

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
Delta Division and San Luis Unit, Central Valley Project, California

TEMPORARY CONTRACT BETWEEN THE UNITED STATES
AND
WESTLANDS WATER DISTRICT
PROVIDING FOR MULTI-YEAR
CONVEYANCE OF NON-PROJECT WATER

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Temporary Warren Act Contract – Year 2017 - 2022
Irrigation and M&I
Contract No. 17-WC-20-5096

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CONTRACT BETWEEN THE UNITED STATES
AND
WESTLANDS WATER DISTRICT
PROVIDING FOR MULTI-YEAR
CONVEYANCE OF NON-PROJECT WATER

1 THIS CONTRACT, made this _____ day of _____, 20____,
2 pursuant to the Act of June 17, 1902 (32 Stat. 388), and acts amendatory thereof or
3 supplementary thereto, including the Act of February 21, 1911 (36 Stat. 925), and Section 305 of
4 the Reclamation States Emergency Drought Relief Act of 1991, enacted March 5, 1992
5 (106 Stat. 59), all collectively hereinafter referred to as the Federal Reclamation laws, between
6 the UNITED STATES OF AMERICA, hereinafter referred to as the United States, represented
7 by the officer executing this Contract, hereinafter referred to as the Contracting Officer, and
8 WESTLANDS WATER DISTRICT, hereinafter referred to as the Contractor;

9 WITNESSETH, That:

10 EXPLANATORY RECITALS

11 [1st] WHEREAS, the United States has constructed and is operating the Central
12 Valley Project, California, for diversion, storage, carriage, distribution and beneficial use, for
13 flood control, irrigation, municipal, domestic, industrial, fish and wildlife mitigation, protection
14 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

[2nd] WHEREAS, the Contractor asserts a right to a Non-Project Water supply for Irrigation and Municipal and Industrial purposes through its interest in Kings River Pre-1914 Water Rights and has requested the United States convey said Non-Project Water through Excess Capacity in the San Luis Canal and associated facilities, features of the San Luis Unit, Central Valley Project; and

[3rd] WHEREAS, the United States is willing to convey said Non-Project Water to the Contractor through Excess Capacity in said Project Facilities in accordance with the terms and conditions hereinafter stated; and

[4th] WHEREAS, the environmental compliance requirements for the execution of this Contract have been met by a Finding of No Significant Impact, (FONSI) 17-023 dated _____ (mm/dd/yy), titled "Westlands Water District 5-year Warren Act Contract for Kings River Flood Flows in the San Luis Canal

NOW, THEREFORE, in consideration of the covenants herein contained, the parties agree 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) "Calendar Year" shall mean the period January 1 through December 31, both dates inclusive;

(b) "Contracting Officer" shall mean the Secretary of the Interior's duly authorized representative acting pursuant to this Contract or applicable Reclamation law or regulation;

(c) "Contractor's Boundaries" shall mean the geographic area within which the Contractor is authorized to serve Non-Project Water as set forth on Exhibit A, which may be modified in accordance with Article 24, without amendment of this Contract;

(d) "Eligible Lands" shall mean all lands to which Irrigation Water may be delivered in accordance with Section 204 of the RRA;

(e) "Excess Capacity" shall mean capacity in the Project Facilities in excess of that needed to meet the Project's authorized purposes, as determined solely by the Contracting Officer, which may be made available to convey and deliver Non-Project Water;

(f) "Full-Cost Lands" shall mean landholdings described in Sections 205(a)(3) and 202(3) of the RRA;

(g) "Incremental Fee" shall mean the fee, as set forth in Exhibit B, to be paid to the United States pursuant to the acreage limitation provisions of the Federal Reclamation laws for Non-Project Water conveyed through Project Facilities that will be used to irrigate Ineligible Lands;

(h) "Ineligible Lands" shall mean all lands to which Irrigation Water may not be delivered in accordance with Section 204 of the RRA;

(i) "Irrigation Water" shall mean Non-Project Water used to irrigate land primarily for the production of commercial agricultural crops or livestock, and domestic and other uses that are incidental thereto. It does not include uses such as watering golf courses; lawns and ornamental shrubbery used in residential and commercial landscaping, household gardens, parks and other recreational facilities; pasture for animals raised for personal purposes or for nonagricultural commercial purposes; cemeteries; and similar uses (except to the extent that some of these uses may be incidental to uses that are primarily agricultural). It also does not

include commercial agricultural uses that do not require irrigation, such as fish farms and livestock production in confined feeding or brooding operations;

(j) “Municipal and Industrial (M&I) Water” shall mean Non-Project Water used for municipal, industrial, and miscellaneous purposes not falling under the definition of “Irrigation Water” described in subdivision (i) of this Article 1 or within another category of water use under an applicable Federal authority;

(k) “Non-Project Water” shall mean water acquired by or available to the Contractor from the source(s) identified in Exhibit C that has not been appropriated or acquired by the United States;

(l) “Operating Non-Federal Entity(ies)” shall mean the non-Federal entity or entities that has the obligation pursuant to a separate agreement with the United States to operate and maintain all or a portion of the Project Facilities, and which may have funding obligations with respect thereto;

(m) “Project” shall mean the Central Valley Project, owned by the United States and managed by the Department of the Interior, Bureau of Reclamation;

(n) “Project Facilities” shall mean the San Luis Canal and associated facilities, constructed as features of the Delta Division and San Luis Canal Unit, Central Valley Project;

(o) “Project-Use Power” is that electrical energy, and its associated ancillary service components, required to provide the full electrical service needed to operate and maintain Project Facilities, and to provide electric service for Project purposes and loads in conformance with the Reclamation Project authorization. Project-Use Power is not available to pump Non-Project Water, to operate pumps that were not built as Federal facilities as part of the Project, to pump Project Water outside the authorized service area, or provide for on-farm uses;

(p) “Project Water” shall mean all water that is developed, diverted, stored, or delivered by the Secretary in accordance with the statutes authorizing the Project and in accordance with the terms and conditions of water rights acquired pursuant to California law;

(q) “Rates” shall mean the amount to be paid to the United States by the Contractor, as set forth in Exhibit B, for the use of Excess Capacity in the Project Facilities made available pursuant to this Contract;

(r) “RRA” shall mean the Reclamation Reform Act of October 12, 1982 (96 Stat. 1263), as amended;

(s) “Secretary” shall mean the Secretary of the Interior, a duly appointed successor, or an authorized representative acting pursuant to any authority of the Secretary and through any agency of the Department of the Interior; and

(t) “Year, Annual, Annually, or Annum” shall mean the period from and including the effective date of this Contract, through the last day of the 12th consecutive month immediately following.

TERM OF CONTRACT

2. This Contract shall become effective on the date hereinabove written and shall remain in effect through June 30, 2022: *Provided*, That upon written notice to the Contractor, this Contract may be terminated by the Contracting Officer at an earlier date, if the Contracting Officer determines that the Contractor has not been complying with one or more terms or conditions of this Contract.

INTRODUCTION, CONVEYANCE, AND DELIVERY OF NON-PROJECT WATER

3. (a) During the term of this Contract, the Contractor may introduce up to 50,000 acre-feet each Year of Non-Project Water from the source(s) identified in Exhibit C into the Project Facilities at Mileposts 113.0 (Lateral 6-1) and 115.43 (Lateral 7-1). The

United States or the designated Operating Non-Federal Entity shall convey Non-Project Water through Excess Capacity in the Project Facilities from said point(s) of introduction for delivery to the Contractor at existing Westlands turnouts on the San Luis Canal and Pleasant Valley Canal system or other location(s) mutually agreed to in writing by the Contracting Officer and the Contractor, in accordance with an approved schedule submitted by the Contractor pursuant to subdivision (d) of this Article: *Provided*, That the quantity of Non-Project Water to be delivered to the Contractor from Project Facilities shall not exceed the quantity of Non-Project Water previously introduced into the Project Facilities by the Contractor at said point(s) of introduction, less 5% percent for conveyance losses.

(b) Exhibit C may be modified or replaced by mutual agreement of the Contractor and the Contracting Officer to reflect changes to the source(s) of Non-Project water without amendment of this Contract: *Provided, however*, That no such modification or replacement shall be approved by the Contracting Officer absent the completion of all appropriate environmental documentation, including but not limited to documents prepared pursuant to the National Environmental Policy Act of 1969 (NEPA) and the Endangered Species Act of 1973 (ESA), as amended.

(c) All Non-Project Water conveyed and delivered to the Contractor pursuant to this Contract shall be used for Irrigation and M&I.

(d) Prior to the introduction of Non-Project Water into the Project Facilities, the Contractor shall submit a schedule to the Contracting Officer and the designated Operating Non-Federal Entity showing the quantities of Non-Project Water to be introduced into the Project Facilities, and the desired time or times for delivery of said Non-Project Water: *Provided*, That the Contractor is not required to initially schedule delivery of the maximum quantity of Non-Project Water for which the Contractor desires conveyance during the term of

this Contract. The initial schedule and any revision(s) thereof shall be in a form acceptable to the Contracting Officer and shall be submitted at such times and in such manner as determined by the Contracting Officer. The Contractor shall not introduce Non-Project Water into the Project Facilities unless and until the schedule and any revision(s) thereof have been approved by the Contracting Officer.

(e) All Non-Project Water remaining in the Project Facilities after 30 days from the date of introduction or upon expiration or termination of this Contract shall be deemed to be unused water donated to the United States for Project purposes. Further, all Non-Project Water made available for delivery to the Contractor from the Project Facilities and not accepted by the Contractor shall be deemed to be unused water donated to the United States for Project purposes.

(f) Unless otherwise agreed to in writing by the Contracting Officer, the Non-Project Water shall be introduced into and delivered to the Contractor through existing Project Facilities. If temporary inflow or delivery facilities are required to effectuate the introduction of Non-Project Water into the Project Facilities or the delivery of the Non-Project Water to the Contractor from the Project Facilities, the Contractor shall, at its own cost and expense obtain all appropriate environmental documents, necessary rights-of-way for such facilities, including the appropriate right-of-use agreement(s) or other authorizations issued by the United States for any such facilities located on right-of-way for existing Project Facilities. The Contractor, at its own cost and expense, shall be responsible for providing, installing, operating, maintaining, repairing, replacing, and removing said inflow and delivery facilities. The Contractor hereby grants to the Contracting Officer and the Operating Non-Federal Entity access, for the purpose of this Contract, to all temporary inflow and delivery facilities installed by the Contractor.

(g) The introduction, conveyance, and delivery of Non-Project Water pursuant to this Contract will not be supported with Project-Use Power. If electrical power is required to convey or pump the Non-Project Water into, through or from the Project Facilities, the Contractor shall: (i) be responsible for the acquisition and payment of all electrical power and associated transmission service charges, and provide a copy of a power contract and copies of payment documents to the Contracting Officer as evidence that such electrical power has been contracted and paid for prior to the introduction, conveyance, and delivery of any Non-Project Water ; and/or (ii) prior to the introduction, conveyance, and delivery of any Non-Project Water, enter into a letter of agreement with the United States that provides for the payment of all actual energy costs and fees incurred in the introduction, conveyance and delivery of the Non-Project Water .

(h) The Contractor shall have no rights to any benefits from increased power generation that may result from the conveyance of the Non-Project Water through Excess Capacity in the Project Facilities authorized pursuant to this Contract.

(i) The introduction of Non-Project Water into the Project Facilities by the Contractor shall be conditioned upon compliance by the Contractor with the environmental measures described in the environmental documentation prepared in connection with the execution of this Contract and with the terms of the applicable operations procedures approved by the Contracting Officer.

MEASUREMENT OF NON-PROJECT WATER

4. (a) All Non-Project Water shall be measured and recorded at the point(s) of introduction and point(s) of delivery established pursuant to Article 3 herein with measurement devices acceptable to the Contracting Officer and the methods used to make such measurements shall be in accordance with sound engineering practices.

(b) Unless otherwise agreed to in writing by the Contracting Officer, the Contractor, at its own cost and expense, shall be responsible for providing, installing, operating, maintaining, repairing, replacing, and removing all measurement devices required under this Contract in accordance with any right-of-use agreement(s) or other requisite authorization(s) issued by the United States. The Contractor shall be responsible for all costs associated with the issuance of such right-of-use agreement(s) and authorization(s).

(c) The Contractor shall maintain accurate records of the quantity of Non-Project Water, expressed in acre-feet, introduced into and delivered from Project Facilities at said authorized point(s) of introduction and delivery and shall provide such records to the Contracting Officer and the Operating Non-Federal Entity at such times and in such manner as determined by the Contracting Officer.

(d) Upon the request of either party to this Contract, the Contracting Officer shall investigate, or cause to be investigated by the Operating Non-Federal Entity, the accuracy of all measurements of Non-Project Water required by this Contract. If the investigation discloses errors in the recorded measurements, such errors shall be promptly corrected. If the investigation discloses that measurement devices are defective or inoperative, the Contracting Officer shall take any necessary actions to ensure that the responsible party makes the appropriate adjustments, repairs, or replacements to the measurement devices. In the event the Contractor, as the responsible party, neglects or fails to make such adjustments, repairs, or replacements to the measurement devices within a reasonable time and to the reasonable satisfaction of the Contracting Officer, the Contracting Officer may cause such adjustments, repairs, or replacements to be made and the costs thereof shall be charged to the Contractor and the Contractor shall pay said charges to the United States immediately upon receipt of a detailed billing. For any period of time during which accurate measurements of the Non-Project Water

have not been made, the Contracting Officer shall consult with the Contractor and the Operating Non-Federal Entity prior to making a determination of the quantity of Non-Project Water introduced, conveyed and delivered for that period of time and such determination by the Contracting Officer shall be final and binding on the Contractor.

OPERATION AND MAINTENANCE BY OPERATING NON-FEDERAL ENTITY

5. (a) The operation and maintenance of a portion of the Project Facilities to be used to introduce, convey and deliver the Non-Project Water to the Contractor, and responsibility for funding a portion of the costs of such operation and maintenance, have been transferred from the United States to the San Luis and Delta-Mendota Water Authority (SL&DMWA), the designated Operating Non-Federal Entity, pursuant to a separate agreement, identified as Contract No. 8-07-20-X0354, dated February 18, 2003 (Agreement), as amended and to the California Department of Water Resources (DWR), pursuant to separate agreement identified as Contract No. 14-06-200-9755, as amended. These separate agreements shall not interfere with or affect the rights or obligations of the Contractor or the United States hereunder.

(b) The Contractor shall pay directly to the SL&DMWA and DWR, or to any successor approved by the Contracting Officer under the terms and conditions of the separate agreement described in subdivision (a) of this Article 5, all rates, charges, or assessments of any kind, including any assessment for reserve funds, that the SL&DMWA and DWR or such successor determines, sets, or establishes for the operation and maintenance of the portion of the Project Facilities operated and maintained by the SL&DMWA and DWR or such successor used to convey and deliver the Non-Project Water to the Contractor.

(c) For so long as the operation and maintenance of any portion of the Project Facilities used to convey and deliver the Non-Project Water to the Contractor is performed by the SL&DMWA and DWR, or any successor thereto, the Contracting Officer shall adjust those

components of the Rates for the Non-Project Water conveyed under this Contract by deleting the costs associated with the activity being performed by the SL&DMWA and DWR or its successor.

(d) In the event the United States reassumes operation and maintenance of any portion of the Project Facilities from the Operating Non-Federal Entities, the Contracting Officer shall so notify the Contractor, in writing, and shall revise the Rates on Exhibit B to include the costs associated with the operation and maintenance activities reassumed by the United States. The Contractor shall, thereafter, in the absence of written notification from the Contracting Officer to the contrary, pay the Rates, specified in the revised Exhibit B directly to the United States in compliance with Article 6 of this Contract.

PAYMENTS AND ADJUSTMENTS

6. (a) At the time the Contractor submits a schedule, or any revision(s) thereof pursuant to subdivision (d) of Article 3 of this Contract, the Contractor shall make an advance payment to the United States equal to the total amount payable pursuant to the applicable Rates shown on Exhibit B for each acre-foot of Non-Project Water to be introduced into the Project Facilities. Non-Project Water shall not be introduced into Project Facilities by the Contractor prior to such payment being received by the United States.

(b) In the event the quantity of water delivered to the Contractor exceeds the quantity of Non-Project Water authorized pursuant to subdivision (a) of Article 3 of this Contract, that additional amount of water shall be deemed Project water delivered to the Contractor, and an equivalent quantity of water shall be deducted from the Contractor's Project water supply available thereafter under that certain "long-form Interim Renewal Contract Between the United States and Westlands Water District Providing for Project Water Service," designated Contract No.14-06-200-495A-IR1, dated December 27, 2007 and the successive

renewals of IR1, the most recent of which is Contract No. 14-06-200-495A-IR5, and payment shall be made at the applicable rate identified on Exhibit B to said water service contract. The provisions of this subdivision are not exclusive and shall not prohibit the United States from exercising any other remedy, including the early termination of this Contract pursuant to Article 2 of this Contract.

(c) The amount of any overpayment by the Contractor by reason of the quantity of Non-Project Water introduced into the Project Facilities and conveyed pursuant to this Contract, as conclusively determined by the Contracting Officer, having been less than the quantity which the Contractor otherwise under the provisions of this Contract would have been required to pay for, shall be applied first to any accrued indebtedness arising out of this Contract then due and owing to the United States by the Contractor. Any amount of such overpayment then remaining shall be refunded to the Contractor: *Provided, however,* That no refund shall be made by the United States to the Contractor for any quantity of Non-Project Water deemed to be unused water donated to the United States for Project purposes pursuant to subdivision (e) of Article 3 of this Contract.

(d) All payments made by the Contractor pursuant to subdivision (a) of this Article 6 shall be covered into the Reclamation Fund pursuant to Section 3 of the Act of February 21, 1911 (36 Stat. 925).

(e) The payment of the Rates set forth in this Article 6 for the use of Excess Capacity are exclusive of O&M costs to be paid directly to the Operating Non-Federal Entity by the Contractor, and any additional charges that the Contractor may assess its water users. In accordance with the Act of February 21, 1911 (36 Stat. 925), the Contractor may not impose on its water users any charge for the use of Excess Capacity that exceeds the total amount paid to the United States and to the Operating Non-Federal Entity: *Provided, That* the Contractor may

also charge its water users such additional amounts as are necessary to cover the Contractor's reasonable administrative costs in contracting with the United States for the use of Excess Capacity in the Project Facilities.

MEDIUM FOR TRANSMITTING PAYMENTS

7. (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 the 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.

EXCESS CAPACITY

8. (a) The availability of Excess Capacity shall be determined solely by the Contracting Officer. Nothing contained in this Contract shall limit or preclude the United States from utilizing available capacity in the Project Facilities for the storage and conveyance of Project Water pursuant to Federal law, Reclamation law or policy, and existing contract(s); or for using Excess Capacity in the Project Facilities for the storage and conveyance of any other supplies of Non-Project Water.

(b) The Contracting Officer and the Operating Non-Federal Entity shall not be obligated to convey Non-Project Water during periods of maintenance or for other operating requirements.

(c) If at any time the Contracting Officer determines that there will not be Excess Capacity in the Project Facilities sufficient to allow the Non-Project Water to be introduced into, conveyed, and delivered in accordance with an approved schedule submitted by the Contractor, the Contracting Officer shall so notify the Contractor in writing. Within 24 hours of said notice, the Contractor shall revise its schedule accordingly.

(d) No provision of this Contract shall be construed in any way as a basis for the Contractor to establish a priority to or a permanent right to the use of Excess Capacity in the Project Facilities nor to set a precedent to obligate the United States to enter into contracts with any other entities or individuals for the conveyance or storage of Non-Project Water.

ACREAGE LIMITATION PROVISIONS

9. (a) The Non-Project Water introduced, conveyed, and delivered pursuant to this Contract cannot be furnished to irrigate more than 160 acres of Eligible Lands owned directly or indirectly by any one person unless that person has become subject to the discretionary provisions of the RRA. The Rates for furnishing water to irrigate such Eligible Lands are identified as Irrigation Cost of Service, RRA Full Cost 202(3), and RRA Full Cost 205(a)(3) on Exhibit B.

(b) The Non-Project Water conveyed pursuant to this Contract can be furnished to Ineligible Lands only if the Contractor pays the Incremental Fee specified on Exhibit B.

RECEIPT AND DISTRIBUTION OF NON-PROJECT WATER - SALE, TRANSFER,
OR EXCHANGE OF NON-PROJECT WATER

10. (a) The parties hereto acknowledge that this Contract does not grant any permission or entitlement to the Contractor to extract and/or divert Non-Project Water from the source(s) described on Exhibit C or to change the nature or place of use of its rights to said Non-Project Water in any way. It is the responsibility of the Contractor to comply with all applicable Federal, State, and local laws, rules and regulations, including, but not limited to, State water law in relation to the Non-Project Water. It is expressly understood by the parties that the United States is only providing conveyance capacity for the Non-Project Water and does not

claim any interest in the acquisition or use of the Non-Project Water beyond the terms specifically set forth in this Contract.

(b) The Contracting Officer makes no representations as to the accuracy of the description or of the validity of the Contractor's rights to the Non-Project Water described in Exhibit C.

(c) No sale, transfer, or exchange of Non-Project Water conveyed under this Contract may take place without the prior written approval of the Contracting Officer.

WATER CONSERVATION

11. (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 consistent with the plans required by subsection 210(b) of the Reclamation Reform Act of 1982 and 43 C.F.R. 427.1 (Water Conservation Rules and Regulations).

(b) The parties hereto acknowledge and agree that pursuant to Contract No. 14-06-200-0495A-IR5, "Interim Renewal Contract Between the United States and Westlands Water District Providing for Project Water Service," dated March 1, 2016, the Contractor has implemented an effective water conservation plan that has been approved by the Contracting Officer. Said water conservation plan shall be deemed to meet the requirements of subdivision (a) of this Article 11: *Provided*, That the Contractor, prior to execution of this Contract, documents to the satisfaction of the Contracting Officer that the quantity of Non-Project Water to be conveyed pursuant to this Contract has been included in its approved water conservation plan and that all Non-Project Water shall be subject to the same water conservation requirements as the Project Water under Contract No. 14-06-200-0495A-IR5.

UNITED STATES NOT LIABLE

12. (a) The United States, its officers, agents and employees, including the Operating Non-Federal Entity, shall not be responsible for the control, care, or distribution of the

Non-Project Water before it is introduced into or after it is delivered from the Project Facilities. It is specifically understood by the parties hereto that the United States is only providing conveyance capacity for the Non-Project Water and does not claim any interest in the Non-Project Water beyond the terms specifically set forth in this Contract.

(b) The Contractor shall indemnify and hold harmless the United States, its officers, agents and employees, and the Operating Non-Federal Entity, from any loss or damage and from any liability on account of personal injury, death, or property damage, or claims for personal injury, death, or property damage, of any nature whatsoever arising out of any actions or omissions of the Contractor, its directors, officers, agents, contractors, and employees, under this Contract, including the manner or method in which the Non-Project Water identified on Exhibit C is introduced into and delivered from the Project Facilities. The Contractor further releases the United States, its officers, agents and employees, and the Operating Non-Federal Entity, from every claim for injury to persons, death, or property damage, direct or indirect, resulting from the Contracting Officer's determination of the quantity of Excess Capacity available in the Project Facilities for conveyance of the Contractor's Non-Project Water, the determination that the Non-Project Water introduced into Project Facilities must be terminated, and the elimination from Exhibit C of any source(s) of Non-Project Water. Nothing contained in this Article shall be construed as an assumption of liability by the Contractor with respect to such matters.

OPINIONS AND DETERMINATIONS

13. (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 seek 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. Nothing in subdivision (a) of this Article 13 is intended to or shall affect or alter the standard of judicial review applicable under Federal law to any opinion or determination implementing a specific provision of Federal law embodied in statute or regulation.

(b) The Contracting Officer shall have the right to make determinations necessary to administer this Contract that are consistent with the 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.

PROTECTION OF WATER AND AIR QUALITY

14. (a) Project Facilities used to make available and deliver Non-Project Water to the Contractor shall be operated and maintained in the most practical manner to maintain the quality of the Non-Project Water at the highest level possible as determined by the Contracting Officer: *Provided*, That the United States does not warrant the quality of the Non-Project Water delivered to the Contractor and is under no obligation to furnish or construct water treatment facilities to maintain or improve the quality of the Non-Project Water delivered to the Contractor.

(b) The Contractor shall comply with all applicable water and air pollution laws and regulations of the United States and the State of California; and shall obtain all required permits or licenses from the appropriate Federal, State, or local authorities necessary for the delivery of Non-Project 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 Project Facilities or Contractor facilities or Non-Project Water provided by the Contractor within the Contractor's Boundaries.

(c) This Article 14 shall not affect or alter any legal obligations of the Secretary to provide drainage or other discharge services.

(d) The Non-Project Water introduced into the Project Facilities shall be of such quality, as determined solely by the Contracting Officer, as to not significantly degrade the quality of the Project water. If it is determined by the Contracting Officer that the quality of the

Non-Project Water from any source(s) identified in Exhibit C will significantly degrade the quality of Project water in or introduced into the Project Facilities, the Contractor shall, upon receipt of a written notice from the Contracting Officer, arrange for the immediate termination of the introduction of Non-Project Water from such sources(s) into the Project Facilities, and Exhibit C shall be modified to delete such sources(s) of Non-Project Water.

(e) Exhibit D identifies the minimum water quality standards for monitoring the quality of Non-Project Water introduced by the Contractor into Project Facilities. Exhibit E identifies the laboratories approved by the Contracting Officer that are to be used for conducting water quality analyses. The Contractor is responsible for sampling and analytical costs associated with evaluating quality of the Non-Project Water. Non-Project Water introduced into Project Facilities for purposes of water quality testing is considered Project water.

(f) At all times during the term of this Contract, the Contractor shall be in compliance with the requirements of the then-current Quality Assurance Project Plan (Plan) prepared by the Contracting Officer to monitor Non-Project Water introduced into and conveyed through the Project Facilities. The Plan describes the sample collection procedures, water testing methods, and data review process, including quality control/quality assurance protocols, to verify analytical results.

(g) The Contracting Officer reserves the right to require additional analyses to ensure the Non-Project Water meets the Bureau of Reclamation's water quality acceptance criteria.

CHARGES FOR DELINQUENT PAYMENTS

15. (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, in addition to the interest charge, the Contractor shall pay an administrative charge to cover additional costs of billing and

processing the delinquent payment. If a payment is delinquent 90 days or more, in addition to the interest and administrative charges, the Contractor shall pay 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 charge rate 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 charge rate 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

16. 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, disability, 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, disability, 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, disability, or national origin.

(c) 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 11246 of September 24, 1965 (EO 11246), and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

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

(e) The Contractor will furnish all information and reports required by EO 11246, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his 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.

(f) 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 EO 11246, and such other sanctions may be imposed and remedies invoked as provided in EO 11246 or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(g) 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 EO 11246, 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.

CERTIFICATION OF NONSEGREGATED FACILITIES

17. 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.

COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

18. (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 II of the Americans with Disabilities Act of 1990 (Pub. L. 101-336; 42 U.S.C. § 12131, 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 agreement 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.

GENERAL OBLIGATION - BENEFITS CONDITIONED UPON PAYMENT

19. (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 Non-Project Water available to the Contractor through Project Facilities during any period in which the Contractor is in arrears in the advance payment of Rates and charges due the United States. The Contractor shall not deliver Non-Project Water under the terms and conditions of this Contract for lands or parties that are in arrears in the advance payment of rates and charges as levied or established by the Contractor.

558 BOOKS, RECORDS, AND REPORTS

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

569 (b) Nothing in this Article 20 shall be construed to limit or constrain the ability of
 570 the Bureau of Reclamation to conduct contract compliance reviews of this Contract in accordance
 571 with Reclamation Manual Directives and Standards PEC 05-08, last revised November 20, 2014, as
 572 may be further revised, amended, modified, or superseded.

573 CONTINGENT UPON APPROPRIATION OR ALLOTMENT OF FUNDS

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

579 ASSIGNMENT LIMITED - SUCCESSORS AND ASSIGNS OBLIGATED

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

583 OFFICIALS NOT TO BENEFIT

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

587 CHANGES IN CONTRACTOR'S ORGANIZATION

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

593

NOTICES

594 25. Any notice, demand, or request authorized or required by this Contract
595 shall be deemed to have been given, on behalf of the Contractor, when mailed, postage
596 prepaid, or delivered to Bureau of Reclamation, South-Central California Area Office, 1243 "N"
597 Street, Fresno, California, 93721-1813, and on behalf of the United States, when mailed, postage
598 prepaid, or delivered to Westlands Water District, Post Office Box 6056, Fresno, California,
599 93703-6056. The designation of the addressee or the address may be changed by notice given in
600 the same manner as provided in this Article for other notices.

601

INCORPORATION OF EXHIBITS

602 26. Exhibits A through D are attached hereto and incorporated herein by reference.

603

CONTRACT DRAFTING CONSIDERATIONS

604 27. This Contract has been negotiated and reviewed by the parties hereto, each of
605 whom is sophisticated in the matters to which this Contract pertains. The double-spaced articles
606 of this Contract have been drafted, negotiated, and reviewed by the parties, and no one party
607 shall be considered to have drafted the stated articles.

608

609

IN WITNESS WHEREOF, the parties hereto have executed this Contract as of

610

the day and year first above written.

611

UNITED STATES OF AMERICA

612

By: _____

613

Area Manager

614

South-Central California Area Office

615

Mid-Pacific Region

616

Bureau of Reclamation

617

WESTLANDS WATER DISTRICT

618

(SEAL)

619

By: _____

620

President of the Board of Directors

621

Attest:

622

By: _____

623

Secretary of the Board of Directors