutual written agreement between the Contractor and the Contracting Officer, the basic reserve fund or the accumulated reserve fund may be adjusted to account for risk and uncertainty stemming from the size and complexity of the project; the size of the annual operation and maintenance budget; additions to, deletions from, or changes in project works; and operation and maintenance costs not contemplated when this Contract was executed.

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(d) The Contractor may make expenditures from the reserve fund only for meeting routine or recurring operation and maintenance costs incurred during periods of special stress, as described in paragraph (a) herein; or for meeting unforeseen extraordinary operation and maintenance costs; or for meeting unusual or extraordinary repair or replacement costs; or for meeting betterment costs (in situations where recurrence of severe problems can be eliminated) during periods of special stress. Proposed expenditures from the fund shall be submitted to the Contracting Officer in writing for review and written approval prior to

693 disbursement. Whenever the reserve fund is reduced below the current balance by expenditures
694 therefrom, the Contractor shall restore that balance by the accumulation of annual deposits as
695 specified in paragraph (b) herein.

696 (e) During any period in which any of the project works are operated
697 and maintained by the United States, the Contractor agrees the reserve fund shall be available for
698 like use by the United States.

699 (f) On or before _____ of each year, the Contractor shall provide
700 a current statement of the principal and accumulated interest of the reserve fund account to the
701 Contracting Officer.

702 **20. Article X of the Contract, entitled EXAMINATION, INSPECTION, AND**
703 **AUDIT OF PROJECT WORKS, RECORDS, AND REPORTS FOR DETERMINING**
704 **ADEQUACY OF OPERATION AND MAINTENANCE, is amended and replaced in its**
705 **entirety with the following new Article X:**

706 **(DIVISION LEVEL, IF NOT DELETE)**

707 X. (a) The Contracting Officer may, from time to time, examine the
708 following: the Contractor's books, records, and reports; the project works being operated by the
709 Contractor; the adequacy of the operation and maintenance [and safety of dams] program[s]; the
710 reserve fund; and the water conservation program including the water conservation fund, if
711 applicable. Notwithstanding title ownership, where the United States retains a financial,
712 physical, or liability interest in facilities either constructed by the United States or with funds
713 provided by the United States, the Contracting Officer may examine any or all of the project
714 works providing such interest to the United States.

715 (b) The Contracting Officer may, or the Contractor may ask the
716 Contracting Officer to, conduct special inspections of any project works being operated by the
717 Contractor and special audits of the Contractor's books and records to ascertain the extent of any
718 operation and maintenance deficiencies to determine the remedial measures required for their
719 correction and to assist the Contractor in solving specific problems. Except in an emergency,
720 any special inspection or audit shall be made only after written notice thereof has been delivered
721 to the Contractor by the Contracting Officer.

722 (c) The Contractor shall provide access to the project works, operate
723 any mechanical or electrical equipment, and be available to assist in the examination, inspection,
724 or audit.

725 (d) The Contracting Officer shall prepare reports based on the
726 examinations, inspections, or audits and furnish copies of such reports and any recommendations
727 to the Contractor.

728 (e) The costs incurred by the United States in conducting operation
729 and maintenance examinations, inspections, and audits and preparing associated reports and
730 recommendations related to high- and significant-hazard dams and associated facilities shall be
731 nonreimbursable. Associated facilities include carriage, distribution, and drainage systems;
732 pumping and pump-generating plants; powerplant structures; tunnels/pipelines; diversion and
733 storage dams (low-hazard); Type 2 bridges which are Reclamation-owned bridges not located on
734 a public road; regulating reservoirs (low-hazard); fish passage and protective facilities, including
735 hatcheries; river channelization features; rural/municipal water systems; desalting and other
736 water treatment plants; maintenance buildings and service yards; facilities constructed under
737 Federal loan programs (until paid out); and recreation facilities (reserved works only); and any
738 other facilities as determined by the Contracting Officer.

739 (f) Expenses incurred by the Contractor, as applicable, in participating
740 in the operation and maintenance site examination will be borne by the Contractor.

741 (g) Requests by the Contractor for consultations, design services, or
742 modification reviews, and the completion of any operation and maintenance activities identified
743 in the formal recommendations resulting from the examination (unless otherwise noted) are to be
744 funded as project operation and maintenance and are reimbursable by the Contractor to the extent
745 of current project operation and maintenance allocations.

746 (h) Site visit special inspections that are beyond the regularly
747 scheduled operation and maintenance examinations conducted to evaluate particular concerns or
748 problems and provide assistance relative to any corrective action (either as a follow up to an
749 operation and maintenance examination or when requested by the Contractor) shall be
750 nonreimbursable.

751 (i) The Contracting Officer may provide the State(s) an opportunity to
752 observe and participate in, at its (their) own expense, the examinations and inspections. The
753 State(s) may be provided copies of reports and any recommendations relating to such
754 examinations and inspections.

755 **21. The Contract is amended to add Article X, entitled ADMINISTRATION OF**

756 **FEDERAL PROJECT LANDS, as follows:**

757 **(DIVISION LEVEL, IF NOT DELETE)**

758 X. The lands and interests in lands acquired, withdrawn, or reserved and
759 needed by the United States for the purposes of care, operation, and maintenance of (**identify**

760 **Federal project or project division, unit, or works, as appropriate)** project works may be
761 used by the Contractor for such purposes. The Contractor shall ensure that no unauthorized
762 encroachment occurs on Federal project lands and rights-of-way. The Contractor does not have
763 the authority to issue any land-use agreement or grant that conveys an interest in Federal real
764 property, nor to lease or dispose of any interest of the United States.

765 **22. The Contract is amended to add Article X, entitled CONTAMINATION OR**
766 **POLLUTION OF FEDERAL PROPERTY, as follows:**

767 **(APPLIES TO DIVISION LEVEL, IF NOT DELETE)**
768 **CONTAMINATION OR POLLUTION OF FEDERAL PROPERTY**

769 X. (a) The Contractor shall not allow contamination or pollution of
770 Federal project lands, project waters, or project works of the United States or administered by the
771 United States and for which the Contractor has the responsibility for care, operation, and
772 maintenance by its employees or agents. The Contractor shall also take reasonable precautions
773 to prevent such contamination or pollution by third parties.

774 (b) The Contractor shall comply with all applicable Federal [, State,
775 and local laws and regulations] and Reclamation policies and instructions existing, or hereafter
776 enacted or promulgated, concerning any hazardous material that will be used, produced,
777 transported, stored, released, or disposed of on or in Federal project lands, project waters, or
778 project works.

779 (c) "Hazardous material" means (1) any substance falling within the
780 definition of "hazardous substance," "pollutant or contaminant," or "hazardous waste" under the
781 Comprehensive Environmental Response, Compensation and Liability Act
782 (42 U.S.C. § 9601(14), (29), and (33)); (2) oil, as defined by the Clean Water Act
783 (33 U.S.C. § 1321(a)) and the Oil Pollution Act (33 U.S.C. § 2701(23)); (3) thermal pollution,
784 refuse, garbage, sewage effluent, industrial waste, mine or mill tailings, mineral salts, pesticides,
785 and other solid waste, and (4) any other substance regulated as hazardous or toxic under Federal
786 [, State, local] or Tribal law.

787 (d) Upon discovery of any event which may or does result in
788 contamination or pollution of Federal project lands, project water, or project works, the
789 Contractor shall immediately undertake all measures necessary to protect public health and the
790 environment, including measures necessary to contain or abate any such contamination or
791 pollution, and shall report such discovery with full details of the actions taken to the Contracting
792 Officer. Reporting shall be within a reasonable time period but shall not exceed 24 hours from
793 the time of discovery if it is an emergency and the first working day following discovery in the
794 event of a non-emergency.

795 (e) If violation of the provisions of this Article occurs and the
796 Contractor does not take immediate corrective action, as determined by the Contracting Officer,

797 the Contractor may be subject to remedies imposed by the Contracting Officer, which may
798 include termination of this Contract.

799 (f) The Contractor shall be liable for any response action or corrective
800 measure necessary to protect public health and the environment or to restore Federal project
801 lands, project waters, or project works that are adversely affected as a result of such violation,
802 and for all costs, penalties or other sanctions that are imposed for violation of any Federal [,
803 State, local] or Tribal laws and regulations concerning hazardous material. At the discretion of
804 the Contracting Officer, the United States may also terminate this Amendatory Contract, as a
805 result of such violation.

806 (g) The Contractor shall defend, indemnify, protect and save the
807 United States harmless from and against any costs, expenses, claims, damages, demands, or other
808 liability arising from or relating to Contractor's violation of this article.

809 (h) Reclamation agrees to provide information necessary for the
810 Contractor, using reasonable diligence, to comply with the provisions of this Article.

811 **23. The Contract is amended to add Article X, entitled RECLAMATION**

812 **REFORM ACT OF 1982, to be consistent with the WIIN Act, as follows:**

813 **(IRRIGATION ONLY)**

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

817 (b) The obligation of a Contractor to pay the Additional Capital
818 Obligation shall not affect the Contractor's status as having repaid all of the construction costs

819 assignable to the Contractor or the applicability of subsections (a) and (b) of section 213 of the
820 Reclamation Reform Act of 1982 (96 Stat. 1269) once the Repayment Obligation is paid.

821 **24. The Contract is amended to add Article X, entitled CERTIFICATION OF**
822 **NONSEGREGATED FACILITIES, as follows:**

823 **(DOES NOT APPLY TO LOCAL GOVERNMENTS)**
824

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

845 **NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR**
846 **CERTIFICATIONS OF NONSEGREGATED FACILITIES**

847 A Certification of Nonsegregated Facilities must be submitted prior to the award of a
848 subcontract exceeding \$10,000 which is not exempt from the provisions of the Equal
849 Employment Opportunity clause. The certification may be submitted either for each subcontract
850 or for all subcontracts during a period (i.e., quarterly, semiannually, or annually). Note: The
851 penalty for making false statements in offers is prescribed in 18 U.S.C. § 1001.
852

853 25. Article **X** of the Contract, entitled **PEST MANAGEMENT**, is amended and
854 replaced in its entirety with the following new Article **X**:

855 **(DIVISION LEVEL, IF NOT DELETE)**

856 **X.** (a) The Contractor is responsible for complying with applicable
857 Federal, State, and local laws, rules, and regulations related to pest management in performing its
858 responsibilities under this contract.

859 (b) The Contractor is responsible for effectively avoiding the
860 introduction and spread of, and for otherwise controlling, undesirable plants and animals, as
861 defined by the Contracting Officer, on or in Federal project lands, Federal project waters, and
862 Federal project works for which and to the extent that the Contractor has operation and
863 maintenance responsibility. The Contractor is responsible for exercising the level of precaution
864 necessary in meeting this responsibility, including inspecting its vehicles, watercraft, and
865 equipment for reproductive and vegetative parts, foreign soil, mud or other debris that may cause
866 the spread of weeds, invasive species and other pests, and removing such materials before
867 moving its vehicles, watercraft, and equipment onto any Federal land, into any Federal project
868 facility waters, or out of any area on Federal project land where work is performed.

869 (c) Where decontamination of the Contractor’s vehicles, watercraft, or
870 equipment is required prior to entering Federal project land or waters, the decontamination shall
871 be performed by the Contractor at the point of prior use, or at an approved offsite facility able to
872 process generated cleaning wastes, pursuant to applicable laws, rules, and regulations. Upon the
873 completion of work, the Contractor will perform any required decontamination within the work
874 area before moving the vehicles, watercraft, and equipment from Federal project lands and
875 waters.

876 (d) Programs for the control of undesirable plants and animals on
877 Federal project lands, and in Federal project waters and Federal project works for which the
878 Contractor has operation and maintenance responsibility will incorporate Integrated Pest
879 Management (IPM) concepts and practices. IPM refers to a systematic and environmentally
880 compatible program to maintain pest populations within economically and environmentally
881 tolerable levels. In implementing an IPM program, the Contractor will adhere to applicable
882 Federal and State laws and regulations and Department of the Interior and Bureau of
883 Reclamation policies, directives, guidelines, and manuals, including but not limited to, the
884 Department of the Interior Manual, Part 517 *Integrated Pest Management Policy* and Part 609
885 *Weed Control Program*, the Plant Protection Act of June 20, 2000 (Pub. L. 106-224), and
886 Executive Order 13112 of February 3, 1999.

887 26. The Contract is amended to add Article **X**, entitled **MEDIUM FOR**
888 **TRANSMITTING PAYMENTS**, as follows:

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

893 (b) The Contractor shall furnish the Contracting Officer with the
894 Contractor's taxpayer's identification number (TIN). The purpose for requiring the Contractor's
895 TIN is for collecting and reporting any delinquent amounts arising out of the Contractor's
896 relationship with the United States.

[Contractor Specific] EXHIBIT

897 **27.** (a) Exhibit A attached to this Amendment shall replace Exhibit A to the
898 Contract.

899 (b) Exhibit B attached to this Amendment shall replace Exhibit B to the
900 Contract.

901 (c) New Exhibit C is attached to this Amendment . [DIVISION LEVEL]

902 (d) New Exhibit D is attached to this Amendment. . [DIVISION LEVEL]

903 **28. The Contract is amended to add Article **X**, entitled INCORPORATION OF**
904 **EXHIBITS, as follows:**

905 **X.** Exhibits A through D are attached hereto and incorporated herein by
906 reference. [DIVISION LEVEL]

907 **30. The Existing Contract is amended to add Article **X**, entitled CONTRACT**
908 **DRAFTING CONSIDERATIONS, as follows:**

909 29. This Amendment has been prepared and reviewed by the parties hereto, each of
910 whom is sophisticated in the matters to which this Amendment pertains. The Parties'

911 negotiations with regard to this Amendment were limited to preparing language to implement the
912 directives of the WIIN Act.

913 30. Except as specifically provided herein, the provisions of the Contract shall
914 continue in full force and effect as originally written and executed.

915 IN WITNESS WHEREOF, the parties hereto have executed this Amendment as
916 of the day and year first above written.

917 UNITED STATES OF AMERICA

918 By: _____
919 Regional Director
920 Mid-Pacific Region
921 Bureau of Reclamation

922 **Insert Contractor name**

923 (SEAL)

924 By: _____
925 **Insert Appropriately [President of the**
926 **Board of Directors or Provision for Mayor,**
927 **etc.]**

928 Attest:

929 By: _____
930 Secretary of the Board of Directors
931 **Insert Appropriately**

Contract No.

CONTRACTOR'S BOUNDARY MAP

DRAFT

EXHIBIT B
Insert Contractors name
YEAR Choose a year RATES
(Per Acre-Foot)

Cost Component	Irrigation Cost of Service	Placeholder	Placeholder	Placeholder	M&I Cost of Service
Water Marketing					
Conveyance O&M*					
Conveyance O&M Sub-Total:					
Other Costs					
Conveyance Construction					
Sub-Total Conveyance:					
Water Marketing and Conveyance Total:					
Conveyance Pumping Construction Sub-Total:					
Storage O&M					
Storage Construction					
Storage Sub-Total:					
Total Marketing, Conveyance and Storage:					

*Conveyance operation and maintenance costs were removed for ratesetting purposes and are billed directly by the Operating Non-Federal Entity.

NOTE: If the Non-Project Water is being conveyed through the Contractor's 9(d) distribution system, a separate rate will be developed for that system.

Additional details of rate components are available on the internet at <http://www.usbr.gov/mp/cvpwaterrates/ratebooks/>

Contract No.

EXHIBIT C/D

DRAFT

Contract No.

EXHIBIT D

DRAFT

Contract No.

DRAFT

Place holder for Reclamation

DRAFT