1 2 3 4	UNITED STATES DEPARTMENT OF THE INTERIOR BUREAU OF RECLAMATION Central Valley Project, California
5 6 7 8	SALES AGREEMENT BETWEEN THE UNITED STATES AND CITY OF FRESNO FOR SALE OF UNRELEASED RESTORATION FLOWS
9	THIS AGREEMENT, made this day of, 2019, is entered into
10	pursuant to the Act of June 17, 1902, (32 Stat. 388), and acts amendatory or supplementary
11	thereto, including but not limited to Section 3406 (c) (1) of the Reclamation Projects
12	Authorization and Adjustment Act of 1992 (PL 102-575; 106 Stat. 4721), Title X, Subtitle A, of
13	the Act of March 30, 2009, (PL 111-11; 123 Stat. 1349), also referred to as the San Joaquin
14	River Restoration Settlement Act, hereinafter referred to as SJRRSA, all collectively hereinafter
15	referred to as Federal Reclamation law, between the UNITED STATES OF AMERICA,
16	hereinafter referred to as the United States, and the CITY OF FRESNO, hereinafter referred to as
17	the Contractor, a Central Valley Project (Project), Friant Division long-term contractor.
18	WITNESSETH, That:
19	[1 st] WHEREAS, pursuant to the Stipulation of Settlement in <i>Natural Resources</i>
20	Defense Council, et. al., v. Kirk Rodgers, et. al., hereinafter referred to as Settlement, and the
21	SJRRSA, the Secretary of the Interior, acting through the Bureau of Reclamation, hereinafter
22	referred to as Contracting Officer, is directed to implement a program that releases
23	Restoration Flows from Friant Dam; and
24	[2 nd] WHEREAS, consistent with Paragraph 13(i) of the Settlement, if, for any reason,
25	full Restoration Flows are not released in any year beginning January 1, 2014, the Contracting

Officer shall release as much of the Restoration Flows as possible, in consultation with the
Restoration Administrator, in light of then-existing channel capacity and without delaying
completion of the Phase 1 improvements; and
[3 rd] WHEREAS, the Contracting Officer, in consultation with the
Restoration Administrator, shall use the amount of the Restoration Flows not released in any
such year, hereinafter referred to as Unreleased Restoration Flows or URFs, by taking one or
more of the steps prescribed in Paragraph 13(i) of the Settlement to best achieve the Restoration
Goal, as determined by the Contracting Officer; and
[4th] WHEREAS, the Contractor and the United States have entered into
Contract No. 14-06-200-8901D, hereinafter referred to as Contract, for the delivery of Project
Water; and
[5 th] WHEREAS, Article 3(f) of the Contract provides for, following the declaration of
Water Made Available under Article 4 of the Contract, the Contracting officer to make a
determination whether Project Water, or other water available to the Project, can be made
available to the Contractor in addition to the Contractor Total provided in Article 3(a) of the
Contract during the Year without adversely impacting the Project or other Project Contractors
and consistent with the Secretary of the Interior's legal obligations.
NOW, THEREFORE, in consideration of the mutual and dependent covenants herein
contained, the parties mutually agree as follows:
DEFINITIONS
1. When used herein unless otherwise distinctly expressed, or manifestly

incompatible with the intent of the parties as expressed in this Agreement, the term:

(a) "Operating Non-Federal Entity" shall mean the Friant Water Authority, its
successors or assigns, which has the obligation to operate and maintain Project facilities in the
Friant Division pursuant to a separate agreement with the United States and which may have
funding obligations with respect thereto, and the San Luis Delta Mendota Water Authority, its
successors or assigns, which has the obligation to operate and maintain Project facilities in the
Delta Division pursuant to a separate agreement with the United States and which may have
funding obligations with respect thereto;
(b) "Project" shall mean the Central Valley Project owned by the United
States and managed by the Department of Interior, Bureau of Reclamation;
(c) "Project Contractors" shall mean all parties who have a long-term water
service or repayment contract for Project Water from the Project with the United States pursuant
to Federal Reclamation law;
(d) "Project Water" shall mean all water that is developed, diverted, stored, or
delivered by the Secretary in accordance with the statutes authorizing the Project and in
accordance with the terms and conditions of water rights acquired pursuant to California law;
(e) "Restoration Flows" shall mean releases from Friant Dam in accordance
with the hydrographs shown in Exhibit B of the Settlement or modified by the Restoration
Administrator;
(f) "Restoration Goal" shall mean to restore and maintain fish populations in
"good condition" in the main stem of the San Joaquin River below Friant Dam to the confluence
of the Merced River, including naturally-producing and self-sustaining populations of salmon
and other fish;

0.00

(g) "Water Management Goal" shall mean to reduce or avoid adverse water supply impacts to all of the Friant Division long-term water contractors or repayment contractors that may result from the Interim Flows and Restoration Flows provided for in the SJRRSA;

(h) "Unreleased Restoration Flows" shall mean those Restoration Flows which cannot be released for any reason.

TERMS OF AGREEMENT

- 1. This Agreement shall become effective on the date first hereinabove written and shall remain in effect through February 29, 2020: Provided, that any performance of the obligations provided in Articles 4, 7, and 9 of this Agreement shall survive the termination date of this Agreement and shall continue until all such obligations are complete.
- 2. Pursuant to Article 3(f) of the Contract and consistent with all applicable State water rights, permits and licenses, Federal law, and the Settlement including SJRRSA, the Contracting Officer shall make available for delivery to the Contractor an agreed upon amount of URF water to be made available during this water year up to 7,500 acre feet. This URF water is to be delivered within the Contractor's Service Area for reasonable and beneficial uses in accordance with the terms of the Contract; Provided, that the Parties understand and agree that the availability of URFs are subject to Paragraph 13(i) of the Settlement and will be furnished if, as, and when it can be made available, as solely and conclusively determined by the Contracting Officer.

3. URF water will be made available under this agreement to Friant Division contractors first, per the allocation on Exhibit A. Exhibit A will be updated for acre-feet of water made available by block, and for price, when new tiers of water are approved for delivery. Each block of URF water will be allocated to each Friant Division Contractor based on their Class 1, and/or their Class 2, contract water supply, as a per cent (%) to the total Class 1 and/or Class 2 water supply for all Friant Division Contractors. Should any Contractor choose not to take its full pro rata share of a URF water block, that unused water will be redistributed for sale to the other Friant Division Contractors. Should there be any remaining URF water not claimed by either Class 1 or Class 2 Friant Division Contractors that water will then be made available to non-Friant Division Contractors.

4. The Contractor's share of, and price per acre-foot, for each block of URF water is shown on Exhibit A and subsequent revisions thereof. The formula to determine URF pricing is shown in Exhibit C. Prior to a block of water being released for sale, contractors may reduce their committed share of a given block upon request, or may commit to a larger share of a given block, should any unused water be available. Changes to a Contractor's share of a block cannot be made after the URF block is released for delivery. Once the URF block is released, payment is due. Upon execution of this Agreement, the Contractor shall submit to the Contracting Officer a written schedule that is satisfactory to the Contracting Officer, providing for the total volume of URF water made available under the then current block of URF water made available as shown on Exhibit A. Subsequent blocks of URF water shall be distributed in a similar manner. The Contractor's written schedule, and any revisions thereof, shall be for the current block of URF water made available and shall be subject to the approval of the Contracting Officer.

5. Upon submission of the schedule by the Contractor, as provided in Article 4 herein, the Contractor shall ensure payment has been made to the United States equal to the total volume of URF water made available by block and at the sales price for that block of URF water. URFs shall not be delivered to the Contractor prior to receipt of full payment. The Contractor is responsible for the payment of any and all blocks of water that they agree to purchase, whether or not they take delivery of this water.

- 6. Any discrepancy in location, delivery, or measurement between this Agreement and the Contract shall be reconciled by the Contracting Officer, after consultation with the Contractor.
- 7. URF waters made available to the Contractor pursuant to this Agreement may be sold, transferred, exchanged, or banked in accordance with Articles 3(d) and 10(a) of the Contract, and as otherwise authorized in the Contract.
- 8. In compliance with the Water Management Goals of the Settlement, the Contracting Officer shall not undertake any action pursuant to this Agreement that results in further water delivery reductions to any Friant Division long-term contractor beyond what would have been caused by releases in accordance with the hydrographs in Exhibit B of the Settlement. In the event that Millerton Reservoir fills and capacity is no longer available for URF water that has accrued in Millerton Reservoir pursuant to this Agreement, as solely and conclusively determined by the Contracting Officer, the URFs determined by the Contracting Officer to have previously accrued in Millerton Reservoir, and not yet delivered to Contractor, shall be among

the first water spilled in accordance with the then current rescheduling guidelines and Friant Operational Guidelines for Millerton Lake; Provided, that the Contracting Officer will, to the extent practicable, inform the Contractor by written notice, or otherwise, of any impending spill of URFs from Millerton Reservoir. Guidance on the determination of URF spill is available in Exhibit B.

- 9. In the event the quantity of URFs diverted by the Contractor exceeds the quantity of URFs available pursuant to this Agreement, the Contractor shall immediately take all reasonable actions to make available a like amount of water, from the Contractor's current year Class 1 and/or Class 2 water made available supply, in the Project Facilities for use by the United States for Project purposes. If the Contractor has taken delivery of all water made available in the current water year, then water delivered in excess of URF water made available to the Contractors shall be accounted for as "pre-use" water per Article 3 (g) of the Contract and will be deducted from Class 1 and/or Class 2 water made available to the Contractor in subsequent water years.
- 10. All payments received by the United States from the Contractor pursuant to this Agreement shall be deposited into the San Joaquin River Restoration Settlement Fund.
- 11. The Contractor shall be solely responsible for making any and all payments to the Operating Non-Federal Entity for any operation and maintenance or additional costs associated with the delivery of URFs pursuant to this Agreement. The Contracting Officer will not impose additional Surcharge payments for this water.

12. URFs delivered to the Contractor pursuant to this Agreement shall not be considered an offset to the Contractor's Recovered Water Account pursuant to Paragraph 16(b) of the Settlement.

- 13. The San Joaquin River Restoration Program may offer additional URF water in exchange for the Contractor's Project Water supplies based on review and acceptance of the Contractor's exchange proposal. If the Contractor's exchange proposal is accepted, the Contractor need only supply exhibit(s) detailing the exchange process and ratio of exchange. Those exhibits will be attached to the Agreement. A separate Memorandum of Understanding will not be issued.
- 14. By signing this Agreement, the Contractor agrees to pay for all URF water made available to it under the Agreement, whether the Contractor takes delivery of the URF water or not.
- deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or delivered to the Area Manager, Bureau of Reclamation, South Central California Area Office, 1243 'N' Street, Fresno, CA 93721-1813, and on behalf of the United States, when mailed, postage prepaid, or delivered to the Director of Public Utilities, City of Fresno, Room 4019, 2600 Fresno Street, Fresno, California 93721-3620. The designation of the addressee or the address may be changed by notice given in the same manner as provided in this Article of this Agreement for other notices.
- 16. Except as expressly stated in this Agreement, this Agreement shall be consistent with and subject to the terms and conditions of the Contract.

173	17.	This Agreement has been negotiated and reviewed by the Parties hereto, each of
174	whom is sop	histicated in the matters to which this Agreement pertains and no one party shall be
175	considered to	o have drafted the stated articles.
176		IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of
1 / 0		IN WITNESS WITEREOF, the parties hereto have executed this Agreement as of
177	the date first	above written.
178		
179		
180		UNITED STATES OF AMERICA
181		
182		
183		
184		
185		By:
186		Area Manager
187		South-Central California Area Office
188		Bureau of Reclamation
189		
190		
191		CITY OF FRESNO
192		
193		
194		
195		
196		By:
197		Michael Carbajal
198	(SEAL)	Director of Public Utilities
199		
200		
201	Attest:	
202		
203		APPROVED AS TO FORM
204	Ву:	CITY ATTORNEY'S OFFICE
205	City Cle	DEPUTY CITY ATTORNEY

	- di	fortile distributed many be distributed ifferent their blood allocation due to remain	to different than h	became and adjusts						
0	Qty Gr		Qty Gr	0		Qty Gr		526,316		Totals (gross w/ canal losses)
0	Qty Net	100.00%	Qty Net	0 0		Qty Net	100.00%	500,000		Totals (net at turnout)
0		10.06%					10.06%	43,993 19-WC-20-5356		Tulare ID
0		0.00%			4		0.00%	50 19-WC-20-5355	en e	Tri-Valley WD
0		0.00%					0.00%	3,625 19-WC-20-5354		Terra Bella ID
0		0.00%			(0)		0.00%	900 19-WC-20-5353		Tea Pot Dome WD
0		0.00%					0.00%	1,250 19-WC-20-5352		Stone Corral ID
0		3.21%			(0)		3.21%	24,969 19-WC-20-5351		Southern San Joaquin MUD
0		2.83%			*		2.83%	17,552 19-WC-20-5350	30	Shafter-Wasco ID
0		2.34%			10		2.34%	12,049 19-WC-20-5349		Saucelito ID
0		2.14%			*		2.14%	10,437 19-WC-20-5348		Porterville ID
0		0.00%			8		0.00%	4,900 19-WC-20-5347	med	Orange Cove ID
0		0.00%			ŭ.		0.00%	175 19-WC-20-5346	eal I	Orange Cove (city)
0		13.27%					13.27%	63,712 19-WC-20-5357		Madera ID
0		0.00%			(1)		0.00%	25 19-WC-20-5345	on de	Madera County
0		16.98%			9.		16.98%	75,578 19-WC-20-5344		Lower Tule River ID
0		0.00%			W		0.00%	3,438 19-WC-20-5343		Lindsay-Strathmore ID
0	Blocks	0.00%			8	Blocks	0.00%	313 19-WC-20-5342		Lindsay (city)
0	See Individual	1.57%	TBD			See Individual	1.57%	10,404 19-WC-20-5341		Lindmore ID
0		0.00%			¥		0.00%	150 19-WC-20-5340		Lewis Creek WD
0		0.36%			(1)		0.36%	1,427 19-WC-20-5339		Kern-Tulare WD
0		0.53%					0.53%	2,262 19-WC-20-5338	1962	Kaweah Delta WCD
0		0.04%					0.04%	955 19-WC-20-5337	NAME OF TAXABLE PARTY.	lvanhoe ID
0		0,00%	17		*		0.00%	150 19-WC-20-5336		International WD
0		0.00%					0.00%	156 19-WC-20-5335		Hills Valley WD
0		1,00%			·		1.00%	3,996 19-WC-20-5334	E	Gravelly Ford WD
0	,	0.00%			49		0.00%	438 19-WC-20-5333		Garfield WD
0		5.35%			¥.		5.35%	21,406 19-WC-20-5332		Fresno ID
0		0.00%					0.00%	19 19-WC-20-5331	1=	Fresno County WWD #18
0		0.00%	1				0.00%	7,500 19-WC-20-5330		Fresno (city)
0		1.36%			6		1.36%	6,810 19-WC-20-5329	WIII	Exeter ID
0		5.32%	31		ij.		5,32%	34,863 19-WC-20-5328		Delano-Earlimart ID
0		11.42%			D.		11.42%	52,541 19-WC-20-5327	ZII.	Chowchilla WD
0		22.24%			14		22,24%	93,956 19-WC-20-5326		Arvin-Edison WSD
Overall Commitment	Price	Default Percentage Share	Released	AF	AF	Price	Default Percentage Share	contract flexibility	contract	Friant Contractor
	Class 2	Class 1		Committed Quantity	Offered Quantity	Class 2	Class 1	Based on 100 TAF to Class 1 and 400 TAF to Agreement #	Based on Class 1 and	
	100%	0%		Block 1		100%	0%	Contract Maximum		2019
	2	TIER			TIER 1					

¹⁾ Distribution between Class 1 and 2 is set based on expected hydrology in consultation with Friant Water Users. Price is set on second tab.
2) As blocks are released, value in orange cell is tuned to produce proper net and gross totals

³⁾ Contractor commitments are confirmed and adjusted

EXHIBIT B GUIDANCE FOR DETERMINING WHETHER URF WATER IS LOST TO SPILL

As per Paragraph 13(i) of the San Joaquin River Stipulation of Settlement, the Secretary shall not undertake any action pursuant to Paragraphs 13(i)(1) through 13(i)(3) that increases the water delivery reductions to any Friant Division long-term contractor beyond what would have been caused by releases in accordance with the hydrographs (Exhibit B of the Settlement). After consultation with Settling Parties, Implementing Agencies, and the Restoration Administrator, Reclamation has developed guidance for determining whether URF water allocated to Friant Contractors yet not delivered is lost during flood management actions (or more commonly referred to as "spill").

Reclamation shall release URF water either as Tier 1 or Tier 2. All or part of the available volume of URF water may be released in either tier. Tier 1 URF water should be considered to have limited scheduleability and requires immediate payment and delivery. Tier 1 URF water is offered at a reduced rate because of this limitation. Tier 2 URF water will not be made available unless there is a reasonable likelihood that reservoir operations will not limit the availability of that water during the irrigation season; therefore Tier 2 URF water is considered fully scheduleable (although there is no guarantee of scheduleability).

When Millerton is in Flood Management Actions, there is a possibility that the management of URFs by the Secretary or the Restoration Administrator may increase water delivery reductions to one or more Friant Contractors. Because the Settlement precludes this impact from occurring, a "Water Supply Test" is applied to these actions. In managing the distribution of URFs for sale or exchange, actions are avoided if they are likely to cause an impact (i.e. fail a Water Supply Test), however, often the management of URFs need to be conducted in real-time.

During Uncontrolled Season, URFs that are made available during or before the Uncontrolled Season period must be delivered by the end of Uncontrolled Season (regardless of tier type) such that the cumulative volume of Restoration Flows released to the San Joaquin River and delivered at turnouts as URFs equals or exceeds the Default Flow Schedule cumulative volume at that point in the Restoration Year. When the comparison of volumes indicate that the Restoration Flows combined with URF water deliveries lag the Default Flow Schedule (i.e. are evacuated from Millerton at a slower rate), then that volume differential is at risk of spill.

Prior to the end of the spill period, URFs at risk of spill may continue to be scheduled and delivered, regardless of the relationship with the Default Flow

URF Agreement 19-WC-20-5330

Schedule. Reclamation will provide to contractors a tool to quantify and visualize the amount of URFs potentially subject to loss at the end of Uncontrolled Season.

This Water Supply Test is conducted at the end of any Uncontrolled Season period. Should there be any undelivered URF water at that point, the undelivered URF volume would potentially be reduced. Any undelivered URFs determined to have been spilled are then no longer available for delivery. This spilled volume will then be removed from pending deliveries proportional to the committed quantities of the block of URF water. Contractors who have delivered their committed quantities will not be affected; only those contractors who have not completed their committed deliveries are at risk of losing their URFs.

Uncontrolled Season conditions in a given contract year only affect URF water in the same period, for example, spills in March 2019 would not affect 2018 URF quantities since both the Contract Year and Restoration Year begin March 1.

The Default Flow Schedule for the purposes of the Water Supply Test is defined in the Restoration Flows Guidelines. The pending Restoration Flow Guideline revision (version 2.1) will be issued before the 2019 Contract Year, and will provide further guidance on URFs may be lost during Flood Management Actions.

EXHIBIT C PRICING FOR TIER 1 AND TIER 2 URF WATER

Two price structures will be used for the sale of URFs to Friant Contractors. Sales to third parties may be at a different price and will be set on a current market basis. Two "tiers" will be used. Tier 1 URF water is water that is delivered during Uncontrolled Season or when a flood management action is likely for Millerton Lake Reservoir. Tier 2 URF water is water that is likely to have flexibility in how it is scheduled (i.e. flood management actions are unlikely to occur), although there is no guarantee that Tier 2 water can be scheduled for delivery at all times or carried over to another contract year. Tier 1 and 2 water may both be offered within a contract year.

Tier 1

To be competitive with other types of uncontrolled season water and to optimize reservoir management, Tier 1 URF water will be priced at a discounted rate of \$20. Payment is due upon acceptance of a quantity of URF water, regardless of whether delivery was made. If not delivered immediately, Tier 1 URF water has the risk of being spilled (it is unstorable and has very limited ability to be scheduled into the future). Thus the Tier 1 price includes the risk factor associated with this water and its availability is primarily driven by hydrology.

The pricing for Tier 1 URF water is set at or prior to the beginning of the contract year. Tier 1 URF water price may be reduced at a point later in the contract year at the sole discretion of the Contracting Officer, but will not increase. Whether Tier 1 URFs are available or not is at the discretion of the Contracting Officer.

Table C-1

Tier 1 URF water	\$20.00/acre-foot

Tier 2

The pricing for Tier 2 URF water is set based on the hydrology. Wetter conditions as evidenced by the water year Unimpaired Inflow into Millerton (i.e. "Natural River") result in a lower price, and vice versa.

Tier 2 URF water has a sliding scale pricing based on the forecasted hydrology. Tier 2 URF water is intended to be distributed when flood management actions are unlikely to occur in the remaining water year, or after flood management actions have brought Millerton Lake Reservoir back under control.

URF Agreement 19-WC-20-5330

The pricing will be set by Reclamation based on the forecasted Unimpaired Inflow into Millerton (i.e. Natural River). This runoff forecast is dynamic, and evolves throughout the water year. Pricing will be set upon release of a block of Tier 2 URF water, and may be revised subsequently, but no later than the first Restoration Flow Allocation made after March 1st.

The runoff forecast used to set the Tier 2 URF pricing will follow the same process as used to determine the Restoration Flow Allocation, as prescribed in the Restoration Flow Guidelines. It may be based on the 90%, 75%, or 50% exceedance depending on the hydrology as dictated by current Restoration Flows Guidelines.

This forecasted value will then be used in the following formula to derive the Tier 2 price:

Table C-2

Tier 2 URF price per acre foot = (275,000 / unimpaired inflow in TAF) - 40

An example of the above Tier 2 pricing formula applied to different runoff values is shown in Table C-3 below for a range of hydrology:

Table C-3

Unimpaired Inflow	Tier 2 Price per
into Millerton	Acre-Foot
4400	\$22.50
4200	\$25.48
4000	\$28.75
3800	\$32.37
4000	\$28.75
3600	\$36.39
3400	\$40.88
3200	\$45.94
3000	\$51.67
2800	\$58.21
2600	\$65.77
2400	\$74.58
2200	\$85.00
2000	\$97.50
1800	\$112.78
1600	\$131.88
1400	\$156.43
1200	\$189.17
1000	\$235.00
800	\$303.75
600	\$418.33
400	\$647.50