

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

SECOND AMENDMENT TO CONTRACT BETWEEN THE UNITED STATES  
AND  
SANTA CLARA VALLEY WATER DISTRICT  
FOR WATER SERVICE AND OPERATION AND  
MAINTENANCE OF CERTAIN WORKS OF THE SAN FELIPE DIVISION

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

SECOND AMENDMENT TO CONTRACT BETWEEN THE UNITED STATES  
AND  
SANTA CLARA VALLEY WATER DISTRICT  
FOR WATER SERVICE AND OPERATION AND  
MAINTENANCE OF CERTAIN WORKS OF THE SAN FELIPE DIVISION

1 THIS SECOND AMENDMENT CONTRACT NO. 7-07-20-W0023B, is made this \_\_\_  
2 day of \_\_\_\_\_, 2020 in pursuance generally of the Act of June 17, 1902 (32 Stat. 388),  
3 and acts amendatory and supplementary thereto, including but not limited to, the Act of August  
4 26, 1937 (50 Stat. 844), as amended and supplemented; August 4, 1939 (53 Stat. 1187), as  
5 amended and supplemented; July 2, 1956 (70 Stat. 483), June 21, 1963 (77 Stat. 68), August 27,  
6 1967 (81 Stat. 173), October 12, 1982 (96 Stat. 1263), October 27, 1986 (100 Stat. 3050), as  
7 amended, and Title XXXIV of the Act of October 30, 1992, (106 Stat. 4706), all collectively  
8 hereinafter referred to as the Federal Reclamation law, between THE UNITED STATES OF  
9 AMERICA, hereinafter referred to as the United States, and SANTA CLARA VALLEY  
10 WATER DISTRICT, hereinafter referred to as the Contractor, a public agency of the State of  
11 California, duly organized, existing, and acting pursuant to the laws thereof;

12 WITNESSETH, That;

13 EXPLANATORY RECITALS

14 [1<sup>st</sup>] WHEREAS, the United States has constructed and is operating the Central Valley  
15 Project (“Project”), California, for diversion, storage, carriage, distribution and beneficial use,  
16 for flood control, irrigation, municipal, domestic, industrial, fish and wildlife mitigation,  
17 protection and restoration, generation and distribution of electric energy, salinity control,

18 navigation and other beneficial uses, of waters of the Sacramento River, the American River, the  
19 Trinity River, and the San Joaquin River and their tributaries; and

20 [2<sup>nd</sup>] WHEREAS, the Contractor and the United States entered into a contract titled  
21 “*Contract Between the United States and Santa Clara Valley Water District for Water Service*  
22 *and for Operation and Maintenance of Certain Works of the San Felipe Division*”, Contract No.  
23 7-07-20-W0023, dated June 7, 1977, which established terms and conditions for the delivery to  
24 the Contractor of Project water from January 1, 1988 through December 31, 2027, hereinafter  
25 referred to as the “1977 Contract”; and

26 [3<sup>rd</sup>] WHEREAS, the Contractor and the United States entered into an amendment to  
27 the 1977 Contract dated March 28, 2007, titled “*First Amendment to Contract between the*  
28 *United States and Santa Clara Valley Water District for Water Service and Operation and*  
29 *Maintenance of Certain Works of the San Felipe Division*”, Contract No. 7-07-20-W0023A,  
30 which among other things established the terms and conditions for the repayment of the San  
31 Felipe Division facilities and implementation of certain Central Valley Project Improvement Act  
32 activities, hereinafter referred to as “First Amendment”; and

33 [4<sup>th</sup>] WHEREAS, the 1977 Contract as amended by the First Amendment is hereinafter  
34 referred to as “Existing Contract”; and

35 [5<sup>th</sup>] WHEREAS, the “First Amendment” incorrectly identifies the Contract No. as  
36 7-07-02-W0023A instead of 7-07-20-W0023A; and

37 [6<sup>th</sup>] WHEREAS, the Contracting Officer and the Contractor agree to amend the  
38 Existing Contract, with the execution of this Second Amendment to the Existing Contract to  
39 update Article 9 to add CVP-wide form of contract language providing for the mutually agreed  
40 upon point or points of delivery pursuant to Federal Reclamation law on the terms and conditions

41 as set forth below and to update the Standard Articles consistent with the Bureau of  
42 Reclamations current requirements; and

43 [7<sup>th</sup>] WHEREAS, the environmental compliance requirements for the execution of this  
44 contract have been met by Environmental Assessment Number (EA) 14-046 entitled “Santa  
45 Clara Valley Water District Second Contract Amendment,” which resulted in a Finding of No  
46 Significant Impact Number 14-046 dated January 4, 2019.

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

49 MODIFICATION TO EXISTING CONTRACT

50 1. The contract number Contract No. 7-07-02-W0023A is corrected to Contract No.  
51 7-07-20-W0023A wherever it occurs in the Existing Contract including exhibits.

52 2. **Article 1 in the Existing Contract, entitled DEFINITIONS is amended as**  
53 **follows:**

54 (a) **Subdivisions (b), (h), (i) and (k) in Article 1 of the Existing Contract**  
55 **are amended and replaced in their entirety with the following new subdivisions (b), (h), (i)**  
56 **and (k).**

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

59 (h) “Agricultural Water” shall mean the use of Project Water to irrigate lands  
60 primarily for the production of commercial, agricultural crops or livestock, and domestic and  
61 other uses that are incidental thereto;

62 (i) “Municipal and Industrial Water or M&I” shall mean the use of Project  
63 Water for municipal, industrial, and miscellaneous other purposes not falling under the definition  
64 of Agricultural Water or within another category of water use under an applicable Federal  
65 authority;

66 (k) "Calendar Year" or "Year" shall mean the period January 1 through  
67 December 31, both dates inclusive;

68 (b) **Article 1 in the Existing Contract is amended to add the following**  
69 **definitions in subdivisions (u) through (cc):**

70 (u) "Condition of Shortage" shall mean a condition respecting the Project  
71 during any Year such that the Contracting Officer is unable to deliver sufficient water to meet the  
72 Contract Total;

73 (v) "Contract Total" shall mean the maximum amount of water to which the  
74 Contractor is entitled under subdivision (b) of Article 3 of this Contract;

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

77 (x) "Delta Division Facilities" shall mean those existing and future Project  
78 facilities in and south of the Sacramento-San Joaquin Rivers Delta, including, but not limited to,  
79 the Jones Pumping Plant, the O'Neill Forebay, the O'Neill Pumping/Generating Plant, and the  
80 San Luis Reservoir, used to divert, store and convey water to those Project Contractors entitled  
81 to receive water conveyed through the Delta-Mendota Canal;

82 (y) "Operation and Maintenance" or "O&M" shall mean normal and  
83 reasonable care, control, operation, repair, replacement (other than capital replacement), and  
84 maintenance of Project facilities;

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

88 (aa) "Project Water" shall mean all water that is developed, diverted, stored, or

89 delivered by the Secretary in accordance with the statutes authorizing the Project and in  
90 accordance with the terms and conditions of water rights acquired pursuant to California law;

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

94 (cc) “Water Scheduled” shall mean Project Water made available to the  
95 Contractor for which times and quantities for delivery have been established by the Contractor  
96 and Contracting Officer, pursuant to Article 4 of this Contract;

97 **3. Article 9(a) in the Existing Contract First sentence is amended and replaced**  
98 **in its entirety with the following:**

99 POINT OF DELIVERY – MEASUREMENT – RESPONSIBILITY FOR  
100 DISTRIBUTION

101 9. (a) Project Water scheduled as provided in Article 4 of this Contract  
102 shall be made available to the Contractor, pursuant to this Contract, at the headworks of the  
103 Santa Clara Facilities and/or any additional point or points of delivery either on Project facilities  
104 or another location or locations, mutually agreed to in writing by the Contracting Officer and the  
105 Contractor. Such additional point or points of delivery shall be set forth in Exhibit “G”, which  
106 may be revised without amending this Contract.

107 **4. Article 7 in the Existing Contract titled WATER SHORTAGE AND**  
108 **APPORTIONMENT is amended and replaced in its entirety with the following new Article**  
109 **7:**

110 CONSTRAINTS ON AVAILABILITY OF WATER

111 7. (a) In its operation of the Project, the Contracting Officer will use all  
112 reasonable means to guard against a condition of shortage in the quantity of water to be made

113 available to the Contractor pursuant to this contract. In the event the Contracting Officer  
114 determines that a condition of shortage appears probable, the Contracting Officer will notify the  
115 Contractor of said determination as soon as practicable.

116 (b) If there is a condition of shortage because of inaccurate runoff forecasting  
117 or other similar operational errors affecting of the Project, drought, other physical causes beyond  
118 the control of the Contracting Officer or actions taken by the Contracting Officer to meet current  
119 and future legal obligations, then, except as provided in Article 32 of this Contract, no liability  
120 shall accrue against the United States or any of its officers, agents, or employees for any damage,  
121 direct or indirect, arising therefrom.

122 (c) In any year that the Contracting Officer determines there is a shortage in  
123 the quantity of water available to Project Contractors, the Contracting Officer will apportion  
124 available water among the water users capable of receiving water from the same Project facilities  
125 by reducing deliveries to all such water users by the same percentage, unless the Contracting  
126 Officer is prohibited by existing contracts, Project authorizations, or the Contracting Officer  
127 determines that some other method of apportionment is required to prevent undue hardship. In  
128 the event reduced deliveries within the Division are necessary, Project Water furnished under  
129 this Contract for M&I purposes will be allocated in accordance with the CVP M&I Water  
130 Shortage Policy. Such Policy shall be amended, modified, or superseded only through public  
131 notice and comment procedure.

132 (d) If operation of the Project to meet legally required Delta water quality  
133 control standards, including Federally adopted water quality standards, causes a shortage in  
134 water supply and requires a reduction in deliveries of water to the Contractor under this  
135 agreement, such reductions will be made in accordance with subdivision (c) of this article and  
136 shall not be deemed a breach hereof.

137 **5. Article 8 in the Existing Contract titled QUALITY OF WATER is deleted in**  
138 **its entirety and Article 21 titled WATER AND AIR POLLUTION CONTROL is retitled**



139 **PROTECTION OF WATER AND AIR QUALITY** and is amended and replaced by the  
140 **following Article 21 in its entirety:**

141 **PROTECTION OF WATER AND AIR QUALITY**

142 21. (a) The Contractor, without expense to the United States, will care for,  
143 operate and maintain transferred works in a manner that preserves the quality of the water at the  
144 highest feasible level as determined by the Contracting Officer.

145 (b) The United States will care for, operate and maintain reserved works in a  
146 manner that preserves the quality of the water at the highest feasible level as determined by the  
147 Contracting Officer.<sup>3</sup>The United States does not warrant the quality of the water delivered to the  
148 Contractor and is under no obligation to furnish or construct water treatment facilities to  
149 maintain or improve the quality of water delivered to the Contractor.

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

157 (d) This article will not affect or alter any legal obligations of the Secretary to  
158 provide drainage or other discharge services.

159 **6. Article 10 in the Existing Contract titled LIMITATION ON DELIVERY, is**  
160 **deleted in its entirety.**

161 **7. Article 14 in the Existing Contract titled CHARGES FOR DELINQUENT**  
162 **PAYMENTS, is amended and replaced in its entirety with the following new Article 14:**

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

172 collection services associated with a delinquent payment.

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

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

180 **8. Article 20 in the Existing Contract titled RESERVE FUND is retitled**  
181 **EMERGENCY RESERVE FUND and is amended and replaced by the following Article 20**  
182 **in its entirety:**

183 EMERGENCY RESERVE FUND  
184 (Annual Deposit)

185 20. (a) Commencing with the year following the transfer of operation and  
186 maintenance of the transferred works to the Contractor, the Contractor shall accumulate and  
187 maintain a reserve fund or demonstrate to the satisfaction of the Contracting Officer that other  
188 funds are available for use as an emergency reserve fund. The Contractor shall establish and  
189 maintain that emergency reserve fund to meet costs incurred during periods of special stress  
190 caused by damaging droughts, storms, earthquakes, floods, or other emergencies threatening or  
191 causing interruption of water service.

192 (b) The Contractor shall accumulate the reserve fund with annual deposits or  
193 investments of not less than \$50,000 to a Federally insured, interest- or dividend-bearing account  
194 or in securities guaranteed by the Federal Government: *Provided, That* money in the reserve  
195 fund, including accrued interest, shall be available within a reasonable time to meet expenses for  
196 such purposes as those identified in paragraph (d) herein. Such annual deposits and the  
197 accumulation of interest to the reserve fund shall continue until the basic amount of \$250,000  
198 is accumulated. Following an emergency expenditure from the fund, the annual deposits shall  
199 continue from the year following the emergency expenditure until the previous balance is  
200 restored. After the initial amount is accumulated or after the previous balance is restored, the  
201 annual deposits may be discontinued, and the interest earnings shall continue to accumulate and  
202 be retained as part of the reserve fund.

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

208 executed.

209 (d) The Contractor may make expenditures from the reserve fund only for  
210 meeting routine or recurring operation and maintenance costs incurred during periods of special  
211 stress, as described in paragraph (a) herein; or for meeting unforeseen extraordinary operation  
212 and maintenance costs; or for meeting unusual or extraordinary repair or replacement costs; or  
213 for meeting betterment costs (in situations where recurrence of severe problems can be  
214 eliminated) during periods of special stress. Proposed expenditures from the fund shall be  
215 submitted to the Contracting Officer in writing for review and written approval prior to  
216 disbursement. Whenever the reserve fund is reduced below the current balance by expenditures  
217 therefrom, the Contractor shall restore that balance by the accumulation of annual deposits as  
218 specified in paragraph (b) herein.

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

222 (f) On or before November 1 of each year, the Contractor shall provide a  
223 current statement of the principal and accumulated interest of the reserve fund account to the  
224 Contracting Officer.

225 **9. Article 28 in the Existing Contract titled GENERAL OBLIGATION-**  
226 **BENEFITS CONDITIONED UPON PAYMENT is amended and replaced by the following**

227 **Article 28 in its entirety:**

228 **GENERAL OBLIGATION – BENEFITS CONDITIONED UPON PAYMENT**

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

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

240 **10. Article 29 in the Existing Contract titled CHANGES IN THE**  
241 **CONTRACTOR'S ORGANIZATION is retitled CHANGES IN THE CONTRACTOR'S**

242 **ORGANIZATION OR SERVICE AREA** and is amended and replaced by the following

243 **Article 29 in its entirety:**

244 **CHANGES IN THE CONTRACTOR'S ORGANIZATION OR SERVICE AREA**

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

250 **11. Article 30 in the Existing Contract Titled BOOKS, RECORDS, AND**  
251 **REPORTS** is amended and replaced by the following Article 30 in its entirety:

252 **BOOKS, RECORDS, AND REPORTS**

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

263 (b) Nothing in this Article 30 shall be construed to limit or constrain the  
264 ability of the Bureau of Reclamation to conduct contract compliance reviews of this contract in  
265 accordance with Reclamation Manual Directives and Standards PEC 05-08, last revised  
266 November 20, 2014, as may be further revised, amended, modified, or superseded.

267 **12. Article 31 in the Existing Contract titled RULES AND REGULATIONS is**  
268 **retitled RULES, REGULATIONS, AND DETERMINATIONS and subdivision (a) is**  
269 **amended and replaced by the following Article 31 subdivisions (a) and (b) and subdivision**  
270 **(b) is redesignated subdivision (c):**

271 RULES, REGULATIONS, AND DETERMINATIONS

272 31. (a) The parties agree that the delivery of water or the use of Federal facilities  
273 pursuant to this contract is subject to Federal reclamation law, as amended and supplemented,  
274 and the rules and regulations promulgated by the Secretary of the Interior under Federal  
275 reclamation law.

276 (b) The Contracting Officer shall have the right to make determinations  
277 necessary to administer this contract that are consistent with its provisions, the laws of the United  
278 States, and the State of California and the rules and regulations promulgated by the Secretary of  
279 the Interior. Such determinations shall be made in consultation with the Contractor.

280 **13. Article 33 in the Existing Contract titled TITLE VI, CIVIL RIGHTS ACT**  
281 **OF 1964 is retitled COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS**  
282 **is amended and replaced by the following Article 33 in its entirety:**

283 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

284 33. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964  
285 (Pub. L. 88-352; 42 U.S.C. § 2000d), the Rehabilitation Act of 1973 (Pub. L. 93-112, Title V, as  
286 amended; 29 U.S.C. § 791, et seq.), the Age Discrimination Act of 1975 (Pub. L. 94-135,  
287 Title III; 42 U.S.C. § 6101, et seq.), Title II of the Americans with Disabilities Act of 1990 (Pub.  
288 L. 101-336; 42 U.S.C. § 12131, et seq.), and any other applicable civil rights laws, and with the  
289 applicable implementing regulations and any guidelines imposed by the U.S. Department of the  
290 Interior and/or Bureau of Reclamation.

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

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

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

308 **14. Article 34 in the Existing Contract titled EQUAL OPPORTUNITY is retitled**  
309 **EQUAL EMPLOYMENT OPPORTUNITY is amended and replaced by the following**  
310 **Article 34 in its entirety:**

311 **EQUAL EMPLOYMENT OPPORTUNITY**

312 34. During the performance of this contract, the Contractor agrees as follows:

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

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

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

337 (d) The Contractor will send to each labor union or representative of workers  
338 with which it has a collective bargaining agreement or other contract or understanding, a notice,  
339 to be provided by the Contracting Officer, advising the labor union or workers' representative of  
340 the Contractor's commitments under Section 202 of Executive Order 11246 of  
341 September 24, 1965, and shall post copies of the notice in conspicuous places available to  
342 employees and applicants for employment.

343 (e) The Contractor will comply with all provisions of Executive Order No.  
344 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary  
345 of Labor.

346 (f) The Contractor will furnish all information and reports required by  
347 Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the  
348 Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and  
349 accounts by the Contracting Agency and the Secretary of Labor for purposes of investigation to  
350 ascertain compliance with such rules, regulations, and orders.

351 (g) In the event of the Contractor's noncompliance with the nondiscrimination  
352 clauses of this contract or with any of such rules, regulations, or orders, this contract may be  
353 canceled, terminated or suspended in whole or in part and the Contractor may be declared  
354 ineligible for further Government contracts in accordance with procedures authorized in  
355 Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and  
356 remedies invoked as provided in Executive Order 11246 of September 24, 1965 or by rule,  
357 regulation, or order of the Secretary of Labor, or as otherwise provided by law.

358 (h) The Contractor will include the provisions of paragraphs (a) through (g) in  
359 every subcontract or purchase order unless exempted by the rules, regulations, or orders of the  
360 Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24,  
361 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor  
362 will take such action with respect to any subcontract or purchase order as may be directed by the  
363 Secretary of Labor as a means of enforcing such provisions, including sanctions for  
364 noncompliance: *Provided, however, that* in the event the Contractor becomes involved in, or is  
365 threatened with, litigation with a subcontractor or vendor as a result of such direction, the  
366 Contractor may request the United States to enter into such litigation to protect the interests of  
367 the United States.”

368 **15. Article 38 in the Existing Contract titled CONTINGENT ON**  
369 **APPROPRIATION OR ALLOTMENT OF FUNDS is amended and replaced by the**  
370 **following Article 38 in its entirety:**

371 **CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS**

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

377 **16. Article 39 in the Existing Contract titled OFFICIALS NOT TO BENEFIT**  
378 **subdivision (a) is amended and replaced by the following subdivision (a) in its entirety:**

379 OFFICIALS NOT TO BENEFIT

380 39. (a) No Member of or Delegate to the Congress, Resident Commissioner, or  
381 official of the Contractor shall benefit from this contract other than as a water user or landowner  
382 in the same manner as other water users or landowners.

383 **17. Article 40 in the Existing Contract titled ASSIGNMENT LIMITED –**  
384 **SUCCESSORS AND ASSIGNS OBLIGATED is amended and replaced by the following**

385 **Article 40 in its entirety:**

386 ASSIGNMENT LIMITED – SUCCESSORS AND ASSIGNS OBLIGATED

387 40. The provisions of this contract shall apply to and bind the successors and assigns  
388 of the parties hereto, but no assignment or transfer of this contract or any right or interest therein  
389 by either party shall be valid until approved in writing by the other party.

390 **18. Article 41 in the Existing Contract titled NOTICES is replaced by the**  
391 **following Article 41 in its entirety:**

392 NOTICES

393 41. Any notice, demand, or request authorized or required by this Contract shall be  
394 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or  
395 delivered to the Regional Director, Mid-Pacific Region, Bureau of Reclamation, 2800 Cottage  
396 Way, Sacramento, California 95825, and on behalf of the United States, when mailed, postage  
397 prepaid, or delivered to the Valley Water District, 5750 Almaden Expressway, San Jose,  
398 California 95118. The designation of the addressee or the address may be changed by notice  
399 given in the same manner as provided in this article for other notices.

400 **19. Article 42 in the Existing Contract titled CONFIRMATION OF**  
401 **CONTRACT is replaced by the following Article 42 in its entirety:**

402 CONFIRMATION OF CONTRACT

403 42. Promptly after the execution of this Amendment, the Contractor will  
404 provide evidence to the Contracting Officer that, pursuant to the laws of the State of California,  
405 the Contractor is a legally constituted entity and the Amendment is lawful, valid, and binding on  
406 the Contractor. This Amendment will not be binding on the United States until the Contractor  
407 provides evidence to the Contracting Officer's satisfaction. In addition to other forms of  
408 evidence to meet the requirements of this Article, the Contractor may provide or the Contracting  
409 Officer may require a certified copy of a final decree of a court of competent jurisdiction in the



410 State of California, confirming the proceedings on the part of the Contractor for the authorization  
411 of the execution of this Amendment.

412 **20. The first sentence of subdivision (a) of Article 43 of the Existing Contract**  
413 **itled WATER CONSERVATION is amended and replaced with the following:**

414 WATER CONSERVATION

415 43. (a) Prior to the delivery of water provided from or conveyed through federally  
416 constructed or federally financed facilities pursuant to this contract, the Contractor shall develop  
417 a water conservation plan, as required by subsection 210(b) of the Reclamation Reform Act of  
418 1982 and 43 C.F.R. 427.1 (Water Conservation Rules and Regulations).

419 **21. Articles 44 through 46 are added to the Existing Contract:**

420 PRIVACY ACT COMPLIANCE

421 44. (a) The Contractor shall comply with the Privacy Act of 1974 (Privacy Act)  
422 5 U.S.C. § 552a) and the Department of the Interior rules and regulations under the Privacy Act  
423 (43 C.F.R. § 2.45, et seq.) in maintaining landholder certification and reporting records required  
424 to be submitted to the Contractor for compliance with sections 206, 224(c), and 228 of the  
425 Reclamation Reform Act of 1982 (43 U.S.C. §§ 390ff, 390ww, and 390zz), and pursuant to 43  
426 C.F.R. § 426.18.

427 (b) With respect to the application and administration of the criminal penalty  
428 provisions of the Privacy Act (5 U.S.C. § 552a(i)), the Contractor and the Contractor's  
429 employees who are responsible for maintaining the certification and reporting records referenced  
430 in paragraph (a) above are considered to be employees of the Department of the Interior. See  
431 5 U.S.C. § 552a(m).

432 (c) The Contracting Officer or a designated representative shall provide the  
433 Contractor with current copies of the Department of the Interior Privacy Act regulations and the  
434 Bureau of Reclamation Federal Register Privacy Act System of Records Notice (Interior/WBR-  
435 31, Acreage Limitation) which govern the maintenance, safeguarding, and disclosure of  
436 information contained in the landholders' certification and reporting records.

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

441 (e) The Contractor shall forward promptly to the System Manager each  
442 proposed denial of access under 43 C.F.R. § 2.64 and each request for amendment of records  
443 filed under 43 C.F.R. § 2.71; notify the requester accordingly of such referral; and provide the

444 System Manager with information and records necessary to prepare an appropriate response to  
445 the requester. These requirements do not apply to individuals seeking access to their own  
446 certification and reporting forms filed with the Contractor pursuant to 43 C.F.R. § 426.18 unless  
447 the requester elects to cite the Privacy Act as authority for the request.

448 MEDIUM FOR TRANSMITTING PAYMENTS

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

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

457 CONTRACT DRAFTING CONSIDERATIONS

458 46. This contract has been, negotiated and reviewed by the parties hereto, each of  
459 whom is sophisticated in the matters to which this contract pertains. The double spaced Articles  
460 of this contract have been drafted, negotiated, and reviewed by the parties, and no one party shall  
461 be considered to have drafted the stated articles.

462 **22. Article 12 in the First Amendment titled PRESERVATION OF EXISTING**  
463 **CONTRACT is replaced by the following Article 47 in its entirety:**

464 PRESERVATION OF EXISTING CONTRACT

465 47. Except as expressly modified by the provisions of this Second Amendment, the  
466 Existing Contract, along with all amendments to the Existing Contract, and Exhibits A and B  
467 attached to the Existing Contract, shall remain in full force and effect.

468 EFFECTIVE DATE

469 This Second Amendment to the Existing Contract shall be effective on the date first  
470 written above.

471 IN WITNESS WHEREOF, the parties hereto have executed this Second  
472 Amendment to Contract No. 7-07-20-W0023B on the day and year first above written.

473 THE UNITED STATES OF AMERICA

474 By: \_\_\_\_\_  
475 Regional Director  
476 Interior Region 10: California-Great Basin  
477 Bureau of Reclamation

478 SANTA CLARA VALLEY WATER DISTRICT

479 By: \_\_\_\_\_  
480 Chair, Board of Directors

481 ATTEST:

482 By: \_\_\_\_\_  
483 Clerk/Board of Directors

**EXHIBIT E**

Copy of 1977 Contract dated June 7, 1977.  
Placeholder page

**EXHIBIT F**

Copy of First Amendment and Attachments (Exhibit “A”, Exhibit “B”, Exhibit “C” and Exhibit  
“D”) dated March 28, 2007.

Placeholder page

**EXHIBIT G**  
Points of Delivery  
Placeholder page