# SUBCONTRACT BETWEEN THE COUNTY OF COLUSA AND THE MYERS-MARSH MUTUAL WATER COMPANY PROVIDING FOR RESALE OF WATER UNDER CONTRACT BETWEEN THE UNITED STATES OF AMERICA AND THE COUNTY OF COLUSA

## **Table of Contents**

Article No.	<u>Title</u>	Page No.	
	Preamble	1	
	Explanatory Recitals	1-3	
1	Incorporation of Terms of Master Contract		
2	Resale of Water		
3	Points of DeliveryOperation and Maintenance of		
	Pumping Plants by Member Units	4	
4	Assumption of Administrative Responsibilities by		
	Member Unit	4	
5	Term of Subcontract	4	
6	Contracts for Resale of Water	5	
7	General Obligation of the County		
8	General Obligation of the Member Unit		
9	County to be Held Harmless		
10	Notices		
11	Assignment LimitedSuccessors and Assigns Obligated	6	
12	Officials Not to Benefit		
13	Confirmation of Subcontract		
14	Amendments of Master Contract		
	Signature Page	8	

1 2 3 4	R. O. Draft 05-11/2004 Contract No. 1-07-20-W0225-R-1				
5 6 7 8	SUBCONTRACT BETWEEN THE COUNTY OF COLUSA AND THE MYERS-MARSH MUTUAL WATER COMPANY PROVIDING FOR RESALE OF WATER UNDER CONTRACT BETWEEN THE UNITED STATES OF AMERICA AND THE COUNTY OF COLUSA				
9	This Subcontract is made this day of, 2004, by and between the				
10	COUNTY OF COLUSA, hereinafter referred to as the County, acting through the Chairman of				
11	the Board of Supervisors, with its principal place of business in Colusa, California, and the				
12	MYERS-MARSH MUTUAL WATER COMPANY, hereinafter referred to as the Member Unit,				
13	acting through the President and Secretary of the Board of Directors, with its principal place of				
14	business in Williams, California.				
15	WITNESSETH, that:				
16	EXPLANATORY RECITALS				
17	[1 <sup>st</sup> ] WHEREAS, on,, 2004, in pursuance generally of the Act				
18	of June 17, 1902 (32 Stat. 388), and Acts amendatory thereof or supplementary thereto, the				
19	United States of America and the County of Colusa entered into Contract				
20	No. 14-06-200-8310A-R-1 providing for water service, hereinafter referred to as Master				
21	Contract; and				
22	[2 <sup>nd</sup> ] WHEREAS, pursuant to said Master Contract, the United States agreed to furnish				
23	up to 20,000 acre-feet of water annually from the Tehama-Colusa Canal to the County; and				
24	[3 <sup>rd</sup> ] WHEREAS, Article 39 of the Master Contract states:				

1 "The Contractor [the County] may enter into subcontracts with Member Units for the 2 resale and distribution of water furnished pursuant to this Contract within the Contractor's 3 Service Area. Each such Member Unit subcontract shall be subject to the obligations and 4 limitations imposed, and to the rights granted, by this Contract and shall so provide. The terms 5 and conditions of each Member Unit's subcontract shall be approved by the Contracting Officer 6 prior to the execution of such Member Unit subcontract, which approval shall be limited to a 7 determination that the subcontract is consistent with the provisions of this Contract. Nothing 8 herein or therein contained shall be deemed in any way to release the Contractor from its primary 9 liability to the United States hereunder with respect to each and all of the obligations undertaken 10 by the Contractor in this Contract."; and  $[4^{th}]$ 11 WHEREAS, the Member Unit is a mutual water company within the County's 12 service area organized for the purpose of obtaining a water supply from the Tehama-Colusa 13 Canal and is eligible to enter into a subcontract within the meaning of Article 39 of the Master 14 Contract; and [5<sup>th</sup>] WHEREAS, the Member Unit and the County have previously entered into and 15 16 performed under subcontracts between them for the resale and delivery by the County to 17 Member Unit of up to 255 acre-feet annually of Central Valley Project Water that the County 18 had rights to receive under it prior Master Contract with the United States (Contract 19 No. 14-06-200-8310A), dated November 18, 1975, and the interim renewal contracts related 20 thereto; and  $[6^{th}]$ 21 WHEREAS, there is a present and potential need for water in the amount of 255 22 acre-feet annually for irrigation and/or municipal and industrial purposes with the boundaries of

1 the Member Unit, and that such a water supply to meet these present and potential needs can be 2 made available by and through the works constructed by the United States; and [7<sup>th</sup>] 3 WHEREAS, upon motion duly made and seconded, the Board of Supervisors of 4 the County voted unanimously, at a regular meeting thereof on January 15, 1980, to approve the 5 resale to the Member Unit by subcontract of 255 acre-feet of the County's annual entitlement of 6 20,000 acre-feet of water pursuant to the Master Contract, subject to the prior approval of the 7 Contracting Officer as defined in the Master Contract; and [8<sup>th</sup>] 8 WHEREAS, said Contracting Officer has given advance consent to and approval 9 of the form, terms, and conditions of the Subcontract between the County and the Member Unit. 10 NOW, THEREFORE, in consideration of the mutual and dependent covenants herein 11 contained, it is hereby mutually agreed by the parties hereto as follows: 12 INCORPORATION OF TERMS OF MASTER CONTRACT 13 1. This Subcontract is entered into pursuant to Article 39 of the Master Contract and 14 subject to the terms, conditions, obligations, and limitations imposed by the Master Contract 15 unless specifically provided to the contrary herein. 16 RESALE OF WATER 2. 17 The County hereby resells to the Member Unit a quantity of water up to 18 255 acre-feet of the 20,000 acre-feet of water to which the County is annually entitled pursuant 19 to Article 3 of the Master Contract. The Member Unit will not be liable to the County for 20 administrative or other charges in connection with said resale of water.

1 2	POINTS OF DELIVERYOPERATION AND MAINTENANCE OF PUMPING PLANTS BY MEMBER UNITS				
3	3. The water to be furnished to the Member Unit pursuant to this Subcontract shall				
4	be delivered in the canal system of Glenn-Colusa Irrigation District and will be discharged in the				
5	Member Unit's facilities through an existing irrigation outlet.				
6	ASSUMPTION OF ADMINISTRATIVE RESPONSIBILITIES BY MEMBER UNIT				
7	4. The Member Unit, rather than the County, shall perform the following				
8	administrative responsibilities with respect to the resale of water pursuant to this Subcontract:				
9	(a) The Member Unit shall submit water use schedules to the United States in				
10	the manner provided for in Article 4 of the Master Contract;				
11	(b) The Member Unit shall make payment, on behalf of the County, to the				
12	United States for water furnished pursuant to the Subcontract and in the manner and at the rates				
13	provided for in Article 7 of the Master Contract. The County shall return to the Member Unit				
14	any refund resulting from adjustments pursuant to Article 7 of the Master Contract.				
15	(c) The Member Unit, on behalf of the County, shall pay interest on				
16	delinquent payment for water furnished pursuant to this Subcontract in the manner provided for				
17	in Article 20 of the Master Contract.				
18	(d) The Member Unit, on behalf of the County, shall establish and maintain				
19	the books, records, and reports pertaining to the Member Unit's financial transactions, land use				
20	and crop census, water use, and other matters in the manner provided in Article 30 of the Master				
21	Contract.				
22	TERM OF SUBCONTRACT				
23	5. The term of this Subcontract shall be the same as the term of the Master Contract.				

### CONTRACTS FOR RESALE OF WATER

6. The Member Unit may enter into contracts, transfers, or exchanges of water furnished pursuant to this Subcontract in the manner provided for in Article 9 of the Master Contract.

#### GENERAL OBLIGATION OF THE COUNTY

7. Nothing herein contained shall be deemed in any way to release the County from its primary liability to the United States pursuant to the Master Contract with respect to each and all of the obligations undertaken by the County in said Master Contract.

## GENERAL OBLIGATION OF THE MEMBER UNIT

- 8. (a) The Member Unit as a whole is obligated to pay the charges becoming due as provided in this Subcontract notwithstanding the individual default in the payment to the Member Unit by individual water users of assessments, tolls, or other charges levied by the Member Unit. The lands which may be charged with any taxes or assessments under this Subcontract are hereby designated as all the lands within the service area of the Member Unit.
- (b) The Member Unit will cause to be levied and collected all necessary assessments, standby charges, or water tolls, and will use all of the authority and resources of the Member Unit to meet its obligations hereunder to make in full all payments to be made pursuant to this Subcontract on or before the dates such payments become due and to meet its other obligations under this Subcontract. The Member Unit may, either or both, require the payment of service or standby charges or levy assessments for such water or service.

# 1 <u>COUNTY TO BE HELD HARMLESS</u>

9. The Member Unit shall hold the County harmless from every claim for damage to persons or property, and from each and every obligation, arising out of, or connected with, the performance by the Member Unit of this Subcontract.

5 NOTICES

10. Any notice, demand, or request authorized or required by this Subcontract shall be deemed to have been given when mailed, postage prepaid, or delivered to the Area Manager, Northern California Area Office, Bureau of Reclamation, 16349 Shasta Dam Boulevard, Shasta Lake, California 96019, on behalf of the United States; to the Board of Supervisors, County of Colusa, 546 Jay Street, Colusa, California 95932, on behalf of the County; and to the Board of Directors, Myers-Marsh Mutual Water Company, P. O. Box 1308, Arbuckle, California 95912, on behalf of the Member Unit. The designation of the addressee or the address may be changed

#### ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

by notice given in the same manner as provided in this Article for other notices.

- 11. (a) The provisions of this Subcontract shall apply to and bind the successors and assigns of the parties hereto, but no assignment or transfer of this Subcontract or any right or interest therein shall be valid until approved in writing by the Contracting Officer.
  - (b) The assignment of any right or interest in this Subcontract by either party shall not interfere with the rights or obligations of the other party to this Subcontract absent the written concurrence of said other party.
- 21 (c) The Contracting Officer shall not unreasonably condition or withhold his 22 approval of any proposed assignment.

## 1 OFFICIALS NOT TO BENEFIT 2 12. No Member of or Delegate to Congress, Resident Commissioner, or official of the 3 Member Unit shall benefit from this Subcontract other than as a water user or landowner in the 4 same manner as other water users or landowners. 5 CONFIRMATION OF SUBCONTRACT 6 13. The Member Unit, upon execution of this Subcontract, shall promptly secure a 7 final decree of the proper court of the State of California, if appropriate, approving and 8 confirming this Subcontract and decreeing and adjudging it and the apportionment of the benefits 9 made thereunder to be lawful, valid, and binding on the Member Unit. The Member Unit shall 10 furnish to the County and the United States a certified copy of such decree and pertinent 11 supporting records or a document describing why securing such a decree was unnecessary. 12 AMENDMENTS OF MASTER CONTRACT 13 14. The County and the Member Unit agree that neither party will take any action, 14 without the prior written consent of the other party, which would result in an amendment to the 15 Master Contract or this Subcontract which would increase the rates of payment for or the amount

16

of water furnished pursuant thereto.

1	IN WITNESS WHEREOF, the parties hereto have executed this Subcontract the day and		
2	year here and above written.		
3		COU	NTY OF COLUSA
4 5		By:	Chairman, Board of Supervisors
6	Attest:		
7 8 9	County Clerk and Ex-Officio Clerk of the Board of Supervisors of the County of Columbia	sa	
10		MYE	RS-MARSH MUTUAL WATER COMPANY
11 12		By: _	President, Board of Directors
13 14		By: _	Secretary, Board of Directors
15	Approved:		
16	THE UNITED STATES OF AMERICA		
17 18 19	By: Regional Director, Mid-Pacific Regional Director,	on	
20	(I:\LTRC\Draft LTRC\ 05-11-04 Mevers Ma	arsh N	IWC Final Draft Subcontract form doc)