



IN REPLY REFER TO:

## United States Department of the Interior

BUREAU OF RECLAMATION  
2800 Cottage Way  
Sacramento, CA 95825-1898



CGB-440  
2.2.4.23

SEP 28 2020

Ms. Annamarie Marsh-Louie  
Myers-Marsh Mutual Water Company  
580 University Terrace  
Los Altos, CA 94022

Subject: Water Infrastructure Improvements for the Nation Act Contract No. 1-07-20-W0225-P  
Between the United States and the Myers-Marsh Mutual Water Company Providing  
for Project Water Service – Central Valley Project, California

Dear Ms. Marsh-Louie:

Enclosed is an executed original of the subject contract for your records. The Bureau of Reclamation appreciates the effort expended by the Myers-Marsh Mutual Water Company and its representatives relative to this contract.

The exhibit titled, "Repayment Obligation – Current Calculation Under the WIIN Act, Section 4011 (a) (2)", for the Contract Amendment will be finalized on the Effective Date of the Contract Amendment, in accordance with the Water Infrastructure Improvements for the Nation Act of 2016 (Public Law 114-322).

If there are any questions, please contact Mr. Stanley Data, Repayment Specialist, at (916) 978-5246, or [sdata@usbr.gov](mailto:sdata@usbr.gov).

Sincerely,

Sheri A. Looper  
Deputy Regional Resources Manager

Enclosure

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  
MYERS-MARSH MUTUAL WATER COMPANY  
PROVIDING FOR  
PROJECT WATER SERVICE AND FACILITIES REPAYMENT  
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Exhibit A – Map of Contractor’s Service Area

Exhibit B – Rates and Charges

Exhibit C – Repayment Obligation and Payoff Schedule

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  
MYERS-MARSH MUTUAL WATER COMPANY  
PROVIDING FOR WATER SERVICE AND FACILITIES REPAYMENT

1        THIS AMENDMENT ("Amendment") to Long-Term Renewal Contract Between the  
2        United States and County of Colusa Providing for Project Water Service From the Sacramento  
3        River Division, Contract No. 14-06-200-8310A-LTR1, as assigned by the Assignment of  
4        Contract, Acceptance Thereof, and Consent Thereto between the United States, the County of  
5        Colusa, and Myers-Marsh Mutual Water Company, Contract No. 1-07-20-W0225-R-1 ("Existing  
6        Contract") (collectively, "Contract"), is made this 28th day of September, 2020, in pursuance  
7        generally of the Act of June 17, 1902, (32 Stat. 388), and acts amendatory thereof or  
8        supplementary thereto, including but not limited to, the Acts of August 26, 1937 (50 Stat. 844),  
9        as amended and supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented,  
10       July 2, 1956 (70 Stat. 483), June 21, 1963 (77 Stat. 68), October 12, 1982 (96 Stat. 1263),  
11       October 27, 1986 (100 Stat. 3050), as amended, Title XXXIV of the Act of October 30, 1992  
12       (106 Stat. 4706), as amended, and the Water Infrastructure Improvements for the Nation Act  
13       (Public Law 114-322, 130 Stat. 1628), Section 4011 (a-d) and (f) ("WIIN Act"), all collectively  
14       hereinafter referred to as Federal Reclamation law, between the UNITED STATES OF  
15       AMERICA, hereinafter referred to as the United States, represented by the officer executing this  
16       Amendment, hereinafter referred to as the Contracting Officer, and Myers-Marsh Mutual Water  
17       Company, hereinafter referred to as the Contractor.



WITNESSETH, That:

EXPLANATORY RECITALS

[1<sup>st</sup>] WHEREAS, the United States and the Contractor entered into Contract Number 1-07-20-W0225-R-1, 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

[2<sup>nd</sup>] WHEREAS, pursuant to the Existing Contract, on September 17, 2015 the Contractor subsequently relinquished and assigned 5% of its assigned allocation to the County of Colusa, resulting in a final assignment of 242 acre-feet of water to the Contractor; and

[3<sup>rd</sup>] WHEREAS, on December 16, 2016, the 114<sup>th</sup> Congress of the United States of America enacted the WIIN Act; and

[4<sup>th</sup>] 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

[5<sup>th</sup>] 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

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

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

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

56 [9<sup>th</sup>] WHEREAS, the Contracting Officer and the Contractor agree to amend the  
57 Existing Contract with the execution of this Amendment; and

58 [10<sup>th</sup>] WHEREAS, the Contracting Officer and the Contractor agree that this  
59 Amendment complies with Section 4011 of the WIIN Act.

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

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

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

(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.

(u) "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 (ee) through (gg) are added at the end of Article 1 of the Existing Contract as follows:

(ee) "Additional Capital Obligation" shall mean construction costs or other capitalized costs incurred after November 1, 2020, 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").

(ff) "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 2020 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.

(gg) "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 November 1, 2020, 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 December 31, 2020, 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 to December 31, 2020, 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 December 31, 2020. The second payment shall be made no later than the first anniversary of the first payment date.



The third payment shall be made no later than the second anniversary of the first payment date. The final payment shall be made no later than November 1, 2023. If the installment payment option is elected by the Contractor, the Contractor may pre-pay the remaining portion of the Repayment Obligation by giving the Contracting Officer sixty (60) days written notice, in which case, the Contracting Officer shall re-compute the remaining amount due to reflect the pre-payment using the same methodology as was used to compute the initial annual installment payment amount, which is illustrated in Exhibit C. Notwithstanding any Additional Capital Obligation that may later be established, receipt of the Contractor's payment of the Repayment Obligation to the United States shall fully and permanently satisfy the Existing Capital Obligation.

(B) Additional Capital Obligations that are not reflected in the schedules referenced in Exhibit C and properly assignable to the Contractor, shall be repaid as prescribed by the WIIN Act without interest except as required by law. Consistent with Federal Reclamation law, interest shall continue to accrue on the M&I portion of the Additional Capital Obligation assigned to the Contractor until such costs are paid. Increases or decreases in the Additional Capital Obligation assigned to the Contractor caused solely by annual adjustment of the Additional Capital Obligation assigned to each Project contractor by the Secretary shall not be considered in determining the amounts to be paid pursuant to this subdivision (a)(2)(B), however, will be considered under subdivision (b) of this Article. A separate agreement shall be established by the Contractor and the Contracting Officer to accomplish repayment of the Additional Capital Obligation assigned to the Contractor within the timeframe prescribed by the 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 39 of the Existing Contract are amended and redesignated as Articles 16 through 38.

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 billing and processing the delinquent payment. If a payment is delinquent 90 days or more, the Contractor shall pay, in addition to the interest and administrative charges, a penalty charge for each day the payment is delinquent beyond the due date, based on the remaining balance of the

payment due at the rate of 6 percent per year. The Contractor shall also pay any fees incurred for debt collection services associated with a delinquent payment.

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

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

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

**EQUAL EMPLOYMENT OPPORTUNITY**

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

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

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

(c) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or 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 III of the Americans with Disabilities Act of 1990 (Pub. L. 101-336; 42 U.S.C. § 12181, et seq.)], and any other applicable civil rights laws, and with the applicable implementing regulations and any guidelines imposed by the U.S. Department of the Interior and/or Bureau of Reclamation.

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

(c) The Contractor makes this Contract in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property discounts, or other Federal financial assistance extended after the date hereof to the Contractor by the Bureau of Reclamation, including installment payments after such date on account of arrangements for Federal financial assistance which were approved before such date. The Contractor recognizes and agrees that such Federal assistance will be extended in reliance on the representations and



agreements made in this article and that the United States reserves the right to seek judicial enforcement thereof.

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

**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) 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) 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) The Contracting Officer shall designate a full-time employee of the 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) The Contractor shall forward promptly to the System Manager 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 SERVICE AREA, 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 Service Area 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 Myers-Marsh Mutual Water Company, 580 University Terrace, Los Altos, California 94022. The designation of the addressee or the address may be changed by notice given in the same manner as provided in this article for other notices.

21. OMITTED.

22. OMITTED.

23. OMITTED.

24. OMITTED.

514           **25.    The Existing Contract is amended to add Article 39, entitled**

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

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

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

523           **26.    The Existing Contract is amended to add Article 40, entitled**

524    **CERTIFICATION OF NONSEGREGATED FACILITIES, as follows:**

525                   40.    The Contractor hereby certifies that it does not maintain or provide for its  
526    employees any segregated facilities at any of its establishments and that it does not permit its  
527    employees to perform their services at any location under its control where segregated facilities  
528    are maintained. It certifies further that it will not maintain or provide for its employees any  
529    segregated facilities at any of its establishments and that it will not permit its employees to  
530    perform their services at any location under its control where segregated facilities are  
531    maintained. The Contractor agrees that a breach of this certification is a violation of the Equal  
532    Employment Opportunity clause in this Contract. As used in this certification, the term  
533    "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms,  
534    restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas,  
535    parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing  
536    facilities provided for employees which are segregated by explicit directive or are in fact  
537    segregated on the basis of race, creed, color, or national origin, because of habit, local custom,  
538    disability, or otherwise. The Contractor further agrees that (except where it has obtained  
539    identical certifications from proposed subcontractors for specific time periods) it will obtain  
540    identical certifications from proposed subcontractors prior to the award of subcontracts  
541    exceeding \$10,000 which are not exempt from the provisions of the Equal Employment  
542    Opportunity clause; that it will retain such certifications in its files; and that it will forward the

following notice to such proposed subcontractors (except where the proposed subcontractors have submitted identical certifications for specific time periods):

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

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

**27. OMITTED.**

**28. The Existing Contract is amended to add Article 41, entitled MEDIUM FOR TRANSMITTING PAYMENTS, as follows:**

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

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

**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.

**31.** 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.



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

579 UNITED STATES OF AMERICA

580 By:   
581 Regional Director  
582 Interior Region 10: California-Great Basin  
583 Bureau of Reclamation

584 MYERS-MARSH MUTUAL WATER COMPANY  
585 (SEAL)

586 By:   
587 President of the Board of Directors

588 Attest:

589 By:   
590 Secretary of the Board of Directors



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

579 UNITED STATES OF AMERICA

APPROVED AS TO LEGAL FORM AND

SUFFICIENCY - REVIEWED BY:

  
Digitally signed by  
BRIAN HUGHES  
Date: 2020.09.25  
10:07:08 -07'00'

580 OFFICE OF THE REGIONAL SOLICITOR  
581 DEPARTMENT OF THE INTERIOR

582 TIME STAMP: 1:37 pm, May 11 2020  
583

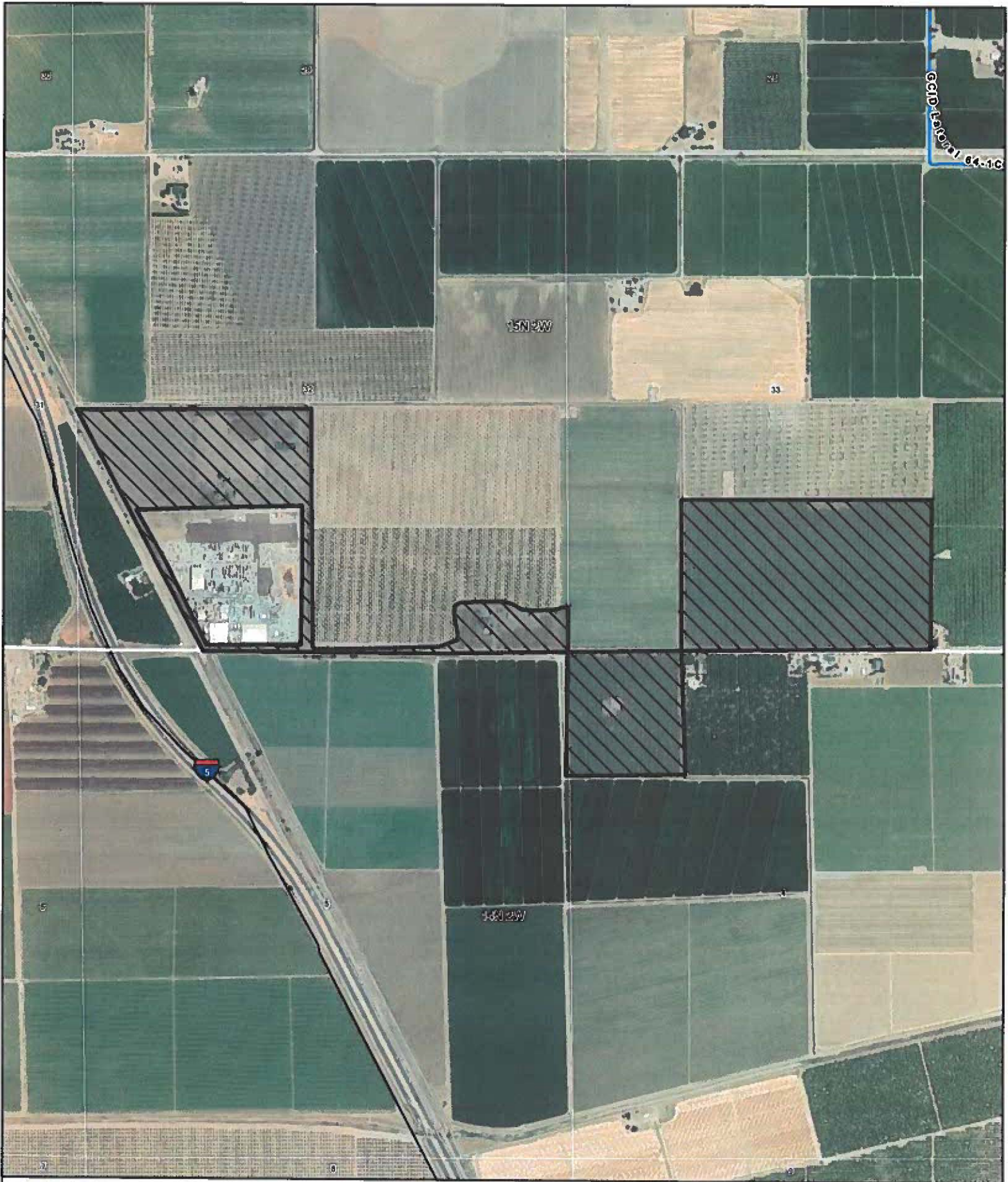
By:   
Regional Director  
Interior Region 10: California-Great Basin  
Bureau of Reclamation



584 MYERS-MARSH MUTUAL WATER COMPANY  
585 (SEAL)

586 By:   
587 President of the Board of Directors

588 Attest:

589 By:   
590 Secretary of the Board of Directors



-  District Boundary
-  Contractor's Service Area

## Myers-Marsh M.W.C.

Contract No. 1-07-20-W0225-P  
EXHIBIT A



— BUREAU OF —  
RECLAMATION

Date: 4/29/2020  
N:\Districts\Contracts\myers\_marsh\myers\_marsh\_20200429.mxd

0 1,000 2,000 Feet



602-202-118



**Exhibit B**  
**Myers-Marsh Mutual Water Company**  
**2020 Rates and Charges**  
**(Per Acre-Foot)**

District Form - Irrigation/M&I  
Contract No.  
1-07-20-W0225-P

	<b>Irrigation Water</b>	<b>M&amp;I Water<sup>1</sup></b>
<b>COST-OF-SERVICE (COS) RATES</b>		
Construction Costs	\$0.00	
O&M Component		
Water Marketing	\$8.97	
Storage	\$18.01	
Conveyance	\$0.00	
Direct Pumping	\$0.00	
ARRA Component	\$0.00	
Deficit Rates		
Interest Bearing	\$0.00	
<b>TOTAL COS RATE (Tier 1 Rate)</b>	<b>\$26.98</b>	
<b>IRRIGATION FULL COST RATE (RRA)</b>		
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	
Section 205(a)(3) Rate is applicable to a Limited Recipient that did not receive irrigation water on or before October 1, 1981.	TBD	
<b>TIERED PRICING COMPONENTS</b> (In Addition to Total COS Rate Above)		
<b>Irrigation</b>		
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)	TBD	
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)	TBD	
<b>CHARGES AND ASSESSMENTS</b> (Payments in Addition to Rates)		
<b>P.L. 102-575 Surcharges</b> (Restoration Fund Payments) <sup>2</sup> [Section 3407(d)(2)(A)]	\$10.91	
<b>P.L. 106-377 Assessment</b> (Trinity Public Utilities District) <sup>3</sup> [Appendix B, Section 203]	\$0.12	

**EXPLANATORY NOTES**

- 1 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.
- 2 Restoration Fund surcharges under P.L. 102-575 are determined on a fiscal year basis (10/1-9/30).
- 3 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  
[www.usbr.gov/mp/cvpwaterrates/ratebooks](http://www.usbr.gov/mp/cvpwaterrates/ratebooks).

# Exhibit C<sup>a</sup>

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

### Unpaid Construction Cost from the 2020 Water Rate Books\*

Contractor: Myers-Marsh Mutual Water Company  
Facility: Tehama-Colusa Canal  
Contract: 1-07-20-W0225-P

Irrigation Construction Cost (2020 Irrigation Ratebook, Schedule A-2Ba)			
	Unpaid Cost	Discount	
Construction Cost	\$ 24,132		
2019 Repayment (Estimate) **	\$ 2,188		
Adjusted Construction Cost	\$ 21,944	\$ 21,343	
Intertie Construction Cost (N/A):		\$ -	
Total	\$ 21,944	\$ 21,343	
If Paid in Installments (Used 20 yr CMT)			
Due****			
Payment 1 11/1/2020		\$ 5,403	
Payment 2 11/1/2021		\$ 5,403	
Payment 3 11/1/2022		\$ 5,403	
Payment 4 11/1/2023		\$ 5,403	
Total Installment Payments		\$ 21,610	
20 yr CMT Rates - 04/28/2020 (to be adjusted to effective date of contract)*		1.000%	
Discount Rate (1/2 of the Treasury Rate per the WIIN Act, Section 4011(a)(2)(A))		0.500%	

M&I Construction Cost (2020 M&I Ratebook, Sch A-2Ba)	
	Unpaid Cost
Construction Cost:	\$ -
2019 Repayment (Estimate) **	
Adjusted Construction Cost***:	\$ -

Calculation Support: Irrigation Lump Sum or First Payment\*\*\*\* 11/1/2020  
Days Until the End of the Fiscal Year 333

Fiscal Yr	Unpaid Allocated Construction Cost			Unpaid Intertie Construction Cost			Total
	Beginning Balance	Straight Line Repayment	Present Value	Beginning Balance	Straight Line Repayment	Present Value	Present Values
2021	\$ 21,944	\$ 2,194	\$ 2,174	\$ -	\$ -	\$ -	\$ 2,174
2022	\$ 19,750	\$ 2,194	\$ 2,173	\$ -	\$ -	\$ -	\$ 2,173
2023	\$ 17,556	\$ 2,194	\$ 2,162	\$ -	\$ -	\$ -	\$ 2,162
2024	\$ 15,361	\$ 2,194	\$ 2,151	\$ -	\$ -	\$ -	\$ 2,151
2025	\$ 13,167	\$ 2,194	\$ 2,140	\$ -	\$ -	\$ -	\$ 2,140
2026	\$ 10,972	\$ 2,194	\$ 2,130	\$ -	\$ -	\$ -	\$ 2,130
2027	\$ 8,778	\$ 2,194	\$ 2,119	\$ -	\$ -	\$ -	\$ 2,119
2028	\$ 6,583	\$ 2,194	\$ 2,109	\$ -	\$ -	\$ -	\$ 2,109
2029	\$ 4,389	\$ 2,194	\$ 2,098	\$ -	\$ -	\$ -	\$ 2,098
2030	\$ 2,194	\$ 2,194	\$ 2,088	\$ -	\$ -	\$ -	\$ 2,088
2031-63			\$ -	\$ -	\$ -	\$ -	\$ -
Total, Lump Sum Payment			\$ 21,343			\$ -	\$ 21,343

Amount of Reduction, Lump Sum \$ 602 \$ - \$ 602

\* 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.

\*\* 2019 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.

~ M&I Credit from Schedule A-2Ba has been applied to irrigation Unpaid Amount.

\*To be updated. The WIIN Act requires us to have a Constant Maturity Treasury rate based on the effective date of the contract.