

R.O. Draft 5/4-1971

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

Contract No.
14-06-200-5515A

CONTRACT BETWEEN THE UNITED STATES OF AMERICA AND THE
CITY OF FOLSOM FOR CONVEYANCE OF WATER RIGHTS WATER

<u>Article No.</u>	<u>Table of Contents</u>	<u>Page No.</u>
	Preamble	1
	Explanatory Recitals	1- 4
1	Definitions	4- 5
2	Delivery of Water	5
3	Points of Delivery--Operation and Maintenance-- Measurement and Responsibility for Distribution of Water--Maintenance of Flows and Levels	6-10
4	Assignment Limited--Successors and Assigns Obligated	10
5	Contingent on Appropriation or Allotment of Funds	10
6	Effectiveness of Contract	11
7	Quality of Water	11
8	Officials Not to Benefit	12
9	Notices	12
	Signatures	13
Exhibit A	Points of Water Diversion	
Exhibit B	Pumping Plant Area	

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5 CONTRACT BETWEEN THE UNITED STATES OF AMERICA AND THE
6 CITY OF FOLSOM FOR CONVEYANCE OF WATER RIGHTS WATER

7 THIS CONTRACT, made this 2nd day of June, 1971,
8 in pursuance generally of the Act of June 17, 1902 (32 Stat. 388), and
9 acts amendatory thereof or supplementary thereto, all of which are
10 commonly known and referred to as the Federal reclamation laws, between
11 THE UNITED STATES OF AMERICA, hereinafter referred to as the United
12 States, and the CITY OF FOLSOM, hereinafter referred to as the City,
13 an incorporated city of the State of California, duly organized and
14 existing pursuant to the laws thereof,

15 WITNESSETH, That:

16 EXPLANATORY RECITALS

17 WHEREAS, the United States is constructing and operating the
18 Central Valley Project, California, for the purpose, among others, of
19 furnishing water for irrigation, municipal, industrial, domestic, and
20 other beneficial uses; and
21

Preamble
Explanatory Recitals--

1 WHEREAS, the United States is constructing the Folsom South
2 Canal as an integral part of the Central Valley Project and upon its
3 completion there will be available from the Canal a water supply for
4 agricultural and municipal, industrial, and domestic uses; and

5 WHEREAS, the Natomas Water Company possessed certain rights
6 in and to the waters flowing in the South Fork of the American River,
7 recognized to be 32,000 acre-feet per year, said rights being based
8 on a filing in the records of the County of El Dorado, State of
9 California, in 1851, subsequent diversion and usage in whole or in
10 part continuously since that time, and by application and devotion
11 of said rights and said water to beneficial use; and

12 WHEREAS, a contract dated June 18, 1951, designated
13 Contract No. DA-04-167-eng-330, was entered into between Natomas
14 Water Company and the United States represented by the Corps of
15 Engineers, hereinafter referred to as the Natomas Water Company
16 contract, which provided certain facilities of Natomas Water Company
17 for the diversion and conveyance of water from the South Fork of the
18 American River be rearranged, relocated, or altered and that the
19 United States deliver the Company's water; and

20 WHEREAS, Natomas Water Company conveyed its interest in
21 said water rights and facilities under said Natomas Water Company
22 contract to the Southern California Water Company; and

1 WHEREAS, inasmuch as said Natomas Water Company contract
2 is still in full force and effect; and

3 WHEREAS, the Southern California Water Company conveyed,
4 sold, or otherwise disposed of 11/16 of said 32,000 acre-feet of
5 water rights water and all facilities to the City; and

6 WHEREAS, the City and Southern California Water Company
7 are entitled to take delivery of the entire 32,000 acre-feet of
8 water through said rearranged, relocated, and altered facilities,
9 with the City obligated to deliver to the Southern California Water
10 Company through the City's facilities 10,000 acre-feet thereof until
11 such time as the Folsom South Canal is completed; and

12 WHEREAS, the City desires a second point of delivery to take
13 a portion of its 22,000 acre-feet of water rights water from the
14 Folsom South Canal; and

15 WHEREAS, said Folsom South Canal will have the capability,
16 from a design and operating standpoint, to provide the City with
17 10,000 acre-feet of water per year at a rate not to exceed 20 cubic
18 feet per second; and

19 WHEREAS, the full enjoyment of the rights of the City under
20 this contract are consistent with the overall operation of the Central
21 Valley Project; and

22

1 WHEREAS, as of the date hereof the United States sees
2 no circumstances under which any inconsistency between the full
3 exercise of the City's rights under this contract and the overall
4 operation of the Central Valley Project will arise; and

5 WHEREAS, the United States is willing to transmit to the
6 City through the Folsom South Canal water in a quantity not to exceed
7 10,000 acre-feet per year; and

8 WHEREAS, it is the intention of the parties that this
9 contract expressly preserve and recognize the right of the City to
10 22,000 acre-feet of water rights water and to insure to the extent
11 physically possible the availability to the City of such quantity
12 of water;

13 NOW, THEREFORE, in consideration of the covenants herein
14 contained, it is agreed as follows:

15 DEFINITIONS

16 1. When used herein, unless otherwise distinctly expressed or
17 manifestly incompatible with the intent hereof, the terms:

18 (a) "Secretary" or "Contracting Officer" shall mean
19 the Secretary of the United States Department of the
20 Interior or his duly authorized representative;

21 (b) "Project" shall mean the Central Valley Project,
22 California, of the Bureau of Reclamation;

1 (c) "Canal" shall mean Folsom South Canal of the
2 Project;

3 (d) "year" shall mean a calendar year; and

4 (e) "Valley Canal" shall mean the Canal running
5 generally from the Willow Hill Reservoir to its terminus
6 in Rancho Cordova, variously referred to in whole or in
7 part as the Valley Ditch, the Alder Canal, or the American
8 River Canal.

9 DELIVERY OF WATER

10 2. After the Contracting Officer notifies the City that water
11 is available from the Canal, the United States shall deliver at the
12 Canal and the City may accept in lieu of water furnished from the
13 rearranged, relocated, and altered facilities 10,000 acre-feet per
14 year at a rate not to exceed 20 cubic feet per second unless greater
15 quantities or rates are approved by the Contracting Officer at least
16 6 months prior to such change. The quantity of water the City is
17 entitled to take directly from Folsom Reservoir each year shall not
18 exceed 22,000 acre-feet less the quantity taken from the Canal for
19 that year.

*Also refer to
letter dated
Sept 10, 1996*

1 POINTS OF DELIVERY--OPERATION AND MAINTENANCE--
2 MEASUREMENT AND RESPONSIBILITY FOR DISTRIBUTION OF WATER--
3 MAINTENANCE OF FLOWS AND LEVELS

3 3. (a) Water will be delivered to the City pursuant to this
4 contract:

5 (1) Directly from Folsom Reservoir at a point
6 100 feet southeasterly from the easterly right-of-way line
7 of the Green Valley Road at Station 102+67.88 of the Natoma
8 Canal Relocation, designated "Diversion Point 1", on Exhibit A
9 attached hereto and made a part hereof under the following
10 conditions:

11 a. Without expense to the United States,
12 the City shall care for, operate, and maintain those
13 certain conveyance facilities provided for under the
14 Natomas Water Company contract which were conveyed,
15 sold, or otherwise disposed of by Southern California
16 Water Company to the City, also being known as Natoma
17 Canal Relocation, from Stations 102+67.88 to 260+07.86,
18 as shown on Exhibit A; and

19 b. All water delivered pursuant to this
20 subsection (1) shall be measured by the United States
21 with existing equipment installed, operated, and
22 maintained by the United States; and

1 (2) From the Canal approximately at Station 120+00,
2 designated "Diversion Point 2", as shown on Exhibit A:

3 a. The following facilities shall be
4 constructed by the United States to be used jointly
5 by the City and Southern California Water Company:

6 1. A turnout through the operating
7 road to and including the pump well; and

8 2. Provision for future addition
9 of moss screens;

10 b. The United States hereby grants permission
11 to the City to enter upon, construct, operate, and
12 maintain its proposed water system facilities in, on,
13 across, and through that portion of the Canal right-
14 of-way as shown on Exhibit B attached hereto and made
15 a part hereof. The installation of facilities shall
16 be in accordance with plans and specifications approved
17 by the Contracting Officer. The United States retains
18 right of ingress and egress at reasonable times to
19 maintain, inspect, operate, and read the meters or for
20 other purposes related to the delivery of water. The
21 United States also hereby grants to the City right-of-
22 way for ingress and egress to and from said parcel of

1 land in, on, over, and along said Canal right-of-way:
2 Provided, That in exercising the rights of ingress and
3 egress, the City shall not use any cleated equipment
4 on any paved or oiled roads and shall confine its routes
5 of travel to existing roads or lanes as specified by the
6 Contracting Officer; and

7 c. All water delivered from the Canal shall
8 be measured by the Contracting Officer at the point of
9 delivery established pursuant to this subsection (2)
10 and with equipment furnished, operated, and maintained
11 by the United States: Provided, That said measuring
12 equipment shall be installed by the City after submitting
13 installation drawings to the Contracting Officer and
14 obtaining his written approval thereto. All determi-
15 nations relating to the measurement of such water shall
16 be made by the Contracting Officer. Upon request of the
17 City the accuracy of such measurements will be investi-
18 gated by the Contracting Officer and any errors appearing
19 therein adjusted.

20 (b) All other facilities necessary for the diversion and/or
21 control of water delivered to the City shall be the responsibility of
22 the City and all such facilities, wherever located, shall be and
23 remain the property of the City, whatever their nature, personal,
24 mixed, or real.

1 (c) The United States shall not be responsible for the
2 control, carriage, handling, use, disposal, or distribution of water
3 which may be furnished to the City beyond the delivery points established
4 pursuant to this article, nor for claim of damage of any nature whatso-
5 ever, including but not limited to property damage, personal injury,
6 or death arising out of or connected with the control, carriage,
7 handling, use, disposal, or distribution of such water beyond the
8 points of diversion.

9 (d) The United States shall make all reasonable efforts,
10 consistent with the overall operation of the Project, to maintain
11 sufficient flows and levels of water from the Folsom Reservoir and
12 in the Canal to furnish water to the City at the delivery points
13 established pursuant to this article.

14 (e) The United States may temporarily discontinue or reduce
15 the quantity of water to be furnished to the City as herein provided
16 for the purposes of investigation, inspection, maintenance, repair,
17 or replacement of any of the Project facilities or any part thereof
18 necessary for the furnishing of water to the City, but so far as
19 feasible, the United States will give the City due notice in advance
20 of such temporary discontinuance or reduction, except in case of
21 emergency, in which case no notice need be given: Provided, however,
22 That the United States shall use its best efforts to avoid any

1 discontinuance or reduction in service for a period longer than
2 3 days. In the event of any such discontinuance or reduction,
3 upon resumption of service and if requested by the City, the United
4 States will attempt to deliver the quantity of water which would have
5 been furnished hereunder in the absence of such contingency.

6 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

7 4. The provisions of this contract shall apply to and bind
8 the successors and assigns of the parties hereto, but no assignment
9 or transfer of this contract or any part or interest therein shall
10 be valid until approved by the Contracting Officer.

11 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

12 5. The expenditure or advance of any money or the performance
13 of any work by the United States hereunder which may require an
14 appropriation of money by the Congress or the allotment of funds shall
15 be contingent upon such appropriation or allotment being made. No
16 liability shall accrue to the United States if funds are not so
17 appropriated or allotted.

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EFFECTIVENESS OF CONTRACT

6. This contract shall become effective on the date hereinabove written and shall supersede the obligation of the United States to deliver water to the City under the Natomas Water Company contract.

QUALITY OF WATER

7. The operation and maintenance of Project facilities and the construction of new Project facilities for the provision of water under this contract shall be performed in such a manner as is practicable to maintain the quality of raw water to be furnished hereunder at the highest level reasonably attainable, as determined by the Contracting Officer. The United States is under no obligation to construct or furnish water treatment facilities to maintain or better the quality of water except to the extent such facilities are expressly referred to elsewhere in this contract as a part of the Project facilities to be constructed by the United States pursuant to Reclamation law or as otherwise required by law. Further, the United States does not warrant the quality of water to be furnished pursuant to this contract.

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OFFICIALS NOT TO BENEFIT

8. (a) No Member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this contract or to any benefit that may arise herefrom. This restriction shall not be construed to extend to this contract if made with a corporation or company for its general benefit.

(b) No official of the City shall receive any benefit that may arise by reason of this contract other than as a landowner within the City and in the same manner as other landowners within the City.

NOTICES

9. Any notice, demand, or request authorized or required by this contract shall be deemed to have been given when mailed, postage prepaid, or delivered to the Regional Director, Region 2, Bureau of Reclamation, 2800 Cottage Way, Sacramento, California 95825, on behalf of the United States and to the City of Folsom, 50 Natoma Street, Folsom, California 95630, on behalf of the City. The designation of the addressee or the address may be changed by notice given in the same manner as provided in this article for other notices.

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

THE UNITED STATES OF AMERICA

By EF Sullivan
Acting Regional Director, Region 2
Bureau of Reclamation

CITY OF FOLSOM
By John E. Kipp, Jr.
Title Mayor

(SEAL)

ATTEST:

Miriam Davies (ms)
Title City Clerk

RELATIVE TO EXECUTION OF CONTRACT WITH
THE UNITED STATES OF AMERICA REGARDING
FOLSOM SOUTH CANAL

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FOLSOM:

That the City Council of the City of Folsom hereby approves of the terms and conditions of the document attached hereto, entitled "CONTRACT BETWEEN THE UNITED STATES OF AMERICA AND THE CITY OF FOLSOM FOR CONVEYANCE OF WATER RIGHTS WATER," and hereby authorizes the Mayor and the City Clerk to execute said contract on behalf of the City of Folsom.

PASSED and ADOPTED this 7th day of June, 1971, by the following vote on roll call:

AYES: Councilmen Bullard, Goodell, Kipp, Relvas, Slater

NOES: Councilmen None

ABSENT: Councilmen None

s/s John E. Kipp, Jr.

MAYOR

ATTEST: s/s Artie M. Davies
CITY CLERK

I hereby certify that the foregoing Resolution was passed and adopted by the City Council at a regular meeting held on June 7, 1971.

Artie M. Davies
Artie M. Davies
City Clerk