

EXHIBIT C

**DRAFT STANDARD TERMS AND CONDITIONS FOR
RECLAMATION WHEELING CONTRACTS
TO TRANSPORT NON-PROJECT WATER**

1. DEFINITIONS:

Definitions included in the Master Repayment Contract, the Repayment Stipulation, and the CAP System Use Agreement are applicable to this [Reclamation Wheeling Contract (“Contract”)]. The first letters of terms so defined are capitalized herein. In addition, the following terms, when capitalized, have the meanings indicated:

1.1 Capital Equivalency Charge: An amount equal to the M & I water service capital charge, as published in CAWCD’s annual rate schedule for a particular Year, multiplied by the maximum number of acre-fee per year of Wheeled Water that may be transported through the CAP System under this Contract, as shown in Exhibit 2.6 hereto, regardless of the amount to be transported in any given Year.

1.2 Place of Use: The service area or place of use depicted on the map in Exhibit 2.2 hereto.

1.3 Point(s) of Receipt: The location(s) designated in Exhibit 2.3, hereto, where Wheeled Water will enter the CAP System.

1.4 Point(s) of Delivery: The location(s) designated in Exhibit 2.4, hereto, where Wheeled Water is diverted from the CAP System for delivery to or on behalf of the [Entity].

1.5 Wheeled Water: The Non-Project Water, of the type or source available to the [Entity] under a contract, decree, or statute, all as specified in Exhibit [] to this Contract, to be transported through the CAP System pursuant to this Contract.

2. TERM:

This Contract shall become effective on the date first written above and shall remain in effect until the termination of [the Entity’s] contract or other right to Wheeled Water specified in Subsection 1.5 of this Contract, unless otherwise terminated in accordance with the provisions of this Contract.

3. ENVIRONMENTAL CLEARANCE:

Wheeled Water shall not be delivered to the [Entity] unless and until the [Entity] has obtained final environmental clearance from the United States for the transportation of Wheel Water through the CAP System and for the system or systems through which Wheeled Water is to be conveyed from the Point(s) of Delivery to the Place of Use. Such system(s) shall include all pipelines, canals, distribution systems,

treatment, storage, and other facilities through or in which Wheeled Water is conveyed. Wheeled Water shall only be transported for the [Entity] in a manner consistent with the final environmental clearances from the United States.

4. POINT(S) OF DELIVERY, POINT(S) OF RECEIPT, MEASUREMENT AND RESPONSIBILITY:

4.1 The United States will coordinate with CAWCD for the transportation of Wheeled Water from the Point(s) of Receipt to the Point(s) of Delivery for delivery to or for the benefit of the [Entity].

4.2 The [Entity] shall secure from CAWCD all necessary land use permits, as provided under Section 7.2.8 of the Operating Agreement, for facilities to be located within the CAP System right-of-way for the purpose of conveying Wheeled Water to the CAP System Point(s) of Receipt and from the Point(s) of Delivery to the Place of Use. Unless CAWCD and the [Entity] agree in writing to the contrary, the [Entity] shall construct and install, at its sole cost and expense: (i) all facilities required to transport Wheeled Water to the Point(s) of Receipt; and (ii) all facilities required to transport Wheeled Water from the Point(s) of Delivery to the Place of Use. The [Entity] shall furnish to CAWCD, drawings and specifications showing all such facilities to be constructed or installed within the CAP System right-of-way, and shall obtain CAWCD's written approval before commencing construction or installation of such facilities. All facilities constructed, installed, operated or maintained on the CAP System right-of-way by or for the [Entity] shall be subject to such further agreements and to such restrictions and regulations as to type, location, method of installation, operation, and maintenance as may be prescribed by CAWCD.

4.3 Upon termination of this Contract and written notice from CAWCD, the [Entity] shall promptly remove, at its sole cost and expense, all facilities constructed or installed on the CAP System right-of-way under this Contract and restore said right-of-way and all Project facilities affected to their condition immediately prior to the construction or installation of such connection facilities. If the [Entity] fails to remove said facilities and restore said right-of-way and Project facilities within thirty (30) days after receiving any written notice from CAWCD to do so, CAWCD may remove said facilities and restore said right-of-way and Project facilities at the [Entity]'s cost and expense. Within thirty (30) days after receiving written demand from CAWCD to do so, the [Entity] shall pay CAWCD, as specified in such written demand, for all costs and expenses incurred by CAWCD in removing said facilities and restoring said right-of-way and Project facilities.

4.4 When making or considering modifications to the transferred works, CAWCD shall comply with the terms of Article 12 of the Operating Agreement. If modification of the CAP System is required to allow for the interconnection between the CAP System and the [Entity]'s facilities constructed

on the CAP System right-of-way, including construction of one or more additional CAP turnouts, CAWCD shall make such interconnection modifications at the sole expense of the Entity which shall advance fund CAWCD's costs.

4.5 All Wheeled Water shall be measured with equipment that complies with CAWCD and United States standards and shall be operated and maintained by CAWCD. Upon request of the Entity, the accuracy of such measurements shall be investigated by CAWCD and the Entity, and any errors which are mutually determined to have occurred shall be adjusted; Provided, however, if CAWCD and the Entity cannot agree on the required adjustment, CAWCD's determination shall be conclusive, subject to review and revision by the Secretary.

4.6 If the [Entity] intends to transport Wheeled Water through facilities on the CAP System right-of-way that are owned or operated by entities other than the United States or CAWCD, the use by the [Entity] of such facilities shall be the subject of written agreement(s) between the [Entity] and the owner(s) or operator(s) of such facilities.

4.7 Neither the United States nor CAWCD shall be responsible for the control, carriage, handling, use, disposal, or distribution of water up to the Point(s) of Receipt or beyond the Point(s) of Delivery. The [Entity] shall indemnify and hold the United States and CAWCD harmless on account of damage or claim of damage of any nature whatsoever for which there is legal responsibility, including property damage, personal injury, or death arising out of or connected with the control, carriage, handling, use, disposal, or distribution of water up to the Point(s) of Receipt or beyond the Point(s) of Delivery.

5. PLACE OF USE:

Wheeled Water shall be used in the Place of Use.

6. INTERRUPTIONS AND REDUCTIONS

The United States and/or CAWCD may discontinue or reduce the quantity of Wheeled Water to be transported as herein provided for the purposes of investigation, inspection, construction, testing, maintenance, repair, or replacement of any of the Project facilities or any part thereof. CAWCD shall attempt to coordinate any such discontinuance or reduction with the [Entity] and give the [Entity] due notice in advance of such discontinuance or reduction. In case of emergency, no notice need be given. The United States, its officers, agents, and employees, and CAWCD, its officers, agents, and employees, shall not be liable for damages when, for any reason whatsoever, any interruption, discontinuance, or reduction in transportation of Wheeled Water occurs. If any such discontinuance or temporary reduction

results in transportation for the [Entity] of less water than what has been paid for in advance, the [Entity] shall be entitled to be reimbursed for the appropriate proportion of such advance payments prior to the date of the [Entity]'s next payment of water transportation charges or the [Entity] may be given credit toward the next payment of water transportation charges if the [Entity] should so desire.

7. WATER QUALITY

7.1 Neither the United States nor CAWCD warrants the quality of water transported through the CAP System to the [Entity] pursuant to this Contract and the United States and CAWCD are under no obligation to construct or furnish water treatment facilities to maintain or better the quality of any water transported through the CAP System. [Entity] assumes all responsibility for purifying or otherwise treating Wheeled Water received at the Point of Delivery to meet applicable water quality standards established by federal, state or local authorities. The [Entity] waives its rights to make a claim against the United States, CAWCD or any Long-Term Contractor or contractor for Excess Water service on account of the quality of Wheeled Water or any changes in water quality caused by the commingling of Wheeled Water with Project Water and/or Non-Project Water.

7.2 The [Entity] shall comply with and pay for all water quality monitoring, water quality reporting and water quality compliance and treatment requirements prescribed by CAWCD or the United States applicable to the transportation of Wheeled Water under this [Reclamation Wheeling Contract/Federal Arrangement], which requirements may be amended by CAWCD and/or the United States from time to time.

7.3 The [Entity] shall comply with all applicable state, and federal laws, rules, and regulations governing the transportation of Wheeled Water under this Contract. All references in this Contract to laws, rules and regulations include all amendments and successor laws, rules, and regulations to such laws, rules and regulations

7.4 Nothing in this Contract shall be construed to require CAWCD to receive or transport Wheeled Water if such water fails to meet water quality parameters established by CAWCD and the United States, which water quality parameters may be amended by CAWCD and the United States from time to time. Further, nothing in this [Reclamation Wheeling Contract/Federal Arrangement] shall be construed so as to require that CAWCD receive or transport Wheeled Water from any source when such receipt or transportation is likely to result in a violation of then existing federal, state, or local laws or regulations regarding water quality. CAWCD shall have the right, without liability of any kind, to refuse to transport Wheeled Water if such water fails to meet water quality parameters established by CAWCD

and the United States and/or if such transportation is likely to result in a violation of then existing federal, state, or local laws or regulations regarding water quality.

7.5 The [Entity] shall indemnify and hold harmless CAWCD and the United States from and against any and all losses, claims, damages and other liabilities resulting from water quality degradation due to the [Entity's] introduction of Wheeled Water into the CAP System, and, at CAWCD's election, defend CAWCD against any such losses, claims, damages or other liabilities.

7.6 CAWCD shall cooperate fully with the [Entity] in the defense of any and all losses, claims, damages and other liabilities under this Section 7 and shall provide the [Entity] with all information and records necessary for the [Entity] to defend against such claims.

7.7 The [Entity]'s obligation to indemnify under this Section 7 shall encompass only:

7.7.1 The payment of losses, claims, damages and other liabilities that have been determined by mutual agreement of the [Entity] and CAWCD, and, if applicable, the United States, or by arbitration or a court to have resulted from water quality degradation due to the [Entity's] introduction of Wheeled Water into the CAP System.

7.7.2 All costs incurred by CAWCD in defending against any and all losses, claims, damages and other liabilities resulting from water quality degradation due to the [Entity's] introduction of Wheeled Water into the CAP System and all costs incurred by CAWCD in cooperating with the [Entity] under Section 7.6.

8. LOSSES

Except for any volume of water transported under this Contract that is Firming Water, as that term is defined in the CAP System Use Agreement, the [Entity] shall be assessed uniform Losses of 5% against all Wheeled Water transported through the CAP System under this Contract such that the amount of Wheeled Water delivered at Point(s) of Delivery under this Contract will be 5% less than the amount of Wheeled Water entering the CAP System at the Point(s) of Receipt. Water transported under this Contract that is Firming Water shall bear no losses.

9. PROCEDURE FOR SCHEDULING WATER

9.1 On or before October 1 of each Year, the [Entity] shall submit in writing to CAWCD a Water Delivery Schedule indicating the amounts of Wheeled Water the [Entity] desires to be transported from the Point(s) of Receipt to the Point(s) of Delivery during each month of the following Year, taking into account applicable losses.

9.2 Each year, after receipt of the schedule, CAWCD shall review it together with all other Water Delivery Schedules, and shall make such adjustments to the Entity's Water Delivery Schedule as are necessary to accommodate the physical and operational constraints and scheduling priorities identified in Subsection 10.1.2 and Section 11 of the CAP System Use Agreement, respectively.

9.3 On or before December 15 of each Year, CAWCD shall provide the [Entity] with a copy of the final Water Delivery Schedule for the following Year, which shall show the amount of Wheeled Water to be transported from the Point(s) of Receipt to the Point(s) of Delivery during each month of that Year and shall reflect a uniform 5% loss assessment.

9.4 The monthly Water Delivery Schedule may be amended upon the [Entity]'s written request to CAWCD. Proposed amendments shall be submitted by the [Entity] to CAWCD no later than fifteen (15) days before the desired change is to become effective. CAWCD may modify proposed amendments to the [Entity's] monthly Water Delivery Schedule as necessary to conform to previously approved Water Delivery Schedules. CAWCD shall notify the [Entity] of its action on the Entity's requested schedule modification within ten (10) days of CAWCD's receipt of such request.

9.5 In any one month during the Year, the [Entity] shall not be entitled to the transportation of greater than eleven percent (11%) of the maximum number of acre-feet per year of Wheeled Water that may be transported through the CAP System under this Contract, as shown in Exhibit 2.6 hereto. If requested by the [Entity], CAWCD may, at its sole discretion, transport more than 11% of the Wheeled Water in a month only after satisfying all water deliveries scheduled pursuant to higher CAP System Scheduling Priorities as set forth in the Annual Operating Plan.

9.6 The [Entity] shall indemnify and hold CAWCD, its officers, agents and employees, and the United States, its officers, agents and employees, harmless from all damages and any claims of damage of any nature whatsoever arising out of or connected with the actions of CAWCD regarding water transportation schedules furnished by or to the [Entity].

10. CHARGES

10.1 Annual Charges:

10.1.1 Fixed OM&R Charge: The [Entity] shall pay in advance the same Fixed OM&R Charge established annually by CAWCD for the delivery of Project Water in the CAP System. On or before the date of execution of this Contract, or as soon thereafter as is practicable, CAWCD shall notify the [Entity] of the Fixed OM&R Charge for the initial Year of water transportation ("initial Year"). Within a reasonable time of receipt of such notice, but prior to the transportation of Wheeled Water, the [Entity] shall advance to CAWCD, in monthly installments payable on or before the first day of each

month of the initial Year the Fixed OM&R Charge due for transportation of Wheeled Water scheduled for transportation in the initial Year. For each subsequent Year, CAWCD will establish the Fixed OM&R Charge and shall notify the [Entity] of the Fixed OM&R Charge for such subsequent Year on or before December 15 preceding each subsequent Year. The [Entity] shall advance to CAWCD, in monthly installments payable on or before the first day of each month of said subsequent Year the Fixed OM&R Charge due for transportation of Wheeled Water scheduled for transportation in said subsequent Year.

10.1.2 Pumping Energy Charge: The [Entity] shall be assessed, and pay in advance, the same Pumping Energy Charge established annually by CAWCD for the delivery of Project Water in the CAP System. On or before the date of execution of this Contract, or as soon thereafter as is practicable, CAWCD shall notify the [Entity] of the Pumping Energy Charge for the initial Year of water transportation ("initial Year"). Within a reasonable time of receipt of such notice, but prior to the transportation of Wheeled Water, the [Entity] shall advance to CAWCD, in monthly installments payable on or before the first day of each month of the initial Year the Pumping Energy Charge due for transportation of Wheeled Water scheduled for transportation in the initial Year. For each subsequent Year, CAWCD will establish the Pumping Energy Charge and shall notify the [Entity] of the Pumping Energy Charge for such subsequent Year on or before December 15 preceding each subsequent Year. The [Entity] shall advance to CAWCD, in monthly installments payable on or before the first day of each month of said subsequent Year the Pumping Energy Charge due for transportation of Wheeled Water scheduled for transportation in said subsequent Year. The [Entity] shall receive credit for the Pumping Energy Charges associated with any Wheeled Water scheduled for transportation that is not transported through the CAP System to the Point(s) of Delivery.

10.1.3 Capital Equivalency Charge: In addition to the Fixed OM&R Charges and the Pumping Energy Charges required in Sections 8.1.1 and 8.1.2, each Year the [Entity] shall make payment to CAWCD in equal semiannual installments of a Capital Equivalency Charge. The amount of this charge in any Year shall be equal to the M&I water service capital charge, as published in CAWCD's annual rate schedule for that year, multiplied by the maximum number of acre-feet per year of Wheeled Water that may be transported through the CAP System under this Contract, regardless of the amount to be transported in any given Year. The Capital Equivalency Charge payment for the initial Year shall be advanced to CAWCD in equal semiannual installments on or before December 1 preceding the initial Year and June 1 of said initial Year. Thereafter, for each subsequent Year, payments by the [Entity] in accordance with the foregoing provisions shall be made in equal semiannual installments on or before the December 1 preceding said subsequent Year and the June 1 of said subsequent Year as may be specified

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by CAWCD in written notices to the [Entity]. CAWCD shall deposit the Capital Equivalency Charge revenues to the Colorado River Basin Development Fund.

10.2 The payment of all water transportation charges when due as stipulated in Sections 8.1.1, 8.1.2, and 8.1.3 of this Contract is a condition precedent to the transportation of Wheeled Water through the CAP System.

10.3 The obligation of the [Entity] to pay CAWCD as provided in this Contract is a general obligation of the [Entity] notwithstanding the manner in which the obligation may be distributed among the [Entity]'s water users and notwithstanding the default of individual water users in their obligations to the [Entity].

11. CHARGES FOR DELINQUENT PAYMENTS AND REMEDIES FOR FAILURE TO PAY:

11.1 The Entity shall be subject to interest, administrative and penalty charges on delinquent installments or payments. The [Entity] shall pay an interest charge for each day the payment is delinquent beyond the due date. When a payment becomes sixty (60) days delinquent, the [Entity] shall pay an administrative charge to cover additional costs of billing and processing the delinquent payment. When a payment is delinquent ninety (90) days or more, the [Entity] shall pay an additional penalty charge of six percent (6%) per year for each day the payment is delinquent beyond the due date. Further, the Entity shall pay any fees incurred for debt collection services associated with a delinquent payment.

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

12. SCHEDULING PRIORITIES

The scheduling and delivery of Wheeling Water pursuant to this Contract shall be subject to the CAP System Use Scheduling Priorities as set forth in the CAP System Use Agreement.

13. MODIFICATIONS:

This standard form of Reclamation Wheeling Contract may only be supplemented, amended, or modified with the consent of the United States and CAWCD. No supplement, amendment or modification will be binding unless it is in writing or signed by the United States and CAWCD.