

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE
KIRKLAND WATER DISTRICT**

RESOLUTION NO. 2021- 01

**A RESOLUTION AUTHORIZING THE PRESIDENT OF THE BOARD
TO EXECUTE
A CONTRACT BETWEEN THE UNITED STATES
AND KIRKWOOD WATER DISTRICT
PROVIDING FOR PROJECT WATER SERVICE
AND FACILITIES REPAYMENT**

WHEREAS, Kirkwood Water District currently has a water service contract with the United States Bureau of Reclamation for Central Valley Project water; and

WHEREAS, the proposed amendment to the existing water-service contract will convert the water service contract into a repayment contract, which will not have an expiration date; and

WHEREAS, by converting the water service contract to a permanent repayment contract, the District will avoid future costs that would otherwise be incurred to renew the water service contract, such as legal and environmental review costs; and

WHEREAS, the Bureau of Reclamation has estimated that the District's share of the unpaid construction costs of the Central Valley Project owed to the Bureau of Reclamation is approximately \$36,000; and

WHEREAS, the Bureau of Reclamation will provide the final costs owed by the District upon the execution of this agreement; and

WHEREAS, Section 4011(a)(2)(A) of the WIIIN Act permits the Secretary to discount the construction costs owed by ½ of the Treasury Rate if the District converts its existing water service contract to a repayment contract and prepays the balance of its unpaid construction costs; and,

WHEREAS, As a result of the discount, the District would realize a significant cost savings by converting its contract and prepaying its remaining construction cost balance; and

WHEREAS, upon payment of the construction costs and conversion to a repayment contract, CVP water delivered within the District will no longer be subject to the restrictions of the Reclamation Reform Act; and

WHEREAS, a notice was issued indicating that the proposed repayment agreement with the District was available for public review, the notice period will conclude by October 31, 2021, and Reclamation has not received any comments during the public review period to date; and

WHEREAS, the agreement will be in a form acceptable to the District's General Counsel; and

WHEREAS, the District's conversion from a water service contract to a repayment contract does not increase the amount of water the District receives, nor does it change any water project operations or deliveries or result in any changes to existing land uses. This is merely a legal and financial transaction that will not cause any physical impact on the environment. Consequently, approval of this repayment contract does not trigger environmental review under the California Environmental Quality Act;

NOW, THEREFORE, BE IT RESOLVED that the Governing Board of the Kirkwood Water District authorizes the Board President to execute a contract on November 1, 2021, between the United States and the Kirkwood Water District providing for project water service and facilities repayment. If Reclamation receives comments on the proposed contract before November 1, 2021, counsel will review those comments and issue an opinion to the President about whether the comments are significant enough to forego executing the agreement. If no comments are received before November 1, 2021, or if counsel reviews the comments received and opines that they are not significant, the Board President will execute the contract and arrange for it to be delivered to the United States for signature; and,


NOW, THEREFORE, BE IT FURTHER RESOLVED by the Governing Board of the Kirkwood Water District that the Board recognizes that non-substantive corrections, such as changes of a technical or clerical nature, may occur after the time the Governing Board takes action on this item and before presentation of the proposed repayment contract for execution by the United States and the Board expressly authorizes the District's General Counsel to make and approve such edits without further Governing Board action being required, if, in the opinion of the General Counsel, any subsequent changes did not change the substantive terms of the contract; and

NOW, THEREFORE, BE IT FURTHER RESOLVED by the Governing Board of the Kirkwood Water District that the Board authorizes and directs the District's General Counsel to file a validation action under Code of Civil Procedure sections 860, et seq., to confirm the validity of these actions, as required for contracts of this type entered into under federal reclamation law; and

NOW, THEREFORE, BE IT FURTHER RESOLVED by the Governing Board of the Kirkwood Water District that the Board authorizes and directs staff to take all such further actions as are necessary for the contract to take effect.

PASSED AND ADOPTED on the 28th day of October, 2021, by the following vote of the Board of Directors of the Kirkwood Water District:

AYES: *McCarke, Bentz, Titus*
NOES: *0*
ABSENT: *Alexander*
ABSTAIN: *0*

x 
Darin Titus
Board President

10/28/21

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

AMENDMENT TO THE EXISTING CONTRACT BETWEEN THE UNITED STATES
AND
KIRKWOOD WATER DISTRICT
PROVIDING FOR
PROJECT WATER SERVICE AND FACILITIES REPAYMENT
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UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
Sacramento River Division, Central Valley Project, California

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

THIS AMENDMENT ("Amendment") to Long-term Renewal Contract Between the United States and Kirkwood Water District Providing for Project Water Service From the Sacramento River Division ("Existing Contract") (collectively, "Contract"), is made this 23 day of November 2021, in pursuance generally of the Act of June 17, 1902, (32 Stat. 388), and acts amendatory thereof or supplementary thereto, including but not limited to, the Acts of August 26, 1937 (50 Stat. 844), as amended and supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented, July 2, 1956 (70 Stat. 483), June 21, 1963 (77 Stat. 68), October 12, 1982 (96 Stat. 1263), October 27, 1986 (100 Stat. 3050), as amended, Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706), as amended, and the Water Infrastructure Improvements for the Nation Act (Public Law 114-322, 130 Stat. 1628), Section 4011 (a-d) and (f) ("WIIN Act"), all collectively hereinafter referred to as Federal Reclamation law, between the UNITED STATES OF AMERICA, hereinafter referred to as the United States, represented by the officer executing this Amendment, hereinafter referred to as the Contracting Officer, and Kirkwood Water District, hereinafter referred to as the Contractor.

WITNESSETH, That:

EXPLANATORY RECITALS

[1st] WHEREAS, the United States and the Contractor entered into Contract Number 7-07-20-W0056-LTR1 , which established terms for the delivery of Project Water to the Contractor from the Sacramento River Division, as in effect the date the WIIN Act was enacted, and as may have been amended; and

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

[3rd] WHEREAS, Section 4011(a)(1) provides that “upon request of the contractor, the Secretary of the Interior shall convert any water service contract in effect on the date of enactment of this subtitle and between the United States and a water users’ association [Contractor] to allow for prepayment of the repayment contract pursuant to paragraph (2) under mutually agreeable terms and conditions.”; and

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

[5th] WHEREAS, Section 4011(a)(4)(C) further provides all contracts entered into pursuant to Section 4011(a)(1), (2), and (3) shall “not modify other water service, repayment, exchange and transfer contractual rights between the water users’ association [Contractor], and

the Bureau of Reclamation, or any rights, obligations, or relationships of the water users' association [Contractor] and their landowners as provided under State law.”; and

[6th] WHEREAS, Section 4011(d)(3) and (4) of the WIIN Act provides that “implementation of the provisions of this subtitle shall not alter...(3) the priority of a water service or repayment contractor to receive water; or (4) except as expressly provided in this section, any obligations under the reclamation law, including the continuation of Restoration Fund charges pursuant to section 3407(d) (Public Law 102-575), of the water service and repayment contractors making prepayments pursuant to this section.”; and

[7th] WHEREAS, upon the request of the Contractor, the WIIN Act directs the Secretary to convert irrigation and municipal and industrial (M&I) water service contracts into repayment contracts, amend existing repayment contracts, and allow contractors to prepay their construction cost obligations pursuant to applicable Federal Reclamation law; and

[8th] WHEREAS, the Contracting Officer and the Contractor agree to amend the Existing Contract with the execution of this Amendment; and

[9th] WHEREAS, the Contracting Officer and the Contractor agree that this Amendment complies with Section 4011 of the WIIN Act.

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

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

a. Subdivisions (m), (o) and (t) of Article 1 of the Existing Contract are amended and replaced in their entirety with the following new subdivisions (m), (o) and (t):

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

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

(t) “Project Contractors” shall mean all parties who have contracts for water service for Project Water from the Project with the United States pursuant to Federal Reclamation law.

b. Subdivisions (dd) through (ff) are added at the end of Article 1 of the Existing Contract as follows:

(dd) “Additional Capital Obligation” shall mean construction costs or other capitalized costs incurred after December 1, 2021 or not reflected in the Existing Capital Obligation as defined herein and in accordance with Section 4011, subsection (a)(2)(B) and (a)(3)(B) of the Water Infrastructure Improvements for the Nation Act (Public Law 114-322, 130 Stat. 1628) (“WIIN Act”).

(ee) “Existing Capital Obligation” shall mean the remaining amount of construction costs or other capitalized costs allocable to the Contractor as described in section 4011, subsections (a)(2)(A) and (a)(3)(A) of the WIIN Act, and as identified in the Central Valley Project Irrigation Water Rates and/or Municipal and Industrial Water Rates, respectively, the Central Valley Project 2021 Ratebooks, as adjusted to reflect payments not reflected in such schedule. The Contracting Officer has computed the Existing Capital Obligation and such amount is set forth in Exhibit C, which is incorporated herein by reference.

(ff) “Repayment Obligation” for Water Delivered as Irrigation Water shall mean the Existing Capital Obligation discounted by $\frac{1}{2}$ of the Treasury rate, which shall be the amount due and payable to the United States, pursuant to section 4011(a)(2)(A) of the WIIN

Act; and for Water Delivered as M&I Water shall mean the amount due and payable to the United States, pursuant to the section 4011(a)(3)(A) of the WIIN Act.

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

2. (a) This Contract shall be effective December 1, 2021 and shall continue so long as the Contractor pays applicable Rates and Charges under this Contract, consistent with Section 9(d) or 9(c)(1) of the Act of August 4, 1939 (53 Stat. 1195) as applicable, and applicable law;

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

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

noncompliance satisfactory to the Contracting Officer, the Contracting Officer shall resume making water available and declaring Water Made Available pursuant to this Contract;

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

(b) Upon complete payment of the Repayment Obligation by the Contractor, and notwithstanding any Additional Capital Obligation that may later be established, the acreage limitations, reporting, and the Full Cost pricing provisions of the Reclamation Reform Act of 1982 shall no longer be applicable to the Contractor pursuant to this Contract.

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

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

3. Article 3, of the Existing Contract, entitled WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR, is amended as follows:

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

(h) The Contractor's right pursuant to Federal Reclamation law and applicable State law to the reasonable and beneficial use of the Water Delivered pursuant to this Contract shall not be disturbed, and this Contract shall continue so long as the Contractor pays applicable Rates and Charges under this Contract consistent with Section 9(d) or 9(c)(1) of the

Act of August 4, 1939 (53 Stat. 1195) as applicable, and applicable law. Nothing in the preceding sentence shall affect the Contracting Officer's ability to impose shortages under Article 11 or subdivision (b) of Article 12 of this Contract.

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

(a) The heading of the Existing Contract is amended and replaced in its entirety with RATES, METHOD OF PAYMENT FOR WATER AND ACCELERATED REPAYMENT OF FACILITIES.

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

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

Charges applicable to the Contractor upon execution of this Contract are set forth in Exhibit “B,” as may be revised annually.

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

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

(A) The amount due and payable to the United States, pursuant to the WIIN Act, shall be the Repayment Obligation. The Repayment Obligation has been computed by the Contracting Officer in a manner consistent with the WIIN Act and is set forth as a lump sum payment (M&I and Irrigation) and as four (4) approximately equal annual installments (Irrigation Only) to be repaid no later than three (3) years after the effective date of this Contract as set forth in Exhibit C. The Repayment Obligation is due in lump sum by **January 31, 2022** as provided by the WIIN Act. The Contractor must provide appropriate notice to the Contracting Officer in writing no later than thirty (30) days prior **January 31, 2022** if electing to repay the amount due using the lump sum alternative. If such notice is not provided by such date, the Contractor shall be deemed to have elected the installment payment alternative, in which case, the first such payment shall be made no later than **January 31, 2022**. The second

174 payment shall be made no later than the first anniversary of the first payment date. The third
175 payment shall be made no later than the second anniversary of the first payment date. The final
176 payment shall be made no later than **December 1, 2024**. If the installment payment option is
177 elected by the Contractor, the Contractor may pre-pay the remaining portion of the Repayment
178 Obligation by giving the Contracting Officer sixty (60) days written notice, in which case, the
179 Contracting Officer shall re-compute the remaining amount due to reflect the pre-payment using
180 the same methodology as was used to compute the initial annual installment payment amount,
181 which is illustrated in Exhibit C. Notwithstanding any Additional Capital Obligation that may
182 later be established, receipt of the Contractor's payment of the Repayment Obligation to the
183 United States shall fully and permanently satisfy the Existing Capital Obligation.

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

(1) If the collective Additional Capital

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

(2) If the collective Additional Capital

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

(c) Article 7 of the Existing Contract is amended to add a new subdivision (b); subdivisions (b) through (n) of Article 7 of the Existing Contract are redesignated as subdivisions (c) through (o):

(b) In the event that the final cost allocation referenced in Section

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

the Contractor are less than what the Contractor has paid, the Contracting Officer shall credit such overpayment as an offset against any outstanding or future obligations of the Contractor, with the exception of Restoration Fund charges pursuant to section 3407(d) of Public Law 102-575.

5. Article 12 of the Existing Contract, entitled CONSTRAINTS ON THE AVAILABILITY OF WATER, is amended as follows:

(a) Subdivisions (a) and (b) of Article 12 of the Existing Contract are amended and replaced in their entirety with the following new subdivisions (a) and (b):

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

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

6. Article 18 of the Existing Contract, entitled OPINIONS AND DETERMINATIONS, is amended to delete existing subdivision (b) and add the following new subdivisions (b) and (c):

(b) The parties agree that the delivery of Project Water or the use of Federal facilities pursuant to this Contract is subject to Federal Reclamation law, as amended and supplemented, and the rules and regulations promulgated by the Secretary of the Interior under Federal Reclamation law.

(c) The Contracting Officer shall have the right to make determinations necessary to administer this Contract that are consistent with its expressed and implied provisions, the laws of the United States and the State of California, and the rules and regulations

promulgated by the Secretary of the Interior. Such determinations shall be made in consultation with the Contractor.

7. Article 15 of the Existing Contract, entitled WATER AND AIR POLLUTION CONTROL and Article 16 of the Existing Contract, entitled QUALITY OF WATER, are amended, and replaced in their entirety with a new Article 15 as follows:

PROTECTION OF WATER AND AIR QUALITY

15. (a) OMITTED.

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

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

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

8. The Article numbers for Articles 17 through 38 of the Existing Contract are amended and redesignated as Articles 16 through 37.

9. Article 20, redesignated Article 19, of the Existing Contract, entitled CHARGES FOR DELINQUENT PAYMENTS, is amended and replaced in its entirety with the following new Article 19:

19. (a) The Contractor shall be subject to interest, administrative, and penalty charges on delinquent payments. If a payment is not received by the due date, the Contractor shall pay an interest charge on the delinquent payment for each day the payment is delinquent beyond the due date. If a payment becomes 60 days delinquent, the Contractor shall pay, in addition to the interest charge, an administrative charge to cover additional costs of

278 billing and processing the delinquent payment. If a payment is delinquent 90 days or more, the
279 Contractor shall pay, in addition to the interest and administrative charges, a penalty charge for
280 each day the payment is delinquent beyond the due date, based on the remaining balance of the
281 payment due at the rate of 6 percent per year. The Contractor shall also pay any fees incurred for
282 debt collection services associated with a delinquent payment.

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

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

290 10. Article 21, redesignated Article 20, of the Existing Contract, entitled EQUAL
291 OPPORTUNITY, is amended, and replaced in its entirety with the following new Article
292 20:

293 **EQUAL EMPLOYMENT OPPORTUNITY**

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

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

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

309 (c) The contractor will not discharge or in any other manner
310 discriminate against any employee or applicant for employment because such employee or
311 applicant has inquired about, discussed, or disclosed the compensation of the employee or
312 applicant or another employee or applicant. This provision shall not apply to instances in which

an employee who has access to the compensation information of other employees or applicants as part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

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

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

(f) The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to 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.

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

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

11. Article 22, redesignated Article 21, of the Existing Contract, entitled
GENERAL OBLIGATION – BENEFITS CONDITIONED UPON PAYMENT, is amended
as follows:

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

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

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

12. Article 23, redesignated Article 22, of the Existing Contract, entitled
COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS, is amended and
replaced in its entirety with the following new Article 22:

22. (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)ee The Contractor makes this Contract in consideration of and for thee 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)ee Complaints of discrimination against the Contractor shall beee investigated by the Contracting Officer's Office of Civil Rights.

13. Article 24 of the Existing Contract, entitled PRIVACY ACT

COMPLIANCE, is redesignated Article 23 and is amended and replaced in its entirety with the following new Article 23:

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

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

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

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

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

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

(f) Upon complete payment of the Repayment Obligation by the Contractor, this Article 23 will no longer be applicable.

14. Article 26, of the Existing Contract, entitled WATER CONSERVATION, is redesignated Article 25 and is amended as follows:

(a) The first sentence of subdivision (a) of redesignated Article 25 of the Existing Contract is amended and replaced with the following:

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

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

(b) Subdivision (b) of redesignated Article 25 of the Existing Contract is amended to strike California Urban Water Conservation Council and insert Mid-Pacific Region's then-existing conservation and efficiency criteria:

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

such M&I Water unless any such practice is determined by the Contracting Officer to be inappropriate for the Contractor.

(c) Subdivision (d) of redesignated Article 25 of the Existing Contract is amended to strike then-current and insert then-existing:

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

15. OMITTED.

16. Article 30, of the Existing Contract, entitled BOOKS, RECORDS, AND REPORTS, is redesignated Article 29, and is amended as follows:

(a) Subdivision (a) of Article 29 of the Existing Contract is amended and replaced in its entirety with the following new subdivision (a):

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

17. Subdivision (a) of Article 31, redesignated Article 30, of the Existing Contract, entitled ASSIGNMENT LIMITED – SUCCESSORS AND ASSIGNS OBLIGATED, is amended and replaced in its entirety with the following new subdivision

(a):

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

18. Article 34, redesignated Article 33, of the Existing Contract, entitled OFFICIALS NOT TO BENEFIT, is amended and replaced in its entirety with the following new Article 33:

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

19. Subdivision (a) of Article 35, redesignated Article 34, of the Existing Contract, entitled CHANGES IN CONTRACTOR’S BOUNDARIES, is amended and replaced in its entirety with the following new subdivision (a):

CHANGES IN CONTRACTOR’S ORGANIZATION

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

20. Article 37, redesignated Article 36, of the Existing Contract, entitled NOTICES, is amended and replaced in its entirety with the following new Article 36:

36. Any notice, demand, or request authorized or required by this Contract shall be deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or delivered to the Area Manager, Bureau of Reclamation, Northern California Area Office, 16349 Shasta Dam Boulevard, Shasta Lake, California 96019, and on behalf of the United States, when mailed, postage prepaid, or delivered to the Board of Directors of the Kirkwood

499 Water District, 7418 County Road 24, Orland, California 95963. The designation of the
500 addressee or the address may be changed by notice given in the same manner as provided in this
501 article for other notices.

502 **21. OMITTED.**

503 **22. OMITTED.**

504 **23. OMITTED.**

505 **24. OMITTED.**

506 **25. The Existing Contract is amended to add Article 38, entitled**
507 **RECLAMATION REFORM ACT OF 1982, to be consistent with the WIIN Act, as follows:**

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

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

515 **26. OMITTED.**

516 **27. OMITTED.**

517 **28. The Existing Contract is amended to add Article 39, entitled MEDIUM FOR**
518 **TRANSMITTING PAYMENTS, as follows:**

519 39. (a) All payments from the Contractor to the United States under this
520 Contract shall be by the medium requested by the United States on or before the date payment is
521 due. The required method of payment may include checks, wire transfers, or other types of
522 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.

CONFIRMATION OF AMENDMENT

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

AMENDMENT DRAFTING CONSIDERATIONS

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

Except as specifically provided for in this Amendment, the provisions of the Existing Contract shall continue in full force and effect as originally written and executed.

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

543 THE UNITED STATES OF AMERICA


544 By: 
545 Regional Director
546 Interior Region 10: California-Great Basin,
547 Bureau of Reclamation

548 KIRKWOOD WATER DISTRICT

549 (SEAL)

550 By: 
551 President of the Board of Supervisors

552 Attest:

553 By: 
554 Secretary of the Board of Directors

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

APPROVED AS TO LEGAL FORM AND
SUFFICIENCY - REVIEWED BY:


OFFICE OF THE REGIONAL SOLICITOR
DEPARTMENT OF THE INTERIOR

THE UNITED STATES OF AMERICA


By: _____
Regional Director
Interior Region 10: California-Great Basin,
Bureau of Reclamation

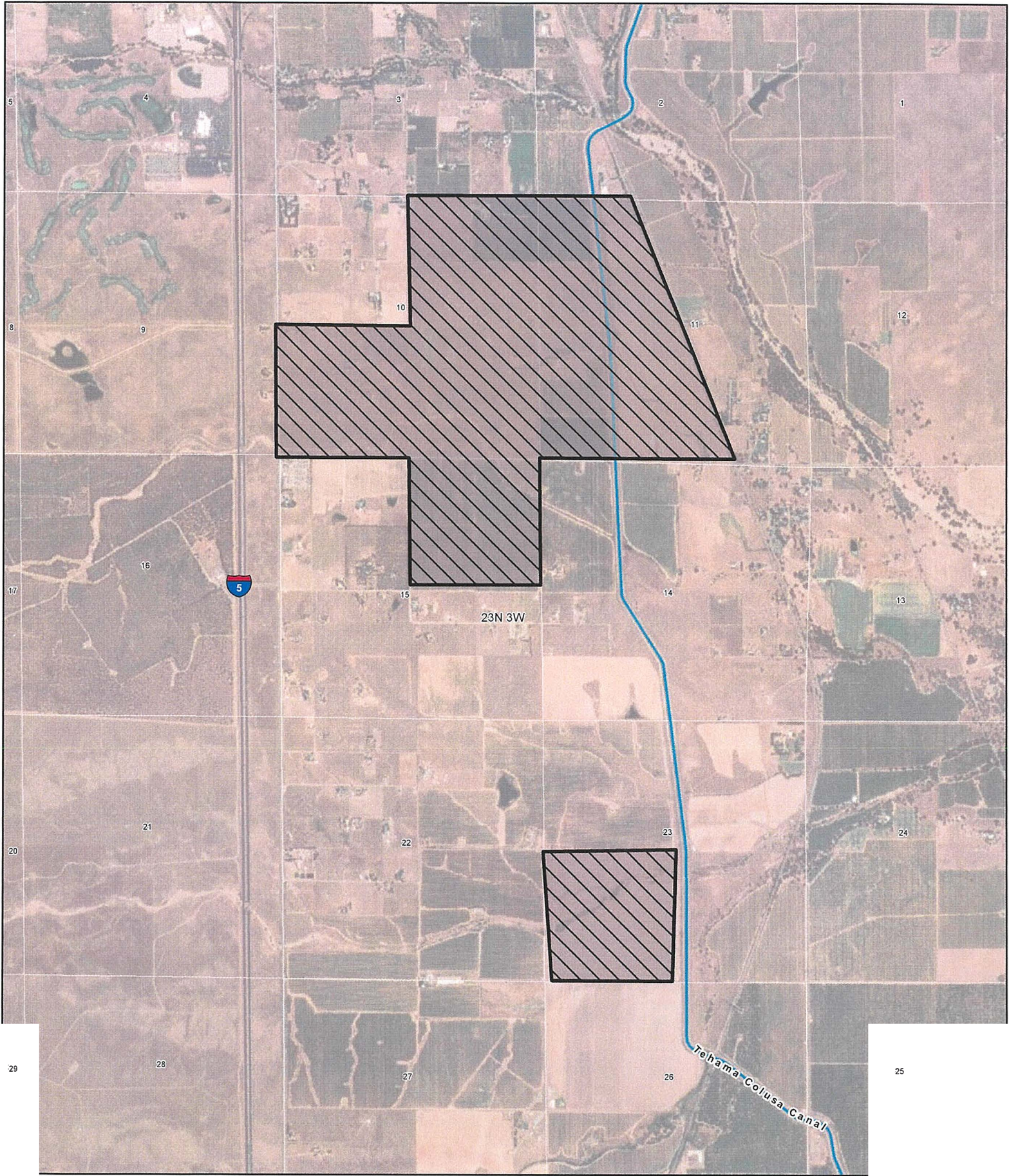
KIRKWOOD WATER DISTRICT



(SEAL)

By:  _____
President of the Board of Supervisors

Attest:

By:  _____
Secretary of the Board of Directors



-  District Boundary
-  Contractor's Service Area

Kirkwood Water District

Contract No. 7-07-20-W0056-P
Exhibit A



— BUREAU OF —
RECLAMATION

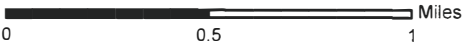


EXHIBIT B
Kirkwood Water District
2021 Rates and Charges
(Per Acre-Foot)

Description	Water (Through Banks PP)	M&I Water (Through Banks PP)
COST-OF-SERVICE (COS) RATES		
Construction Cost	\$ 18.35	0
O&M Components		
Water Marketing	\$ 11.68	0
Storage	\$ 0	0
Direct Pumping	\$ 0	0
ARRA Component	\$ 0	0
Deficit Cost		
Interest Bearing	\$ 32.49	0
TOTAL COS RATE	\$ 79.22	0
IRRIGATION FULL COST RATE (RRA)		
Section 202(3) Rate is applicable to a Qualified Recipient or to a Limited Recipient receiving irrigation water on or before October 1, 1981.	TBD	0
Section 205(a)(3) Rate is applicable to a Limited Recipient that did not receive irrigation water on or before October 1, 1981.	TBD	0
M&I FULL COST RATE		
TIERED PRICING COMPONENTS <i>(In Addition to Total COS Rate Above)</i>		
Irrigation		
<i>Tier 2 Rate: >80% <=90% of Contract Total [Section 202(3) Irrigation Full Cost Rate – Irrigation COS Rate]/2 (Amount to be added to Tier 1 Rate)</i>	TBD	
<i>Tier 3 Rate: >90% of Contract Total [Section 202(3) Irrigation Full Cost Rate – Irrigation COS Rate] (Amount to be added to Tier 1 Rate)</i>	TBD	
M&I		
<i>Tier 2 Rate: >80% <=90% of Contract Total [M&I Full Cost Rate – M&I COS Rate]/2 (Amount to be added to Tier 1 Rate)</i>		TBD
<i>Tier 3 Rate: >90% of Contract Total [M&I Full Cost Rate – M&I COS Rate] (Amount to be added to Tier 1 Rate)</i>		TBD
CHARGES AND ASSESSMENTS <i>(Payment in addition to COS rates)</i>		
P.L. 102-575 Surcharges		
Restoration Fund Payment [Section 3407(d)(2)(A)]	\$ 11.11	\$ 22.23
P.L. 106-377 Assessments		

Description	Water (Through Banks PP)	M&I Water (Through Banks PP)
Trinity Public Utilities District [Appendix B, Section 203]	\$ 0.15	\$ 0.15

EXPLANATORY NOTES

1. The contract rate is modified for contractors that have a payment capacity limited to an amount sufficient to cover the applicable annual O&M costs and O&M interest bearing deficits. Source: Ability to Pay Analysis
2. The Contractor has not projected any delivery of M&I Water for the contract year. A temporary M&I Rate will be applied upon any M&I water delivery.
3. Restoration Fund surcharges under P.L. 102-575 are determined on a fiscal year basis (10/1-9/30).
4. The Trinity Public Utilities District Assessment is applicable to each acre-foot of water delivered from 3/1 to 2/28 and is adjusted annually.

Recent Historic Use, as defined in the CVP M&I Water Shortage Policy, is 0 acre-feet.

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

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

Unpaid Construction Cost from the 2021 Water Rate Books*

Contractor: Kirkwood WD
Facility: Tehama-Colusa Canal
Contract: 7-07-20-W0056-P

Irrigation Construction Cost (2021 Irrigation Ratebook, Schedule A-2Ba)

Description	Unpaid Cost	Discount
Construction Cost	\$ 37,876	0
2020 Repayment (Estimate) **	0	0
Adjusted Construction Cost	\$ 37,876	\$ 35,990
Intertie Construction Cost (N/A):	0	0
Total	\$ 37,876	\$ 35,990
If Paid in Installments (Used 20 yr CMT)		
Payment 1, Due 12/1/2021****		\$ 9,206
Payment 2, Due 12/1/2022****		\$ 9,206
Payment 3, Due 12/1/2023****		\$ 9,206
Payment 4, Due 12/1/2024****		\$ 9,206
Total Installment Payments		\$ 36,826
20 yr CMT Rates - 12/01/2021 (to be adjusted to effective date of contract)@		1.850%
Discount Rate (1/2 of the Treasury Rate per the WIIN Act, Section 4011(a)(2)(A))		0.925%

M&I Construction Cost (2021 M&I Ratebook, Sch A-2Ba)

Description	Unpaid Cost
Construction Cost	0
2020 Repayment (Estimate) **	0
Adjusted Construction Cost***:	0

Calculation Support: Irrigation Lump Sum or First Payment****
Days Until the End of the Fiscal Year

12/1/2021
303

Unpaid Allocated Construction Cost = UACC

Unpaid Intertie Construction Cost = UICC

UACC Fiscal Year	UACC Beginning Balance	UACC Straight Line Repayment	UACC Present Value	UICC Beginning Balance	UICC Straight Line Repayment	UICC Present Value	Total Present Value
2021	\$ 37,876	\$ 3,788	\$ 3,724	\$0	\$0	\$0	\$ 3,724
2022	\$ 34,088	\$ 3,788	\$ 3,718	\$0	\$0	\$0	\$ 3,718
2023	\$ 30,301	\$ 3,788	\$ 3,684	\$0	\$0	\$0	\$ 3,684
2024	\$ 26,513	\$ 3,788	\$ 3,651	\$0	\$0	\$0	\$ 3,651
2025	\$ 22,726	\$ 3,788	\$ 3,617	\$0	\$0	\$0	\$ 3,617
2026	\$ 18,938	\$ 3,788	\$ 3,584	\$0	\$0	\$0	\$ 3,584
2027	\$ 15,150	\$ 3,788	\$ 3,551	\$0	\$0	\$0	\$ 3,551
2028	\$ 11,363	\$ 3,788	\$ 3,519	\$0	\$0	\$0	\$ 3,519
2029	\$ 7,575	\$ 3,788	\$ 3,486	\$0	\$0	\$0	\$ 3,486
2030	\$ 3,788	\$ 3,788	\$ 3,454	\$0	\$0	\$0	\$ 3,454
2031-2063	-	-	-	-	-	-	-
Total Lump Sum Payment			\$ 35,990			\$0	\$ 35,990
Amount of Reduction, Lump Sum			\$ 1,886			\$0	\$ 1,886

*Costs are assumed to be paid and all charges are assumed to be accurate. If at a later date charges are determined to need update, they are still required. Also, unpaid charges are still a requirement under contract.

** 2020 Repayment is based on a conservative estimate. If not sufficient, the remainder will be billed.

*** Excludes Interest to payment date as Interest will be computed as an annual expense as usual.

****Contractor has 60 days from the effective date of the contract or installment dates to make payment.