

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
Lahontan Basin Area Office

CONTRACT FOR STORAGE OF NON-PROJECT WATER
AMONG THE UNITED STATES,
TRUCKEE MEADOWS WATER AUTHORITY AND
WASHOE COUNTY WATER CONSERVATION DISTRICT

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1 UNITED STATES
2 DEPARTMENT OF THE INTERIOR
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5

6 CONTRACT FOR STORAGE OF NON-PROJECT WATER
7 AMONG THE UNITED STATES,
8 TRUCKEE MEADOWS WATER AUTHORITY AND
9 WASHOE COUNTY WATER CONSERVATION DISTRICT
10

11 THIS CONTRACT, made this 6th day of September, 2008, pursuant to the Reclamation
12 Act (Act of June 17, 1902; 32 Stat. 388) and acts amendatory or supplementary thereto and the
13 Truckee-Carson-Pyramid Lake Water Rights Settlement Act of 1990 (Public Law 101-618; Act
14 of November 16, 1990; 104 Stat. 3307) (Settlement Act), among THE UNITED STATES OF
15 AMERICA, hereinafter referred to as the United States, represented by the officer executing the
16 Contract, hereinafter referred to as the Contracting Officer, Truckee Meadows Water Authority,
17 hereinafter referred to as Water Authority, and the Washoe County Water Conservation District,
18 hereinafter referred to as Conservation District;

19 WITNESSETH, That:

20 EXPLANATORY RECITALS

21 WHEREAS, the United States and Water Authority expect to be **Signatory Parties** to the
22 operating agreement authorized and negotiated pursuant to Section 205(a) of the Settlement Act,
23 which operating agreement is presently in draft form and is referred to as the Truckee River
24 Operating Agreement (TROA); and

25 WHEREAS, this Contract is intended to satisfy the provisions of Section 7.A.2(b) of
26 TROA with respect to Water Authority and the provisions of Section 12.A.3(f) of TROA.

27 NOW, THEREFORE, in consideration of the covenants herein contained, the parties
28 agree as follows:

29

DEFINITIONS

30

1. (a) For purposes of this Contract, words which appear in bold face and with the first letter capitalized have the same definition as used in TROA. Terms used in this Contract which are not defined in TROA or in this Contract shall have their ordinary meaning.

33

(b) Contracting Officer means Mid-Pacific Regional Director or his designee.

34

(c) Contract Year means the twelve month period beginning on the date this Contract enters into effect and each twelve month period thereafter.

36

(d) Interim Storage Contract means the Contract for the Storage of Non-Project Water

37

Among Sierra Pacific Power Company, Washoe County Water Conservation District, Pyramid Lake Paiute Tribe, and the United States of America dated June 29, 1994 (Reclamation Contract No. 4-07-20-W1177).

40

(e) Interim Terms and Conditions means the terms and conditions outlined in Appendix

41

A of this Contract.

42

TERM OF CONTRACT

43

2. (a) This Contract shall enter into effect when TROA enters into effect. This Contract supersedes the Interim Storage Contract.

45

(b) If TROA enters into effect before proceedings which satisfied the conditions set forth

46

in TROA Sections 12.A.4(a) through 12.A.4(g) are no longer subject to appeal before any

47

administrative agency or court and subsequently the satisfaction of one or more of those

48

conditions is reversed, then the Interim Terms and Conditions shall govern until such time as

49

TROA again enters into effect and the satisfaction of one or more of those conditions is no

50

longer subject to appeal before any administrative agency or court.

51 (c) This Contract shall remain in effect for a term of 40 years, which term shall include
52 any period of time when the Interim Terms and Conditions are in effect as provided in Article
53 2(b) of this Contract, and is renewable for additional 40-year terms as long as TROA is in effect.
54 The renewal of this Contract shall be on the same terms and conditions contained in this Contract
55 except the storage charge shall be adjusted as provided in Article 5 of this Contract.

56 (d) Except as provided in Article 2(b) of this Contract, this Contract shall automatically
57 terminate if TROA is no longer in effect, except that any payment obligation of Water Authority
58 that is outstanding at the time of termination shall survive such termination, and any water of
59 Water Authority in storage shall be treated in accordance with Section 12.B of TROA.

60 PROVISIONS OF TRUCKEE RIVER OPERATING AGREEMENT CONTROLLING

61 3. This Contract is intended to be consistent with TROA, and shall be construed
62 accordingly. In the event of a conflict between the provisions of this Contract and the provisions
63 of TROA, the provisions of TROA shall control and, if necessary, this Contract shall be amended
64 accordingly.

65 ACCUMULATION OF CREDIT WATER

66 4. Water Authority may **Accumulate Credit Water in Truckee River Reservoirs** in
67 accordance with TROA.

68 PAYMENT FOR STORAGE AND RENEWAL OF CONTRACT

69 5. (a) Within ten business days after the day that TROA enters into effect, the Water
70 Authority shall pay the United States \$250,000.00 for the first Contract Year, and on the first day
71 of each subsequent Contract Year for the term of this Contract, the Water Authority shall pay an
72 amount equal to \$250,000.00 increased at a rate of 3.0 percent per annum, in accordance with the
73 payment schedule attached as Appendix B to this Contract.

74 (b) Not later than one year prior to the expiration of the term of this Contract, and any
75 subsequent renewals, as provided in Article 2(c), the United States and Water Authority will
76 initiate discussions concerning the Stampede Dam and Reservoir Operation and Maintenance
77 costs and other issues as necessary to renew this Contract.

78 (c) The first annual payment under the Contract renewal shall be as follows: (1) If the
79 average of the Stampede Dam and Reservoir Operation and Maintenance costs for the last ten
80 Contract Years of the current Contract term is greater than the current Contract year 40 payment
81 as provided in the appropriate payment schedule, then the first annual payment under the new
82 Contract term equals such year 40 payment, or (2) If the average of the Stampede Dam and
83 Reservoir Operation and Maintenance costs for the last ten Contract Years of the current
84 Contract term is less than the current Contract year 40 payment, as provided in the appropriate
85 payment schedule, then the first annual payment under the new Contract term equals the product
86 of the sum of such year 40 payment plus the average of the Stampede Dam and Reservoir
87 Operation and Maintenance costs for the last ten Contract Years of such prior Contract term
88 multiplied by 0.5.

89 Example Scenario 1:

90 If the average of the Stampede Dam and Reservoir Operation and Maintenance costs for the last
91 ten Contract Years of the current Contract term is \$886,200 and the current Contract Year 40
92 payment as provided in the appropriate payment schedule is \$791,757, then the first annual
93 payment under the new Contract term equals such year 40 payment of \$791,757.

94

95 Example Scenario 2:

96 If the average of the Stampede Dam and Reservoir Operation and Maintenance costs for the last
 97 ten Contract Years of the current Contract term is \$462,700 and the current Contract Year 40
 98 payment as provided in the appropriate payment schedule is \$791,757, then the first annual
 99 payment under the new Contract term equals the product of the sum of such year 40 payment
 100 plus the average of the Stampede Dam and Reservoir Operation and Maintenance costs for the
 101 last ten Contract Years of such prior Contract term multiplied by 0.5 or $(\$791,757 + \$462,700) \times$
 102 $0.5 = \$627,228.50$.

103 (d) Each Contract Year after the renewal year, the annual payment due the United States
 104 shall be increased by a rate of 3.0 percent per annum over the previous Contract Year's annual
 105 payment. A new Appendix shall be attached to this Contract similar to Appendix B setting forth
 106 the then current payment schedule.

107 (e) The annual payments as set forth in Article 5 of this Contract were developed by
 108 considering the relevant provisions of the Settlement Act and its legislative history, the relevant
 109 provisions of TROA, and related information and understandings to provide full and complete
 110 compensation throughout the term of this Contract and any renewals: (1) to the United States for
 111 the value of the storage capacity to be used by the Water Authority in **Truckee River**
 112 **Reservoirs for Water Authority Emergency Drought Supply and Water Authority M&I**
 113 **Credit Water**; and (2) to the Water Authority for the value of Water Authority water converted
 114 to **Fish Credit Water** and (3) any reduced hydroelectric generation as provided in Section 7.A.6
 115 of TROA.

116 (f) The portion of payments made under the Interim Storage Contract which cover a
 117 period of time which is also included in the first Contract Year shall be a credit against the
 118 payment due under Article 5(a) of this Contract. In addition, the Water Authority shall receive a

119 credit for 1) the portion of payments made under this Contract which cover a period of time
120 during which the Interim Terms and Conditions govern, and 2) the portion of payments made
121 under the Interim Terms and Conditions which cover a period of time which this Contract
122 governs.

123 COMPENSATION TO CONSERVATION DISTRICT

124 6. (a) Compensation to the Conservation District for operation and maintenance of Boca
125 Dam and Reservoir with respect to this Contract, shall be calculated and paid as an expense of
126 administration of TROA in accordance with the provisions of Section 7.A.2(b)(3) of TROA and
127 not under this Contract. Nothing in this Contract is intended to change any obligation of any
128 **Person**, including Water Authority, with respect to payments to Conservation District in
129 connection with assessments or fees levied under authority other than TROA.

130 (b) The portion of payments made under the Interim Storage Contract which cover a
131 period of time which is also included in the first Contract Year shall be a credit against the
132 payment due under Article 6(a) of this Contract. In addition, Water Authority shall receive a
133 credit for 1) the portion of payments made under this Contract which cover a period of time
134 during which the Interim Terms and Conditions govern, and 2) the portion of payments made
135 under the Interim Terms and Conditions which cover a period of time during which this Contract
136 governs.

137 WATER CONSERVATION

138 7. Water Authority shall comply with the provisions of that certain Agreement in
139 Satisfaction of the Water Conservation Contingency Section 29(e) of the Preliminary Settlement
140 Agreement dated July 18, 1996, by and among the Pyramid Lake Paiute Tribe of Indians, Sierra

141 Pacific Power Company, the City of Reno, the City of Sparks, and the County of Washoe and
142 any amendments thereto. The United States shall review that Agreement from time to time.

143 CONTRACT ADMINISTRATION COSTS

144 8. (a) Water Authority shall advance funds annually to cover all reimbursable costs
145 associated with the United States administration of this Contract, including an appropriate share
146 of indirect costs.

147 (b) Reimbursable costs will include: (1) United States' costs incurred during the
148 performance reviews and audits for the storage contract renewal; (2) review of any modifications
149 to the water conservation agreement identified in Article 7 of this Contract; (3) attendance at
150 meetings regarding this Contract; (4) general storage contract administration; (5) National
151 Environmental Policy Act and other environmental compliance costs or an applicable portion
152 thereof; (6) those costs incurred in response to a specific request from the Water Authority; and
153 (7) other costs directly related to administration of this contract.

154 (c) Within ten business days after the day that TROA enters into effect and on the first
155 day of each subsequent Contract Year for the term of this Contract, the United States shall
156 provide Water Authority with a budget showing United States anticipated reimbursable costs for
157 the upcoming Contract Year. The Water Authority shall receive a credit for any period of time
158 covered by the Interim Terms and Conditions.

159 (d) Water Authority shall have thirty (30) days to accept or reject the budget. If the
160 budget is rejected, the dispute resolution procedure shall apply. Water Authority shall pay the
161 anticipated reimbursable costs to the United States within said 30-days subject to adjustment
162 based on the outcome of the dispute resolution.

163 (e) The United States shall notify Water Authority any time during the Contract Year
164 when it becomes apparent that United States' anticipated reimbursable costs will exceed the
165 anticipated budgeted amount. Water Authority shall pay the additional anticipated reimbursable
166 costs to the United States within 30 days of receipt of the notice. If the additional monies are
167 disputed, the dispute resolution procedure shall apply.

168 (f) Nothing in Article 8 of this Contract is intended to require, and Article 8 of this
169 Contract shall not be construed as requiring, Water Authority to reimburse the United States for
170 any cost or expense the United States is obligated to pay under the provisions of TROA.

171 UNITED STATES NOT LIABLE

172 9. (a) The United States, or any of its officers, agents, or employees are not liable for any
173 monetary damages arising under this Contract. In addition, the United States and Water
174 Authority agree that Section 2.B.2(b)(6) of TROA provides that neither the **Administrator**, the
175 **Truckee River Special Hearing Officer**, nor the court is empowered to grant any monetary
176 relief.

177 (b) If there is a shortage of storage space in **Truckee River Reservoirs** because of
178 partial or complete failure, or risk of failure, beyond the reasonable control of the Contracting
179 Officer, of all or a portion of a **Truckee River Reservoir** feature resulting in, but not limited to:
180 (1) a federal, state or local emergency involving an upset or other unexpected occurrence to
181 facilities and resources presenting a clear and immediate danger to public health, life, property or
182 essential public services; (2) performance of unscheduled maintenance; (3) compliance with dam
183 safety or flood control requirements; (4) response to safety or emergency conditions; or (5)
184 modification or reconstruction of such features, then Reclamation shall not be obligated to

185 replace or otherwise provide any water that could have been stored by the Water Authority but
186 for such shortage of storage space.

187 (c) If there is a shortage of storage space in **Truckee River Reservoirs** because of
188 actions taken by the Contracting Officer to meet future legal obligations which amend or
189 supercede the obligations of the United States under the Settlement Act, then Reclamation shall
190 not be obligated to replace or otherwise provide any water that could have been stored by Water
191 Authority but for such actions.

192 (d) This Article 9 does not affect any liability of any **Person** under TROA not expressly
193 set forth in this Article 9.

194 RESOLUTION OF DISPUTES

195 10. (a) Should any dispute arise concerning any of the provisions of this Contract, or the
196 parties' rights and obligations thereunder, other than disputes regarding the storage of water as
197 provided in TROA, the parties to this Contract shall meet and confer within thirty days of
198 providing written notice of the dispute to the other party. If the parties have not resolved the
199 dispute within ninety days after such notice, or such other period as mutually agreed to, Water
200 Authority may commence any legal action, and the Contracting Officer may refer any matter to
201 Department of Justice; Provided, that the party shall provide to the other party thirty days written
202 notice of the intent to take such action; Further provided, that such notice and meet and confer
203 process shall not be required where a delay in commencing an action would prejudice the
204 interests of the party that intends to file suit.

205 (b) Should any dispute arise concerning the storage of water under TROA, the dispute
206 shall be referred to the TROA Dispute Resolution process, Section 2.B of TROA. If the dispute
207 involves a shortage of space in **Truckee River Reservoirs** resulting from causes or actions

208 referred to in Article 9 of this Contract, the liability of Reclamation shall be limited as provided
209 in that Article 9.

210 CHARGES FOR DELINQUENT PAYMENTS

211
212 11. (a) Water Authority shall be subject to interest, administrative, and penalty charges on
213 delinquent payments. If a payment is not received by the due date, Water Authority shall pay an
214 interest charge on the delinquent payment for each day the payment is delinquent beyond the due
215 date. If a payment becomes 60 days delinquent, in addition to the interest charge, Water
216 Authority shall pay an administrative charge to cover additional costs of billing and processing
217 the delinquent payment. If a payment is delinquent 90 days or more, in addition to the interest
218 and administrative charges, Water Authority shall pay a penalty charge for each day the payment
219 is delinquent beyond the due date, based on the remaining balance of the payment due at the rate
220 of 6 percent per year. Water Authority shall also pay any fees incurred for debt collection
221 services associated with a delinquent payment.

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

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

229
230 CONFIRMATION OF CONTRACT

231
232 12. Water Authority, after the execution of this contract, shall furnish to the Contracting
233 Officer evidence that pursuant to the laws of the State of Nevada, Water Authority is a legally
234 constituted entity and the contract is lawful, valid, and binding on Water Authority. This contract
235 shall not be binding on the United States until such evidence has been provided to the
236 Contracting Officer's satisfaction.

237
238 NOTICES

239
240 13. Any notice, demand, or request authorized or required by this contract shall be deemed to
241 have been given, on behalf of Water Authority, when mailed, postage prepaid, or delivered to the
242 Regional Director, Mid-Pacific Region, Bureau of Reclamation, 2800 Cottage Way, Sacramento,
243 CA, 95825-1898, and on behalf of the United States, when mailed, postage prepaid, or delivered
244 to the General Manager, Truckee Meadows Water Authority, 1355 Capital Blvd., PO Box 30013,
245 Reno, NV, 89520-0013. The designation of the addressee or the address may be changed by
246 notice given in the same manner as provided in this article for other notices.

247
248 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

249
250 14. The expenditure or advance of any money or the performance of any obligation of the
251 United States under this contract shall be contingent upon appropriation or allotment of funds.
252 Absence of appropriation or allotment of funds shall not relieve Water Authority from any

253 obligations under this contract. No liability shall accrue to the United States in case funds are
254 not appropriated or allotted.

255
256 OFFICIALS NOT TO BENEFIT

257
258 15. No Member of or Delegate to the Congress, Resident Commissioner, or official of Water
259 Authority shall benefit from this contract other than as a water user or landowner in the same
260 manner as other water users or landowners.

261
262 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

263
264 16. The provisions of this contract shall apply to and bind the successors and assigns of the
265 parties hereto, but no assignment or transfer of this contract or any right or interest therein by
266 either party shall be valid until approved as provided in TROA or in writing by the other party if
267 otherwise consistent with TROA.

268
269 BOOKS, RECORDS, AND REPORTS

270
271 17. Water Authority shall establish and maintain accounts and other books and records
272 pertaining to administration of the terms and conditions of this contract, including Water
273 Authority's financial transactions; water storage data; and other matters that the Contracting
274 Officer may require. Reports shall be furnished to the Contracting Officer in such form and on
275 such date or dates as the Contracting Officer may require. Subject to applicable Federal laws
276 and regulations, each party to this contract shall have the right during office hours to examine
277 and make copies of the other party's books and records relating to matters covered by this
278 contract.

279
280 EQUAL EMPLOYMENT OPPORTUNITY

281
282 18. During the performance of this contract, Water Authority agrees as follows:

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

293 (b) Water Authority will, in all solicitations or advertisements for employees placed by
294 or on behalf of Water Authority, state that all qualified applicants will receive consideration for
295 employment without regard to race, color, religion, sex, disability, or national origin.

296 (c) Water Authority will send to each labor union or representative of workers with
297 which it has a collective bargaining agreement or other contract or understanding, a notice, to be
298 provided by the Contracting Officer, advising the labor union or workers' representative of

299 Water Authority's commitments under Section 202 of Executive Order 11246 of September 24,
300 1965, and shall post copies of the notice in conspicuous places available to employees and
301 applicants for employment.

302 (d) Water Authority will comply with all provisions of Executive Order No. 11246 of
303 September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

304 (e) Water Authority will furnish all information and reports required by Executive Order
305 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor,
306 or pursuant thereto, and will permit access to his books, records, and accounts by the Contracting
307 Agency and the Secretary of Labor for purposes of investigation to ascertain compliance with
308 such rules, regulations, and orders.

309 (f) In the event of Water Authority's noncompliance with the nondiscrimination clauses
310 of this contract or with any of such rules, regulations, or orders, this contract may be canceled,
311 terminated or suspended in whole or in part and Water Authority may be declared ineligible for
312 further Government contracts in accordance with procedures authorized in Executive Order
313 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked
314 as provided in Executive Order 11246 of September 24, 1965 or by rule, regulation, or order of
315 the Secretary of Labor, or as otherwise provided by law.

316 (g) Water Authority will include the provisions of paragraphs (1) through (7) in every
317 subcontract or purchase order unless exempted by the rules, regulations, or orders of the
318 Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24,
319 1965, so that such provisions will be binding upon each subcontractor or vendor. Water
320 Authority will take such action with respect to any subcontract or purchase order as may be
321 directed by the Secretary of Labor as a means of enforcing such provisions, including sanctions
322 for noncompliance: *Provided, however*, that in the event Water Authority becomes involved in,
323 or is threatened with, litigation with a subcontractor or vendor as a result of such direction, Water
324 Authority may request the United States to enter into such litigation to protect the interests of the
325 United States.

326 327 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

328
329 19. (a) Water Authority shall comply with Title VI of the Civil Rights Act of 1964
330 (42 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1973 (P.L. 93-112, as amended), the
331 Age Discrimination Act of 1975 (42 U.S.C. 6101, *et seq.*), Title III of the Americans with
332 Disabilities Act of 1990, and any other applicable civil rights laws, as well as with their
333 respective implementing regulations and guidelines imposed by the U.S. Department of the
334 Interior and/or Bureau of Reclamation.

335 (b) These statutes require that no person in the United States shall be excluded from
336 participation in, be denied the benefits of, or be otherwise subjected to discrimination under any
337 program or activity receiving financial assistance from the Bureau of Reclamation on the
338 grounds of race, color, national origin, disability, or age. By executing this contract, Water
339 Authority agrees to immediately take any measures necessary to implement this obligation,
340 including permitting officials of the United States to inspect premises, programs, and documents.

341 (c) Water Authority makes this agreement in consideration of and for the purpose of
342 obtaining any and all Federal grants, loans, contracts, property discounts, or other Federal
343 financial assistance extended after the date hereof to Water Authority by the Bureau of
344 Reclamation, including installment payments after such date on account of arrangements for

345 Federal financial assistance which were approved before such date. Water Authority recognizes
346 and agrees that such Federal assistance will be extended in reliance on the representations and
347 agreements made in this article and that the United States reserves the right to seek judicial
348 enforcement thereof.

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

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CERTIFICATION OF NONSEGREGATED FACILITIES

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354 20. Water Authority hereby certifies that it does not maintain or provide for its employees
355 any segregated facilities at any of its establishments and that it does not permit its employees to
356 perform their services at any location under its control where segregated facilities are
357 maintained. It certifies further that it will not maintain or provide for its employees any
358 segregated facilities at any of its establishments and that it will not permit its employees to
359 perform their services at any location under its control where segregated facilities are
360 maintained. Water Authority agrees that a breach of this certification is a violation of the Equal
361 Employment Opportunity clause in this contract. As used in this certification, the term
362 "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms,
363 restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas,
364 parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing
365 facilities provided for employees which are segregated by explicit directive or are in fact
366 segregated on the basis of race, creed, color, or national origin, because of habit, local custom,
367 disability, or otherwise. Water Authority further agrees that (except where it has obtained
368 identical certifications from proposed subcontractors for specific time periods) it will obtain
369 identical certifications from proposed subcontractors prior to the award of subcontracts
370 exceeding \$10,000 which are not exempt from the provisions of the Equal Employment
371 Opportunity clause; that it will retain such certifications in its files; and that it will forward the
372 following notice to such proposed subcontractors (except where the proposed subcontractors
373 have submitted identical certifications for specific time periods):

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375

NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR
CERTIFICATIONS OF NONSEGREGATED FACILITIES

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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.

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MEDIUM FOR TRANSMITTING PAYMENTS

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21. (a) All payments from Water Authority 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.

388

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(b) Upon execution of the contract, Water Authority shall furnish the Contracting Officer
with Water Authority's taxpayer's identification number (TIN). The purpose for requiring Water

390 Authority's TIN is for collecting and reporting any delinquent amounts arising out of Water
391 Authority's relationship with the United States.

392

393

CONTRACT DRAFTING CONSIDERATIONS

394

395 22. All double spaced articles of this Contract have been drafted, negotiated, and reviewed by
396 the parties hereto, each of whom is sophisticated in the matters to which this Contract pertains,
397 and no one party shall be considered to have drafted the stated articles.

398 IN WITNESS WHEREOF, the parties hereto have executed this contract as of the day and year
399 first above written.
400
401
402
403

UNITED STATES OF AMERICA

404 APPROVED AS TO LEGAL
405 FORM AND SUFFICIENCY

406 *Steph R. Palmer*
407 OFFICE OF REGIONAL SOLICITOR
408 IN THE INTEREST OF THE INTERIOR

409 By _____

Donald R. Larson

410 Regional Director, Mid-Pacific Region
411 Bureau of Reclamation
412

413 TRUCKEE MEADOWS WATER AUTHORITY
414

415 By _____

Mike Carrigan

416 Mike Carrigan
417 Chairman, Board of Directors
418
419

420 WASHOE COUNTY WATER CONSERVATION DISTRICT
421
422

423 By _____

Don Casazza

424 Don Casazza
425 Board President
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INTERIM TERMS AND CONDITIONS

Pursuant to subparagraph b of Article 2 of this Contract, these Interim Terms and Conditions supercede Article 5 of this Contract. All other articles remain in effect.

DEFINITIONS

A1. When used herein, the term:

(a) "Emergency Condition" shall mean a situation when the demands of the Water Authority's water customers cannot be met due to a scheduled facility alteration or repair due to an unexpected circumstance;

(b) "Excess Capacity" shall mean capacity in Stampede Reservoir or Boca Reservoir not needed to store Washoe Project Water or Truckee Project Water, whichever is appropriate, except as otherwise provided in subarticle A2(h);

(c) "Federal Water Master" shall mean the water master appointed by the United States District Court for the District of Nevada pursuant to United States v. Orr Water Ditch Co., Civil No. A3;

(d) "Fish Credit Water" shall mean water in storage in Boca Reservoir or Stampede Reservoir which pursuant to the terms of subarticle A2(j) and Article A3 is to be used for the benefit of cui-ui or Lahontan cutthroat trout of Pyramid Lake.

(e) "Floriston Rates" shall mean a rate of flow of the Truckee River at the head of the diversion penstock at Floriston, California (but measured at the USGS Stream Gaging Station near Farad, California) consisting of an average flow of 500 cubic feet of water per second each day during the period commencing March 1 and ending September 30 of any year and an average flow of 400 cubic feet of water per second each day during the period commencing October 1 and ending the last day of the next following February of any year, except that when,

460 during the period commencing November 1 and ending the next following March 31 of each
461 year, Lake Tahoe is below 6226.0 feet above sea level Lake Tahoe Datum and not below
462 6225.25 feet above sea level Lake Tahoe Datum it shall mean an average flow at said gage of
463 350 cubic feet per second or when Lake Tahoe is below 6225.25 feet below sea level Lake Tahoe
464 Datum it shall mean an average flow at said gage of 300 cubic feet per second.

465 (f) "Non-Project Water" shall mean water of the Truckee River or its tributaries acquired by
466 or available to the Water Authority but excluding any water adjudicated pursuant to Claim Nos.
467 3 and 4 of the Orr Ditch Decree;

468 (g) "Orr Ditch Decree" shall mean the decree of the United States District Court for the
469 District of Nevada in United States of America v. Orr Water Ditch Company et al., in Equity,
470 Docket No. A3, including, but not limited to, the Truckee River Agreement;

471 (h) "Spill" shall mean water spilled over the spillway of the reservoir, or the reservoir inflows
472 released to comply with flood control criteria, excluding that portion of the spilled water or the
473 released water utilized to satisfy Orr Ditch Decree rights, including filling Boca Reservoir.
474 "Spill" shall also mean withdrawals from reservoir storage for the express purpose of complying
475 with flood control criteria, unless the withdrawal from storage provides Truckee Project Water to
476 satisfy Orr Ditch rights.

477 (i) "Truckee Project Water" shall mean water licensed for storage by the District in Boca
478 Reservoir;

479 (j) "Truckee River Agreement" shall mean the Agreement dated July 1, 1935, which was
480 approved, adopted and incorporated in the Orr Ditch Decree;

481 (k) "Washoe Project Water" shall mean water permitted for storage by the United States in
482 Stampede Reservoir.

483 (l) "Water Authority Service Area" shall mean the retail and wholesale certificated
484 boundaries as may be established from time to time by the Public Service Commission of
485 Nevada as the territory in which the Water Authority is entitled to sell or to distribute water.

486 STORAGE AND EXCHANGE OF NON-PROJECT WATER

487 A2. The Water Authority is authorized to store Non-Project Water in Stampede and Boca
488 Reservoirs, respectively, pursuant to existing state water right permits and/or licenses, and/or
489 vested water rights when Excess Capacity is available, for the purpose of storing Non-Project
490 Water and exchanging Truckee Project Water and Washoe Project Water for Non-Project Water
491 as follows:

492 (a) Non-Project Water may be released from Independence Lake and stored in either
493 Stampede Reservoir or Boca Reservoir.

494 (b) Non-Project Water from Independence or Donner Lakes may be released to support
495 Floriston Rates in lieu of a release for that purpose from Boca Reservoir in exchange for an
496 equivalent amount of Truckee Project Water.

497 (c) Non-Project Water from Independence or Donner Lakes may be released in lieu of a
498 release of Washoe Project Water for the benefit of cui-ui or Lahontan cutthroat trout of Pyramid
499 Lake in exchange for an equivalent amount of Washoe Project Water.

500 (d) The Water Authority shall not release Non-Project Water from Independence Lake for the
501 purposes of this Contract if it will reduce the storage of Independence Lake below 7,500 acre-
502 feet above the outlet facilities between May 15 and July 15 of any year unless it is intended to be
503 used within the Water Authorities' Service Area within 90 days of release from Independence
504 Lake. But, whenever the storage level of Independence Lake is between 4,500 and 7,500 acre-
505 feet above the outlet facilities from may 15 to September 1, the Water Authority, in consultation

506 with the California Department of Fish and Game, and upon obtaining necessary permits, shall
507 maintain a channel suitable for fish passage through the delta formed by Independence Creek
508 entering Independence Lake.

509 (e) In addition to the exchange or storage of water described in subarticles A2(a), A2(b), and
510 A2(c), the Water Authority may store other Non-Project Water in Stampede Reservoir and Boca
511 Reservoir pursuant to the Contract to replace all or any part of the water stored pursuant to those
512 subarticles which has been released from storage pursuant to subarticle A2(1).

513 (f) The Water Authority may transfer Non-Project Water between Reservoirs as follows:

514 (i) Non-Project Water stored in Stampede Reservoir pursuant to this Contract may be
515 released and transferred to Boca Reservoir.

516 (ii) Non-Project Water stored in Boca Reservoir pursuant to this Contract may be
517 transferred to Stampede Reservoir by storing in Stampede Reservoir water which is required
518 to be passed through both Stampede Reservoir and Boca Reservoir and by releasing an
519 equivalent amount of water stored in Boca Reservoir pursuant to this Contract.

520 (iii) Non-Project Water stored in Boca Reservoir pursuant to this Contract may be
521 transferred to Stampede Reservoir by storing in Stampede Reservoir water which is required
522 to be passed through Stampede Reservoir for the purpose of increasing storage of Truckee
523 Project Water by crediting to Truckee Project Water an equivalent amount of Non-Project
524 Water stored in Boca Reservoir pursuant to this Contract.

525 (g) The total quantity of Non-Project Water available to the Water Authority in Stampede
526 Reservoir and Boca Reservoir shall be subject to seepage and evaporation loss as determined by
527 the Federal Water Master. Water stored by the Water Authority pursuant to this Contract shall

528 share the monthly net losses from the reservoir in which it is stored proportionately with other
529 water stored in that reservoir.

530 (h) Fish Credit Water stored in Stampede or Boca Reservoirs may be displaced by the Water
531 Authority to the extent necessary for the Water Authority to accumulate water in those
532 Reservoirs in accordance with the provisions of this Contract. For purposes of this subarticle,
533 14,000 acre-feet of Fish Credit Water, once accumulated, shall be retained in Stampede and/or
534 Boca Reservoir and used for the benefit of the cui-ui or Lahontan cutthroat trout of Pyramid
535 Lake only if it is the last remaining water in storage in Stampede or Boca Reservoirs.

536 Said 14,000 acre-feet of Fish Credit Water shall be subject to Spill and/or displacement in the
537 same manner as other Fish Credit Water. The United States shall not release Washoe Project
538 Water from Stampede Reservoir into Boca Reservoir in a manner which will cause the Water
539 Authority's water in Boca Reservoir to Spill in the same calendar year as the releases occurred.
540 Spill from Stampede Reservoir shall be deemed to take place in the following sequence:

541 (i) Non-Project Water stored by the Water Authority pursuant to this Contract in excess
542 of 5,000 acre-feet.

543 (ii) Fish Credit Water.

544 (iii) All remaining Non-Project Water stored pursuant to this Contract

545 (iv) Washoe Project Water or Truckee Project Water as the case may be.

546 (i) Storage, release and exchange of Non-Project Water pursuant to this Contract shall not
547 interfere with the dam safety and flood control or normal release requirements of Stampede
548 Reservoir or Boca Reservoir, with the proper storage and release of Washoe Project Water and
549 Truckee Project Water permit, respectively, or with the proper storage and release of water in
550 Boca Reservoir pursuant to the Truckee River Agreement and the Orr Ditch Decree.

551 (j) The total combined Excess Capacity available to the Water Authority at any time in both
552 Boca Reservoir and Stampede Reservoir pursuant to this Contract shall not exceed 14,000 acre-
553 feet. On September 1 of any year, the Water Authority may not have more than a combined total
554 of 5,000 acre-feet of water stored pursuant to this Contract in Boca Reservoir and Stampede
555 Reservoir.

556 Any water stored by the Water Authority pursuant to this Contract in excess of 5,000 acre-
557 feet on September 1 of any year, shall be considered Fish Credit Water. In addition, on
558 September 1 of that same year, at the election of the Water Authority, all or any part of the water
559 in storage pursuant to this Contract within 5,000 acre-feet may be considered Fish Credit Water.
560 Except to the extent provided otherwise in any successor agreement, any Non-Project Water or
561 Fish Credit Water remaining in storage in Stampede Reservoir or Boca Reservoir as of the date
562 of termination of this Contract shall thereafter be considered Washoe Project Water. Fish Credit
563 Water shall be used for the benefit of the cui-ui or Lahontan cutthroat trout of Pyramid Lake.

564 (k) Subject to the provisions of subarticles A2(g), A2(h), A2(i), and A2(j), water stored by
565 the Water Authority pursuant to this Contract may be retained in storage and carried over from
566 year to year until it is needed by the Water Authority to supply the demands of its customers as
567 provided in Article A2(l).

568 (l) The Water Authority may use all of its water stored pursuant to this Contract to supply the
569 demands of its customers any time Floriston Rates are not being met and water available under
570 the Water Authority's Orr Ditch Decree water rights is not sufficient to meet those demands, or
571 under Emergency Conditions. The Water Authority may use its discretion in determining the
572 sequence in which it utilizes its stored water sources, including those established pursuant to this
573 Contract.

574 (m) At the earliest opportunity, in accordance with Article A4, the United States shall
575 transfer to Stampede Reservoir Fish Credit Water in Boca Reservoir as a result of provisions of
576 Article A2(j) and Article A3 or shall release such water for the benefit of cui-ui or Lahontan
577 cutthroat trout of Pyramid Lake.

578 HYDRO-ELECTRIC WAIVER

579 A3. The Water Authority agrees to a waiver of its rights to required releases or pass-through of
580 water from the Truckee River Reservoirs solely for the generation of hydro-electric power
581 pursuant to the Truckee River General Electric Co. Decree issued in 1915 by the District Court
582 of the United States, the Orr Ditch Decree. Nothing in this Article shall interfere with the Water
583 Authority's ability to implement Article A2(e).

584 SCHEDULES

585 A4. (a) Not less than 15 days prior to the beginning of each calendar quarter, the Water
586 Authority shall submit to the Area Manager, Lahontan Basin Area Office, U.S. Bureau of
587 Reclamation and the Federal Water Master, a schedule for the ensuing calendar quarter
588 projecting storage, exchange, and release of Non-Project Water pursuant to this Contract. In
589 order to provide maximum flexibility, the Water Authority may after consultation with the
590 Federal Water Master and the Area Manager modify the said quarterly schedule as necessary.

591 (b) In the event that available inflow, storage, release, or outlet capacity is not sufficient to
592 accomplish the exchange of all water held by the Water Authority and the United States, the
593 exchanges shall be accomplished by agreement among the Water Authority, the United States,
594 and the Federal Water Master, or in the absence of an agreement, by allocating available
595 exchange water equally.

596

597

ACCOUNTING

598 A5. The Federal Water Master, in cooperation with the Water Authority, the United States, the
599 Tribe and the District, shall prepare a monthly accounting of all water stored, exchanged and
600 released pursuant to this Contract. The accounting shall be provided by the Federal Water
601 Master to the parties to this Contract. The accuracy of such accounting shall be investigated
602 upon the request of any party to this Contract and any errors shall be corrected promptly.

603

PAYMENT

604 A6. (a) On January 30 of each year the Water Authority shall pay the United States a fixed
605 annual payment of \$200,000 and on September 30 of each year an amount equal to the product
606 of \$50.00 multiplied by the number of acre-feet of water in excess of 4,000 acre-feet which the
607 Water Authority has elected on September 1 of that year not to transfer to the United States as
608 Fish Credit Water.

609 (b) The Water Authority shall pay to the District an amount equal to 10 percent (10%) of the
610 amount paid to the United States pursuant to the subarticles A6(a) for Operation and
611 Maintenance and other District costs associated with Boca Reservoir. Such payment shall be
612 made in accordance with terms as specified by the District.

613 (c) Payments received pursuant to subarticle A6(a) shall be credited annually first to pay the
614 operation and maintenance costs of Stampede Reservoir and then covered into the Lahontan
615 Valley and Pyramid Lake Fish and Wildlife Fund created pursuant to Public Law 101-618,
616 Section 206(f), with funds not needed for those purposes, if any, credited to the Reclamation
617 Fund.

APPENDIX B

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PAYMENT SCHEDULE

Year	Annual Payment	Year	Annual Payment
1	\$250,000	21	\$451,528
2	\$257,500	22	\$465,074
3	\$265,225	23	\$479,026
4	\$273,182	24	\$493,397
5	\$281,377	25	\$508,199
6	\$289,819	26	\$523,444
7	\$298,513	27	\$539,148
8	\$307,468	28	\$555,322
9	\$316,693	29	\$571,982
10	\$326,193	30	\$589,141
11	\$335,979	31	\$606,816
12	\$346,058	32	\$625,020
13	\$356,440	33	\$643,771
14	\$367,133	34	\$663,084
15	\$378,147	35	\$682,976
16	\$389,492	36	\$703,466
17	\$401,177	37	\$724,570
18	\$413,212	38	\$746,307
19	\$425,608	39	\$768,696
20	\$438,377	40	\$791,757

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