

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

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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 [redacted] day of [redacted], 20[redacted], in
7 pursuance 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.

18 WITNESSETH, That:

19 EXPLANATORY RECITALS

20 [1st] WHEREAS, the United States and the Contractor entered into Contract Number
21 1-07-20-W0225-R-1, which established terms for the delivery of Project Water to the Contractor
22 from the Sacramento River Division, as in effect the date the WIIN Act was enacted, and as may
23 have been amended; and

24 [2nd] WHEREAS, pursuant to the Existing Contract, on September 17, 2015 the
25 Contractor subsequently relinquished and assigned 5% of its assigned allocation to the County of
26 Colusa, resulting in a final assignment of 242 acre-feet of water to the Contractor; and

27 [3rd] WHEREAS, on December 16, 2016, the 114th Congress of the United States of
28 America enacted the WIIN Act; and

29 [4th] WHEREAS, Section 4011(a)(1) provides that “upon request of the contractor, the
30 Secretary of the Interior shall convert any water service contract in effect on the date of
31 enactment of this subtitle and between the United States and a water users’ association
32 [Contractor] to allow for prepayment of the repayment contract pursuant to paragraph (2) under
33 mutually agreeable terms and conditions.”; and

34 [5th] WHEREAS, Section 4011(a)(1) further provides that “the manner of conversion
35 under this paragraph shall be as follows: (A) Water service contracts that were entered into under
36 section (e) of the Act of August 4, 1939 (53 Stat. 1196), to be converted under this section shall
37 be converted to repayment contracts under section 9(d) of that Act (53 Stat. 1195)”; and “(B)
38 Water service contracts that were entered under subsection (c)(2) of section 9 of the Act of
39 August 4, 1939 (53 Stat. 1194), to be converted under this section shall be converted to a
40 contract under subsection (c)(1) of section 9 of that Act (53 Stat. 1195).”; and

41 [6th] 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 [7th] 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 [8th] 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 [9th] WHEREAS, the Contracting Officer and the Contractor agree to amend the
57 Existing Contract with the execution of this Amendment; and

58 [10th] 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:**

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

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

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

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

76 **b. Subdivisions (ee) through (gg) are added at the end of Article 1 of the**
77 **Existing Contract as follows:**

78 (ee) “Additional Capital Obligation” shall mean construction costs or
79 other capitalized costs incurred after [effective date of Amendment] or not reflected in the
80 Existing Capital Obligation as defined herein and in accordance with Section 4011, subsection
81 (a)(2)(B) and (a)(3)(B) of the Water Infrastructure Improvements for the Nation Act (Public Law
82 114-322,130 Stat. 1628) (“WIIN Act”).

83 (ff) “Existing Capital Obligation” shall mean the remaining amount of
84 construction costs or other capitalized costs allocable to the Contractor as described in section
85 4011, subsections (a)(2)(A) and (a)(3)(A) of the WIIN Act, and as identified in the Central
86 Valley Project Irrigation Water Rates and/or Municipal and Industrial Water Rates, respectively,
87 the Central Valley Project 2020 Ratebooks, as adjusted to reflect payments not reflected in such
88 schedule. The Contracting Officer has computed the Existing Capital Obligation and such
89 amount is set forth in Exhibit C, which is incorporated herein by reference.

90 (gg) “Repayment Obligation” for Water Delivered as Irrigation Water
91 shall mean the Existing Capital Obligation discounted by ½ of the Treasury rate, which shall be
92 the amount due and payable to the United States, pursuant to section 4011(a)(2)(A) of the WIIN
93 Act; and for Water Delivered as M&I Water shall mean the amount due and payable to the
94 United States, pursuant to the section 4011(a)(3)(A) of the WIIN Act.

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

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

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

107 (2) *Provided further, That* the Contracting Officer shall not
108 seek to suspend making water available or declaring Water Made Available pursuant to this
109 Contract for non-compliance by the Contractor with the terms of this Contract or Federal law,
110 unless the Contracting Officer has first provided at least thirty (30) calendar days written notice
111 to the Contractor and the Contractor has failed to cure such non-compliance, or to diligently
112 commence curative actions satisfactory to the Contracting Officer for a non-compliance that

113 cannot be fully cured within the thirty (30) calendar days' notice period. If the Contracting
114 Officer has suspended making water available pursuant to this paragraph, upon cure of such
115 noncompliance satisfactory to the Contracting Officer, the Contracting Officer shall resume
116 making water available and declaring Water Made Available pursuant to this Contract;

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

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

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

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

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

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

133 (h) The Contractor's right pursuant to Federal Reclamation law and
134 applicable State law to the reasonable and beneficial use of the Water Delivered pursuant to this
135 Contract shall not be disturbed, and this Contract shall continue so long as the Contractor pays

136 applicable Rates and Charges under this Contract consistent with Section 9(d) or 9(c)(1) of the
137 Act of August 4, 1939 (53 Stat. 1195) as applicable, and applicable law. Nothing in the
138 preceding sentence shall affect the Contracting Officer's ability to impose shortages under
139 Article 11 or subdivision (b) of Article 12 of this Contract.

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

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

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

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

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

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

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

170 (A) The amount due and payable to the United States,
171 pursuant to the WIIN Act, shall be the Repayment Obligation. The Repayment Obligation has
172 been computed by the Contracting Officer in a manner consistent with the WIIN Act and is set
173 forth as a lump sum payment (M&I and Irrigation) and as four (4) approximately equal annual
174 installments (Irrigation Only) to be repaid no later than three (3) years after the effective date of
175 this Contract as set forth in Exhibit C. **There could be one or two exhibits in most cases due to**
176 **more than one service area [For Irrigation contractors and M&I contractors]** The
177 Repayment Obligation is due in lump sum by **[Month Day, Year]** as provided by the WIIN Act.
178 The Contractor must provide appropriate notice to the Contracting Officer in writing no later
179 than thirty (30) days prior to **[Month Day, Year]** **[Division Level: consider the effective date**
180 **of the contract being converted]** if electing to repay the amount due using the lump sum
181 alternative. If such notice is not provided by such date, the Contractor shall be deemed to have

182 elected the installment payment alternative, in which case, the first such payment shall be made
183 no later than **[Month Day, Year] [Division Level: consider the effective date of the contract**
184 **being converted]**. The second payment shall be made no later than the first anniversary of the
185 first payment date. The third payment shall be made no later than the second anniversary of the
186 first payment date. The final payment shall be made no later than **[Month Day, Year] [no later**
187 **than the third anniversary of the effective date of the contract]**. If the installment payment
188 option is elected by the Contractor, the Contractor may pre-pay the remaining portion of the
189 Repayment Obligation by giving the Contracting Officer sixty (60) days written notice, in which
190 case, the Contracting Officer shall re-compute the remaining amount due to reflect the pre-
191 payment using the same methodology as was used to compute the initial annual installment
192 payment amount, which is illustrated in Exhibit C. Notwithstanding any Additional Capital
193 Obligation that may later be established, receipt of the Contractor's payment of the Repayment
194 Obligation to the United States shall fully and permanently satisfy the Existing Capital
195 Obligation.

196 (B) Additional Capital Obligations that are not reflected
197 in the schedules referenced in Exhibit C and properly assignable to the Contractor, shall be
198 repaid as prescribed by the WIIN Act without interest except as required by law. Consistent with
199 Federal Reclamation law, interest shall continue to accrue on the M&I portion of the Additional
200 Capital Obligation assigned to the Contractor until such costs are paid. Increases or decreases in
201 the Additional Capital Obligation assigned to the Contractor caused solely by annual adjustment
202 of the Additional Capital Obligation assigned to each Project contractor by the Secretary shall
203 not be considered in determining the amounts to be paid pursuant to this subdivision (a)(2)(B),
204 however, will be considered under subdivision (b) of this Article. A separate agreement shall be

205 established by the Contractor and the Contracting Officer to accomplish repayment of the
206 Additional Capital Obligation assigned to the Contractor within the timeframe prescribed by the
207 WIIN Act, subject to the following:

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

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

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

223 (b) In the event that the final cost allocation referenced in Section
224 4011(b) of the WIIN Act determines that the costs properly assignable to the Contractor are
225 greater than what has been paid by the Contractor, the Contractor shall be obligated to pay the
226 remaining allocated costs. The term of such additional repayment contract shall be not less than
227 one (1) year and not more than ten (10) years, however, mutually agreeable provisions regarding

228 the rate of repayment of such amount may be developed by the Contractor and Contracting
229 Officer. In the event that the final cost allocation indicates that the costs properly assignable to
230 the Contractor are less than what the Contractor has paid, the Contracting Officer shall credit
231 such overpayment as an offset against any outstanding or future obligations of the Contractor,
232 with the exception of Restoration Fund charges pursuant to section 3407(d) of Public Law 102-
233 575.

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

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

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

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

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

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

256 (c) The Contracting Officer shall have the right to make determinations
257 necessary to administer this Contract that are consistent with its expressed and implied

258 provisions, the laws of the United States and the State of California, and the rules and regulations
259 promulgated by the Secretary of the Interior. Such determinations shall be made in consultation
260 with the Contractor.

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

264 **PROTECTION OF WATER AND AIR QUALITY**

265 15. (a) OMITTED.

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

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

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

280 **8. The Article numbers for Articles 17 through 39 of the Existing Contract are**
281 **amended and redesignated as Articles 16 through 38.**

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

285 19. (a) The Contractor shall be subject to interest, administrative, and
286 penalty charges on delinquent payments. If a payment is not received by the due date, the
287 Contractor shall pay an interest charge on the delinquent payment for each day the payment is
288 delinquent beyond the due date. If a payment becomes 60 days delinquent, the Contractor shall
289 pay, in addition to the interest charge, an administrative charge to cover additional costs of
290 billing and processing the delinquent payment. If a payment is delinquent 90 days or more, the

291 Contractor shall pay, in addition to the interest and administrative charges, a penalty charge for
292 each day the payment is delinquent beyond the due date, based on the remaining balance of the
293 payment due at the rate of 6 percent per year. The Contractor shall also pay any fees incurred for
294 debt collection services associated with a delinquent payment.

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

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

302 **10. Article 21, redesignated Article 20, of the Existing Contract, entitled EQUAL**
303 **OPPORTUNITY, is amended and replaced in its entirety with the following new Article**
304 **20:**

305 **EQUAL EMPLOYMENT OPPORTUNITY**

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

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

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

321 (c) The contractor will not discharge or in any other manner
322 discriminate against any employee or applicant for employment because such employee or
323 applicant has inquired about, discussed, or disclosed the compensation of the employee or
324 applicant or another employee or applicant. This provision shall not apply to instances in which
325 an employee who has access to the compensation information of other employees or applicants
326 as part of such employee's essential job functions discloses the compensation of such other
327 employees or applicants to individuals who do not otherwise have access to such information,

328 unless such disclosure is in response to a formal complaint or charge, in furtherance of an
329 investigation, proceeding, hearing, or action, including an investigation conducted by the
330 employer, or is consistent with the contractor's legal duty to furnish information.

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

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

340 (f) The Contractor will furnish all information and reports required by
341 Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of
342 the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and
343 accounts by the Contracting Agency and the Secretary of Labor for purposes of investigation to
344 ascertain compliance with such rules, regulations, and orders.

345 (g) In the event of the Contractor's noncompliance with the
346 nondiscrimination clauses of this Contract or with any of such rules, regulations, or orders, this
347 Contract may be canceled, terminated or suspended in whole or in part and the Contractor may
348 be declared ineligible for further Government contracts in accordance with procedures
349 authorized in Executive Order No. 11246 of Sept. 24, 1965, and such other sanctions may be
350 imposed and remedies invoked as provided in Executive Order No. 11246 of September 24,
351 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

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

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

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

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

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

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

381 22. (a) The Contractor shall comply with Title VI of the Civil Rights Act
382 of 1964 (Pub. L. 88-352; 42 U.S.C. § 2000d), the Rehabilitation Act of 1973 (Pub. L. 93-112,
383 Title V, as amended; 29 U.S.C. § 791, et seq.), the Age Discrimination Act of 1975 (Pub. L. 94-
384 135, Title III; 42 U.S.C. § 6101, et seq.), [Title III of the Americans with Disabilities Act of 1990
385 (Pub. L. 101-336; 42 U.S.C. § 12181, et seq.)], and any other applicable civil rights laws, and
386 with the applicable implementing regulations and any guidelines imposed by the U.S.
387 Department of the Interior and/or Bureau of Reclamation.

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

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

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

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

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

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

408 23. (a) The Contractor shall comply with the Privacy Act of 1974 (Privacy
409 Act) (5 U.S.C. § 552a) and the Department of the Interior rules and regulations under the Privacy
410 Act (43 C.F.R. § 2.45, et seq.) in maintaining landholder certification and reporting records
411 required to be submitted to the Contractor for compliance with sections 206, 224(c), and 228 of
412 the Reclamation Reform Act of 1982 (43 U.S.C. §§ 390ff, 390ww, and 390zz), and pursuant to
413 43 C.F.R. § 426.18.

414 (b) With respect to the application and administration of the criminal
415 penalty provisions of the Privacy Act (5 U.S.C. § 552a(i)), the Contractor and the Contractor's
416 employees who are responsible for maintaining the certification and reporting records referenced
417 in paragraph (a) above are considered to be employees of the Department of the Interior. See
418 5 U.S.C. § 552a(m).

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

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

428 (e) The Contractor shall forward promptly to the System Manager
429 each proposed denial of access under 43 C.F.R. § 2.64 and each request for amendment of
430 records filed under 43 C.F.R. § 2.71; notify the requester accordingly of such referral; and
431 provide the System Manager with information and records necessary to prepare an appropriate
432 response to the requester. These requirements do not apply to individuals seeking access to their
433 own certification and reporting forms filed with the Contractor pursuant to 43 C.F.R. § 426.18
434 unless the requester elects to cite the Privacy Act as authority for the request.

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

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

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

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

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

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

452 (b) Should the amount of M&I Water delivered pursuant to
453 subdivision (a) of Article 3 of this Contract equal or exceed two thousand (2,000) acre-feet per
454 Year, the Contractor shall implement the Best Management Practices identified by the time
455 frames issued by the Mid-Pacific Region's then-existing conservation and efficiency criteria for
456 such M&I Water unless any such practice is determined by the Contracting Officer to be
457 inappropriate for the Contractor.

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

460 (d) At five (5)-year intervals, the Contractor shall revise its water
461 conservation plan to reflect the then-existing conservation and efficiency criteria for evaluating

462 water conservation plans established under Federal law and submit such revised water
463 management plan to the Contracting Officer for review and evaluation. The Contracting Officer
464 will then determine if the water conservation plan meets Reclamation's then-existing
465 conservation and efficiency criteria for evaluating water conservation plans established under
466 Federal law.

467 **15. OMITTED.**

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

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

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

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

485 **(a):**

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

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

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

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

498 **CHANGES IN CONTRACTOR’S ORGANIZATION**

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

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

506 36. Any notice, demand, or request authorized or required by this Contract
507 shall be deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid,
508 or delivered to the Area Manager, Bureau of Reclamation, Northern California Area Office,
509 16349 Shasta Dam Boulevard, Shasta Lake, California 96019, and on behalf of the United
510 States, when mailed, postage prepaid, or delivered to the Board of Directors of the Myers-Marsh
511 Mutual Water Company, 580 University Terrace, Los Altos, California 94022. The designation
512 of the addressee or the address may be changed by notice given in the same manner as provided
513 in this article for other notices.

514 **21. OMITTED.**

515 **22. OMITTED.**

516 **23. OMITTED.**

517 **24. OMITTED.**

518 **25. The Existing Contract is amended to add Article 39, entitled**
519 **RECLAMATION REFORM ACT OF 1982, to be consistent with the WIIN Act, as follows:**

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

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

527 **26. The Existing Contract is amended to add Article 40, entitled**
528 **CERTIFICATION OF NONSEGREGATED FACILITIES, as follows:**

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

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

549 NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR
550 CERTIFICATIONS OF NONSEGREGATED FACILITIES

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

556 27. OMITTED.

557 28. The Existing Contract is amended to add Article 41, entitled MEDIUM FOR

558 TRANSMITTING PAYMENTS, as follows:

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

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

567 CONFIRMATION OF AMENDMENT

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

573 AMENDMENT DRAFTING CONSIDERATIONS

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

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

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

583 UNITED STATES OF AMERICA

584 By: _____
585 Regional Director
586 Interior Region 10: California-Great Basin
587 Bureau of Reclamation

588 MYERS-MARSH MUTUAL WATER COMPANY
589 (SEAL)

590 By: _____
591 President of the Board of Directors

592 Attest:

593 By: _____
594 Secretary of the Board of Directors

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

EXHIBIT C/D

Place holder for Reclamation