



# United States Department of the Interior

BUREAU OF RECLAMATION  
Mid-Pacific Regional Office  
2800 Cottage Way  
Sacramento, California 95825-1898

IN REPLY  
REFER TO:

MP-440  
WTR-4.00

JUL 24 2008

Mr. Roger Dickinson  
Chair  
Sacramento Area Flood Control Agency  
1007 7th Street, 7th Floor  
Sacramento, CA 95814

Subject: Amendment to Agreement No. 03-XC-20-0372 Between the United States and the Sacramento Area Flood Control Agency Providing for the Operation, Maintenance, Repair, Replacement, and Rehabilitation of Folsom Dam Modifications

Dear Mr. Dickinson:

Enclosed is an executed original of the subject contract for your records. The Bureau of Reclamation would like to thank you for your time and effort in completing the necessary steps to execute this contract.

If you have any questions, please contact Ms. Angela Slaughter, Chief, Water Contracts, Transfers, and Banking Branch, at 916-978-5250.

Sincerely,

Donald R. Glaser  
Regional Director

Enclosure

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

AMENDMENT TO AGREEMENT BETWEEN THE UNITED STATES  
AND THE SACRAMENTO AREA FLOOD CONTROL AGENCY  
PROVIDING FOR OPERATION, MAINTENANCE, REPAIR, REPLACEMENT,  
AND REHABILITATION OF FOLSOM DAM MODIFICATIONS  
AND ASSOCIATED FUNDING

Table of Contents

<u>Article No.</u>	<u>Title</u>	<u>Page No.</u>
	Preamble.....	1
	Explanatory Recitals.....	1
1	Replacement of Subdivision 1(c) with New Definitions and Addition of Subdivision 1(f) with New Definition .....	3
2	Replacement of Article 2 with New Language .....	3
3	Replacement of Article 4 with New Language .....	4
4	Addition of Article 13, Entitled <u>RESERVE FUND</u> , and Addition of Article 14, Entitled <u>CONTRACT DRAFTING CONSIDERATIONS</u> .....	6
5	Preservation of Existing Agreement.....	7
	Signature Page.....	8

1 UNITED STATES  
2 DEPARTMENT OF THE INTERIOR  
3 BUREAU OF RECLAMATION  
4 Central Valley Project, California  
5

6 AMENDMENT TO AGREEMENT BETWEEN THE UNITED STATES  
7 AND THE SACRAMENTO AREA FLOOD CONTROL AGENCY  
8 PROVIDING FOR THE OPERATION, MAINTENANCE, REPAIR, REPLACEMENT,  
9 AND REHABILITATION OF FOLSOM DAM MODIFICATIONS  
10 AND ASSOCIATED FUNDING  
11

12 THIS AMENDMENT, is made this 24 day of July 2008, pursuant to the  
13 Act of June 17, 1902 (32 Stat. 388), and acts amendatory or supplementary thereto; including,  
14 but not limited to, Section 5 of the Act of August 13, 1914 (38 Stat. 687); and the Act of  
15 November 17, 1986 (100 Stat. 4082), all collectively hereinafter referred to as the Federal  
16 Reclamation laws, between the UNITED STATES OF AMERICA, represented by and acting  
17 through the Bureau of Reclamation, United States Department of the Interior, hereinafter referred  
18 to as the "United States", and the SACRAMENTO AREA FLOOD CONTROL AGENCY,  
19 hereinafter referred to as "SAFCA", a regional joint exercise of powers agency of the State of  
20 California duly organized, existing, and acting pursuant to the laws thereof. The United States  
21 and SAFCA are each individually sometimes hereinafter referred to as "Party" and sometimes  
22 collectively referred to as "Parties";

23 WITNESSETH, That:

24 EXPLANATORY RECITALS

25 [1<sup>st</sup>] WHEREAS, the UNITED STATES has constructed and is operating the  
26 Central Valley Project, California for diversion, storage, carriage, distribution and beneficial use,  
27 for flood control, irrigation, municipal, domestic, industrial, fish and wildlife mitigation,

28 protection and restoration, generation and distribution of electric energy, salinity control,  
29 navigation and other beneficial uses, of waters of the Sacramento River, the American River, the  
30 Trinity River, and the San Joaquin River and their tributaries; and

31 [2<sup>nd</sup>] WHEREAS, the Parties entered into Contract No. 03-XC-20-0372, dated  
32 December 23, 2003, hereinafter referred to as "Agreement", which provides, among other things,  
33 that the United States is responsible for the operation, maintenance, repair, replacement, and  
34 rehabilitation (OMRR&R) related to the Folsom Dam Modifications, and SAFCA is responsible  
35 for these incremental OMRR&R Costs incurred by the United States; and

36 [3<sup>rd</sup>] WHEREAS, the Water Resources Development Act of 1999, Pub. L. 106-53  
37 (113 Stat. 269), authorizes the Department of the Army to design and construct certain  
38 modifications at Folsom Dam, including the enlargement of the eight existing river outlets and  
39 the construction of two new river outlets; and

40 [4<sup>th</sup>] WHEREAS, the Water Resources Development Act of 2006,  
41 Pub. L. 109-103 (119 Stat. 2247), directed the Secretary of the Army and the Secretary of the  
42 Interior to collaborate and consider reasonable modifications to the existing authorized activities,  
43 including a potential auxiliary spillway; and

44 [5<sup>th</sup>] WHEREAS, the designs of the Folsom Dam Modifications have been  
45 changed, from the enlargement of the eight existing river outlets and the construction of two new  
46 river outlets, to instead provide for the construction of a new auxiliary spillway and associated  
47 works; and

48 [6<sup>th</sup>] WHEREAS, the new design changes are anticipated to result in the actual  
49 funds advanced annually by SAFCA pursuant to the Agreement to be inadequate to pay the  
50 United States' actual OMRR&R Costs, and the difference is more than \$1,000.00;

51 [7<sup>th</sup>] WHEREAS, pursuant to Article 4(b) of the Agreement, whenever the  
52 difference between the estimated and actual OMRR&R Costs is more than \$1,000.00, the Parties  
53 have agreed to amend the Agreement to reflect the modified Annual OMRR&R Costs;

54 NOW, THEREFORE, the Parties agree to amend the Agreement as follows:

55 1. Subdivision (c) of Article 1, of the Agreement is hereby deleted in its entirety and  
56 replaced with the following new Subdivision (c), and, in addition, Article 1 is amended by the  
57 addition of new Subdivision (f):

58 (c) "Folsom Dam Modifications" shall mean those modifications to be  
59 constructed by the Department of the Army at Folsom Dam for flood control, damage  
60 reduction and related purposes. These modifications shall include the following features:  
61 (1) The emergency generator and elevator alterations; (2) The construction of an auxiliary  
62 spillway and associated works. This modification does not include any facilities for  
63 raising Folsom Dam.

64 (f) "Commissioning Notification" shall mean that date when the United  
65 States informs SAFCA in writing that the OMRR&R responsibilities for the completed  
66 Folsom Dam Modifications have been turned over to Reclamation.

67 2. Article 2 of the Agreement is hereby deleted in its entirety and replaced with the  
68 following new Article 2:

69                   2.       This Agreement shall become effective on December 23, 2003, and  
70 shall remain in effect until terminated by the Contracting Officer, upon one Years'  
71 advance written notice to SAFCA.

72                   3.       Article 4, of the Agreement is hereby deleted in its entirety and replaced with the  
73 following new Article 4:

74                   4.       (a) On or before August 31, 2008, and on or before the 31st day of  
75 August of each succeeding Calendar Year during the term of this Agreement, SAFCA  
76 shall advance to the United States the Annual OMRR&R Costs of said modifications for  
77 the following Calendar Year. The United States has calculated that \$13,316.00 will be  
78 SAFCA's Annual OMRR&R Costs associated with the emergency generator and elevator  
79 alterations of the Folsom Dam Modifications.

80                               (b) The Annual OMRR&R Costs for the other features of the Folsom  
81 Dam Modifications includes the OMRR&R Costs of the new auxiliary spillway and  
82 associated works. The initial OMRR&R Costs for the new auxiliary spillway and  
83 associated works shall be prorated on a monthly basis for the first Year, based on  
84 SAFCA's responsibility for 80 percent of the OMRR&R Costs for the new auxiliary  
85 spillway and associated works, and shall become due for the first Year 30 days following  
86 the Commissioning Notification for the new auxiliary spillway and associated works.  
87 Provided, that should the Commissioning Notification occur after August 31, SAFCA  
88 shall, in addition to the above prorated payment, advance the succeeding Annual  
89 OMRR&R Costs to the United States. Thereafter, the OMRR&R Costs for the new

90 auxiliary spillway and associated works shall be paid in advance by SAFCA as part of the  
91 Annual OMRR&R Costs, as provided in subdivision (a) of this Article. SAFCA shall be  
92 responsible for payment of 80 percent and the United States shall be responsible for 20  
93 percent of the actual Annual OMRR&R Costs attributable with the new auxiliary  
94 spillway and associated works. The United States has estimated \$50,000 to be SAFCA's  
95 80 percent share of the Annual OMRR&R Costs associated with the new auxiliary  
96 spillway and associated works.

97 (c) The Parties recognize that the Annual OMRR&R Costs set forth in  
98 subdivisions (a) and (b) of this Article will vary from year to year. In the event that the  
99 Contracting Officer determines that the funds advanced annually by SAFCA pursuant to  
100 subdivision (a) or (b) of this Article are inadequate to pay the United States' actual  
101 OMRR&R Cost, SAFCA agrees to reimburse the United States, within 30 days of the  
102 United States sending a bill for collection, for any outstanding balance, as determined by  
103 the Contracting Officer. In lieu of a refund, it is agreed that any overpayment made by  
104 SAFCA shall be applied to the next payment of Annual OMRR&R Costs, as provided in  
105 subdivisions (a) and (b) of this Article. Provided, that should there be any remaining  
106 amount after application of the overpayment to the next payment of Annual OMRR&R  
107 Costs it shall be reimbursed by the United States to SAFCA. The United States will  
108 inform SAFCA of the required payment amount prior to August 31 of each Calendar  
109 Year during the term of this Agreement.

110 (d) Should the Folsom Dam and Reservoir Water Control Manual, as  
111 updated to include operations of the auxiliary spillway for floods, require operation of  
112 Folsom Dam in such a manner that increases OMRR&R Costs, then these increased costs  
113 shall be included, in addition, to the OMRR&R Costs, to be paid by SAFCA pursuant to  
114 subdivision (a) and (b) of this Article.

115 4. The Agreement is hereby amended by the addition of the following Articles 13  
116 and 14:

117 RESERVE FUND

118 13. (a) Commencing on the date of the Commissioning Notification,  
119 SAFCA shall accumulate and maintain a reserve fund or demonstrate to the satisfaction  
120 of the Contracting Officer that other funds are available for use as an emergency reserve  
121 fund. SAFCA shall establish and maintain that emergency reserve fund to meet costs  
122 incurred during periods of special stress caused by damaging droughts, storms,  
123 earthquakes, floods, or other emergencies threatening or causing interruption of water  
124 service.

125 (b) SAFCA shall accumulate the reserve fund with Annual deposits or  
126 investments of not less than \$130,000 to a Federally insured, interest- or dividend-bearing  
127 account or in securities guaranteed by the Federal Government: Provided, That money in  
128 the reserve fund, including accrued interest, shall be available within a reasonable time to  
129 meet expenses for such purposes as those identified in paragraph (d) herein. Such  
130 Annual deposits and the accumulation of interest to the reserve fund shall continue until  
131 the basic amount of \$2,000,000 is accumulated. Following an emergency expenditure  
132 from the fund, the Annual deposits shall continue from the Year following the emergency  
133 expenditure until the previous balance is restored. After the initial amount is  
134 accumulated or after the previous balance is restored, the Annual deposits may be  
135 discontinued, and the interest earnings shall continue to accumulate and be retained as  
136 part of the reserve fund.

137 (c) Upon mutual agreement between SAFCA and the Contracting  
138 Officer, the basic reserve fund or the accumulated reserve fund may be adjusted to  
139 account for risk and uncertainty stemming from the size and complexity of the project;  
140 the size of the Annual operation and maintenance budget; additions to, deletions from, or  
141 changes in project works; and operation and maintenance costs not contemplated when  
142 this Agreement was executed.

143 (d) SAFCA may make expenditures from the reserve fund only for  
144 meeting usual operation and maintenance cost incurred during periods of special stress,



145 as described in paragraph (a) herein; or for meeting unforeseen extraordinary operation  
146 and maintenance cost; or for meeting unusual or extraordinary repair or replacement cost;  
147 or for meeting betterment cost (in situations where recurrence of severe problems can be  
148 eliminated) during periods of special stress. Proposed expenditures from the fund shall  
149 be submitted to the Contracting Officer in writing for review and written approval prior  
150 to disbursement. Whenever the reserve fund is reduced below the current balance by  
151 expenditures therefrom, SAFCA shall restore that balance by the accumulation of Annual  
152 deposits as specified in paragraph (b) herein.

153 (e) During any period in which any of the project works are operated  
154 and maintained by the United States, SAFCA agrees the reserve fund shall be available  
155 for like use by the United States.

156 (f) On or before August 31 of each Year after the date of the  
157 Commissioning Notification, SAFCA shall provide a current statement of the principal  
158 and accumulated interest of the reserve fund account to the Contracting Officer.

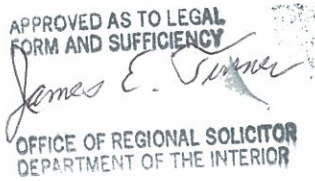
159 CONTRACT DRAFTING CONSIDERATIONS

160 14. All double-spaced Articles of this Agreement have been drafted,  
161 negotiated, and reviewed by the Parties, each of whom is sophisticated in the matters to  
162 which this Agreement pertains, and no one Party shall be considered to have drafted such  
163 articles.

164 5. Except as specifically amended herein, the existing Agreement shall remain in full  
165 force and effect as originally written and executed.

166 IN WITNESS WHEREOF, the parties hereto have executed this contract  
167 amendment as of the day and year first above written.

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THE UNITED STATES OF AMERICA

By:   
Regional Director, Mid-Pacific Region  
Bureau of Reclamation

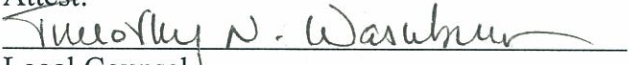
172 (SEAL)  
173  
174

SACRAMENTO AREA FLOOD CONTROL AGENCY

175  
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By:   
Executive Director

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179

Attest:   
Legal Counsel

**RESOLUTION NO. 08-046**

Adopted by the Sacramento Area Flood Control Agency

**AUTHORIZING THE EXECUTIVE DIRECTOR TO AMEND THE AGREEMENT BETWEEN THE UNITED STATES BUREAU OF RECLAMATION AND SAFCA PROVIDING FOR FUNDING OF THE ADDITIONAL OPERATION, MAINTENANCE, REPAIR, REPLACEMENT, AND REHABILITATION COSTS ASSOCIATED WITH THE FOLSOM DAM MODIFICATIONS PROJECT**

WHEREAS, the Folsom Dam Outlet Modifications Project (Project) will move Sacramento closer to its goal of greater than 200-year level of flood protection; and

WHEREAS, the U. S. Army Corps of Engineers(Corps) is designing a six-gated auxiliary spillway, stilling basin and approach channel with construction scheduled to start in 2010; and

WHEREAS, the construction of the flood reduction facilities will incur additional operation and maintenance costs above and beyond the United States Bureau of Reclamation's (Reclamation) costs for operating and maintaining the current structure; and

WHEREAS, SAFCA, as the local sponsor, is typically responsible for operations and maintenance of works constructed by the Corps; and

WHEREAS, Reclamation will operate and maintain the facility and will need funding from SAFCA to maintain the new facilities; and

WHEREAS, SAFCA has reached an agreement with Reclamation as to the amount of the annual cost to maintain the flood risk reduction features of the proposed work associated with the Folsom Dam Modifications project costs and the form of the agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE SACRAMENTO AREA FLOOD CONTROL AGENCY BOARD OF DIRECTORS THAT:

The Executive Director is hereby authorized to execute an amendment (Amendment No. 1) to the agreement between Reclamation and SAFCA providing for operation, maintenance, repair, replacement, and rehabilitation costs associated with the flood control features of the Folsom Dam Modifications Project.

ON A MOTION BY Director Moose, seconded by Director Yee, the foregoing resolution was passed and adopted by the Board of Directors of the Sacramento Area Flood Control Agency, this 15th day of May 2008, by the following vote, to wit:

**Resolution NO. 08-046**

**Page 2**

AYES: Directors: Dickinson; MacGlashan; Moose; Peters; Shiels; Silva;  
Tretheway; Yee

NOES: Directors: None

ABSTAIN: Directors: None

ABSENT: Directors: Christophel; Cohn; Fargo; Nottoli

*Heather Fargo*

Chair of the Board of Directors of the  
Sacramento Area Flood Control Agency

(SEAL)

ATTEST:

*Charlene Gizezkanski*

Clerk of the Board of Directors

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Attachment(s)