

RENEWAL OF CONTRACT  
FOR A CITY OF NORMAN WATER SUPPLY  
between the  
CENTRAL OKLAHOMA MASTER CONSERVANCY DISTRICT  
and the  
CITY OF NORMAN AND NORMAN UTILITIES AUTHORITY

Effective January 1, 2017

RENEWAL OF CONTRACT FOR NORMAN WATER SUPPLY  
 CENTRAL OKLAHOMA MASTER CONSERVANCY DISTRICT  
 and  
 CITY OF NORMAN AND NORMAN UTILITIES AUTHORITY

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RENEWAL OF CONTRACT FOR CITY OF NORMAN WATER SUPPLY  
CENTRAL OKLAHOMA MASTER CONSERVANCY DISTRICT  
and  
CITY OF NORMAN AND NORMAN UTILITIES AUTHORITY

This Contract is between the Central Oklahoma Master Conservancy District (“District”) and the City of Norman and Norman Utilities Authority (“Norman”) and is made to be effective the 1<sup>st</sup> day of January, 2017.

THE NORMAN PROJECT  
AND NORMAN WATER SUPPLY CONTRACTS

The Norman Project (Project), consisting of the Norman Dam, Lake Thunderbird, and the property, easements, and water delivery systems appurtenant thereto is a project of the United States acting through the Department of Interior, Bureau of Reclamation. Title to the property of the Project is held by the United States. In 1961 the United States entered into a contract (No. 14-06-500-590) (Federal Contract) for payment of the reimbursable costs of construction, and operation, maintenance, and replacement of the Project. Water was first delivered to the District in 1966. The District’s repayment obligation for the construction costs was repaid in full to the United States on October 1, 2016. The Federal Contract, as amended, remains in effect.

Under subcontracts with, Norman, Midwest City, and Del City, the District supplies water from the Project to the three cities. One of the stipulations in the Federal Contract is for the District to execute subcontracts with participating municipalities to provide them with a water supply. The United States is required to approve these subcontracts as to form and substance. In particular, in 1961 Norman entered into a subcontract (Ref. AFS102561) with the District for a Water Supply from the Project (1961 Norman contract). Pursuant to the 1961 Norman contract, the District supplies a quantity of water to Norman and Norman receives delivery of and pays the District for the water.

The original 1961 Norman contract expired on December 31, 1991, being twenty-five years after the first day of the calendar year following the first diversion of water from the Project to Norman. The Federal Contract provides that Norman, and each of the other cities that take and use the water supplied by the District and pay the District therefor, may renew the 1961 Norman contract with

the District for a water supply from the Norman Project for terms of 25 years each. Norman, Del City, and Midwest City each renewed their respective water supply contracts with the District, extending the contracts to expire on December 31, 2016.

By execution of this subcontract, the District and Norman are exercising their rights to renew the subcontract for Norman to receive a water supply for a period of 25 years from January 1, 2016 to December 31, 2041.

### PARTIES

1. The Parties to this Contract are the District and the City of Norman and the Norman Utilities Authority. The City and Authority being jointly and severally bound to the terms of this Contract are referred to jointly and severally herein as Norman.

### DEFINITIONS

2. Where used in this Contract, stated terms have the following meanings:

a. Federal Contract – The contract between the United States and the District No. 14-06-500-590 that provides for payment of the reimbursable costs of construction and operation, maintenance, and replacement of the Project.

b. Project – The Norman Project including all its features as designed, constructed, operated, maintained, and replaced.

c. Municipal Water – That portion of the Project water supply allocated to municipal, domestic, and industrial use.

d. Municipal Water User – All municipalities of the State of Oklahoma which by contracts have contracted with the District to purchase water.

e. Norman – The City of Norman and the Norman Utilities Authority, jointly and severally.

f. 1961 Norman contract – The 1961 contract, as amended and supplemented (Ref. AFS083061) with the District for a water supply from the Project.

g. OM&R – Operation, maintenance, and replacement of Project facilities, including those expenses incurred in connection with the water control, OM&R of the Project Works, including appropriate changes for associated indirect costs and administration as determined by the Contracting Officer, and shall include such additional costs as hereinafter provided. Such expenses shall include those required to remedy conditions brought about by ordinary use of the Project Works or to restore or replace components of the existing Project water facilities and shall not include expenses to increase or enlarge such works beyond the purposes of which they were originally authorized and constructed. These costs do not include the cost to reimburse the United States for the construction costs of the Project which as of October 1, 2016 have been fully repaid by the District.

h. Reserve Fund – A separate fund budgeted, allocated, and maintained by the District, over and above the projected costs for OM&R, to reasonably ensure uninterrupted OM&R, or in the event of loss to promptly restore OM&R, during each budget year, as determined from time to time by the District Board of Directors, which may also invest any amounts contained in the Reserve Fund at the discretion of the Board.

i. District – The Central Oklahoma Master Conservancy District, a district duly created under the laws of the State of Oklahoma, through its Board of Directors.

j. United States – Shall mean the United States of America, including its representative for construction of the Project, the Department of the Interior, and the Bureau of Reclamation.

#### RENEWAL OF 1961 CONTRACT FOR A WATER SUPPLY TO NORMAN

3. This Contract is a renewal of the 1961 Norman contract for a water supply from the Project.

#### TERM OF CONTRACT—RENEWALS

4. a. The benefits and obligations of this Contract shall be effective for a term of twenty-five (25) years from and after the first day of January 2017 and during each period of renewal as hereinafter set forth.

b. Norman shall have the right to renew this Contract for an additional twenty-five (25) year terms upon notice to the District of Norman's decision to renew the same, given in writing not less than one hundred twenty (120) days prior to the expiration of the then current Contract term.

#### AGREEMENT TO SELL AND SUPPLY WATER

5. For and in consideration of the allocation to Norman of a proportionate share of the Municipal Water available from the Project, and of the payments required to be made by Norman under this Contract from sources of revenue and in the manner set forth herein, and as a condition precedent of the right of Norman to purchase any water under this Contract, the District agrees to make available to Norman and to sell and deliver to Norman, in accordance with the provisions of this Contract, the quantity of water specified herein.

#### QUANTITY OF WATER, MEASUREMENT, DELIVERY, PRICE AND PAYMENT

##### 6. a. QUANTITY.

(1) Norman's Municipal Water Allocation. The quantity of water to be sold by the District to Norman shall be 43.8 percent of water available for Municipal Water use from Lake Thunderbird in any one year, which is Norman's pro rata share of the Project water supply that shall be available for its use, sale and disposal.

(2) Apportionment of Water. The water available for Municipal Use and the price Norman pays for water shall reflect apportionment among all the purposes for which the Project is authorized, being for the principal purposes of storing, regulating, and furnishing water for municipal, domestic, and industrial use, and for controlling floods, and, as incidents to the foregoing, for the additional purposes of regulating the flow of the Little River, providing for the conservation and development of fish and wildlife, and of enhancing recreational opportunities.

(3) No Carryover of Unused Water. If Norman does not use the total amount of water to which it is entitled in any particular year, it shall not retain any carryover rights into succeeding years.

b. MEASUREMENT.

(1) Metering of Water. Water shall be metered at the point of delivery in accordance with the following provisions. The District has furnished and installed, and is responsible for the OM&R of a master meter which properly measures the quantity of water delivered at the delivery point. Norman may, at its option and expense, install, and OM&R at the delivery points a check meter or meters of standard type. Norman shall have access to all such metering equipment at all reasonable times, but the reading, calibration, and adjustment of the District's master meter or meters shall be done only by employees or agents of the District. The District shall keep a true record of all meter readings as transcribed from the reports of the District's employees or agents with respect thereto. Upon the written request of Norman, the District will give Norman such information as Norman may request from the District's records or permit Norman to have access to the same in the office of the District during business hours.

(2) Calibration of Metering Equipment and Correction of Errors. The District shall calibrate its metering equipment as often as the District considers necessary and at such times as Norman may show reasonable evidence of error. If upon any test the percentage of any inaccuracy thereof is found to be in excess of two (2) percent, registration thereof shall be corrected for a period extending back to the time when such inaccuracy began, if such time is ascertainable, and if not, then for a period extending back one-half of the time elapsed since the last date of calibration, but in no event further back than a period of six months. In the event Norman has provided no check meter with reference thereto and if for any reason any master meter is out of service or out of repair so that the amount of water delivered cannot be ascertained or computed from the reading thereof, the water delivered during the period such meter is out of service or out of repair shall be agreed upon by the parties hereto, by correcting the error if the percentage of error is ascertainable by calibration tests or mathematical calculations, or by estimating the quantity of delivery by the deliveries made during preceding periods under similar conditions when the meter was registering accurately.

(3) Unit of Measurement. The unit of measurement for water delivered hereunder shall be 1,000 gallons of water, U. S. Standard liquid measure.

c. DELIVERY.

(1) Points of Delivery. Delivery of water to Norman shall be made by the District at points on pipelines constructed as Project facilities for delivering



Municipal Water. The point of delivery shall be those in use at the date of this Contract renewal. Norman may request that all or any part of Norman's share of the Municipal Water supply be delivered by the District at additional points. Upon approval of such request for additional points of delivery by the District, the cost of new connections as determined by the District shall be advanced by Norman to the District.

(2) Easements. The District is hereby granted the right to use any easements, rights-of-way, or property held by Norman for the purpose of making connections to the point or points of delivery and the placing of necessary equipment to carry out the District's obligation to deliver water to Norman.

(3) Pumping Capacity. The design pumping capacity of the Project pipeline at the points of delivery to Norman shall be the design capacity in place as of the effective date of this Contract renewal.

(4) Right to Control and Use Water--Indemnities. Rights to control and use all waters of the Project shall remain in the District to the point or points of delivery, and upon passing through the District's meter installed at the point or points of delivery, shall pass to Norman. ***Each party hereto agrees to save and hold the other party harmless from all claims, demands and causes of action which may be asserted by anyone on account of the transportation, delivery, and disposal of said water while the right to control it remains in such party to the extent allowed by law.***

(5) Service Conditions. It is expressly recognized by Norman that the District may be compelled to make necessary alterations, repairs and installations of new or additional equipment from time to time during the life of this Contract, and any suspension of delivery to Norman due to such operations shall not be cause for claim or damage on the part of Norman. It is further provided, however, that all reasonable effort is to be made by the District to provide Norman with water in accordance with this Contract. In the event the Project dam and distribution system, or either of them, or any other facility instrumental in the delivery of water to Norman be destroyed or damaged as the result of any cause whether by force majeure or otherwise, so as to make deliveries of water requirements as herein specified impossible, the District shall, to the extent of available resources, immediately proceed to restore said improvements and facilities. Norman assumes the responsibility for maintenance of its distribution system from the point of connection with the Project system and agrees that its system shall be constructed and maintained to result in a minimum of waste.



Should the District determine that any part of the Norman system is causing unreasonable waste, the District shall notify Norman to that effect and upon failure of Norman to remedy the situation, at the District's option the District may discontinue or limit deliveries until the condition has been corrected.

(6) District not Liable for Water Shortages; Project Water Supply to be Shared during Shortages.

(a) On account of drought or other causes beyond the reasonable control of the District, there may occur at times during any year a shortage in the quantity of water available for delivery to Norman by the District pursuant to this Contract. In no event shall any liability accrue against the District or the United States or any of their officers or employees for any damage, direct or indirect, arising out of any such shortages.

(b) Nothing in this Contract shall be construed as restricting the right of the District to enter firm contracts for delivery of the entire water supply of the Project. Provided, however, that all such contracts shall recognize the right of Municipal Water Users to share in the available water supply in the ratio of their Contract rights during periods of scarcity when rationing is in the opinion of the District required.

d. PRICE.

(1) Estimation of Price and Charges; Proportional Amount; Power Costs.

(a) The purchase price of the water to be sold to Norman by the District shall be determined as follows: At a meeting in each fiscal year, but in no event later than December 1, the Board of Directors of the District shall determine the total amount estimated to be required for OM&R of the Project as in proportion to the Municipal Water supply from the Project, together with the amounts necessary for accumulating the necessary Reserve Fund for the next ensuing fiscal year. The District shall make available to Norman a detailed budget for review at least two (2) weeks prior to the meeting so that Norman may have a representative present at the meeting prepared to discuss the budget. The budget shall show separately: (a) The itemized amounts estimated to be required for OM&R, excluding power costs; and (b) the Reserve Fund; and (c) any amounts projected for payment by Norman, or to be credited to Norman, under separate contract(s) between Norman and the District.

(b) After approval of the budget, the Board of Directors of the District shall thereupon charge to Norman, and Norman shall be obligated to pay the District as hereinafter provided, an amount equal to 43.80 percent of each for the amounts separately budgeted, adjusted by any projected amounts for payment by or for credit to Norman under any separate contract(s) between Norman and the District.

(c) In addition to the above, the price shall include the actual costs of power incurred by the District for pumping water to the Norman delivery point, and Norman will pay the District for those power costs as provided below.

(2) Supplemental Budget. Whenever collections from all sources are insufficient to defray District OM&R, the District may utilize amounts from the Reserve Fund to cover the difference. If additional payments are still required in order to defray District OM&R, the District may prepare a supplemental budget and submit it to Norman at least thirty (30) days in advance of the date upon which the additional funds will be required, and Norman shall pay its percentage share of said amount on or before the date specified. In the submission to Norman, the District shall set forth the justification for the increase in full detail.

e. PAYMENT.

(1) Schedule of Payments. Norman shall make payment of Norman's foregoing obligations to the District on such dates and in such installments as shall be designated by the Board of Directors of the District in order that the District will be provided with funds when needed by the District, all as set forth in a prior written notice to be given by the District to Norman. Unless otherwise agreed upon between the District and Norman, the District will deliver an invoice to Norman thirty (30) days in advance of each quarter based on the budgeted amounts, except for the cost of power for water delivery. Norman will pay the invoiced amount to the District by no later than the last day prior to the beginning of the quarter to which the invoice applies.

(2) Payments for Power for Water Delivery. Unless otherwise agreed upon between the District and Norman, the District will deliver an invoice to Norman for the actual cost of power for delivery of water to the Norman delivery point after the end of each quarter during which the power costs were incurred by the District. Norman will pay the invoiced amount to the District no later than thirty (30) days after receipt of the power invoice for each quarter.

(3) Benefits Conditioned upon Payments. Should Norman fail or refuse, for any reason whatsoever, to make any of the payments to the District in the amounts and at the times provided in this Contract, the District shall have the right, forthwith and without notice, to discontinue delivery of any water to Norman until all payments due from Norman to the District, together with any penalty for delinquent payments as set forth in this Contract, shall have been fully paid, and the District is authorized to sell water directly to those using Norman's allocated supply, or to any other water user acceptable to the District, and apply net revenues therefrom to the credit of Norman's account. However, the provisions of this subparagraph (2) shall not be deemed to provide the exclusive remedy of the District for nonpayment by Norman.

(4) Payments through Levy and Assessments by District; No Limitation on Authority of District. To the extent authorized by the constitution and laws of the State of Oklahoma, and in the amounts agreed upon between the District and Norman, the District may make direct assessments upon the properties within the city limits of the City of Norman to cover collection of all or any designated portion of Norman's obligation under the terms of this Contract, and Norman shall be credited with the amount of such collections, less the expenses of collection, upon its obligations under this Contract. Nothing herein shall limit the right of the District upon the direction of its Board of Directors to finance any part of the cost of additional facilities through levy and assessment upon the properties within the District.

(5) Limitation of Financial Liability of Norman; No Limitation on Taxing Authority of District. Norman shall not be obligated for the debt of any other Municipal Water User in the event of such Municipal Water User's failure to make its payments. This limitation shall not be construed as prohibiting the District from making reasonable rate increases to cover increased costs and nothing herein shall be construed as restricting the District from exercising its taxing powers to the extent necessary to meet its obligations.

(6) Payments during Water Shortages. Rationing of water by the District shall not affect the continuing obligation of Norman to make the prescribed annual payments.

#### SURPLUS MUNICIPAL WATER

7. All Project water available for Municipal Use in each calendar year in excess of the quantity scheduled for use by the Municipal Water Users in said

calendar year within their respective maximum allocations is hereby defined as surplus water. If surplus water is available, the District may dispose of such current surplus on whatever terms it can arrange. Net revenues from the sale of surplus water shall be credited on the next payment or payments due from each Municipal Water User in the same proportion that such Municipal Water User's share of the surplus water bears to the total surplus water sold.

#### ASSIGNMENT OF WATER ALLOCATION BY NORMAN

8. Norman may sell or assign any portion of its allocation of the right to receive Project water only with the approval of the District. Under any assignment, it must be established to the District's satisfaction that the water allocation may be transferred under Oklahoma law and the laws of the United States for diversion as proposed. The alternate user must enter a contract or contracts satisfactory to the District and to the United States preserving all rights of the District and Municipal Water Users hereunder.

#### REGULATORY CONDITIONS

9. This Contract shall be subject to all valid rules, regulations, and laws applicable thereto, including those for nondiscrimination in employment.

#### ACCESS TO BOOKS AND RECORDS

10. Each party shall have the right during office hours to inspect and to make copies of the other party's books and official records relating to matters covered by this Contract.

#### CONTRACT SUBJECT TO UNITED STATES AND DISTRICT AGREEMENT

11. This Contract shall be subject to the terms, conditions, and provisions of the Federal Contract, to the extent such terms remain applicable after the repayment obligations for the financing and construction of the Norman Project were completed on October 1, 2016. This Contract cannot be amended or supplemented without the advance written approval of a duly authorized representative of the United States. The District may assign all or any part of its rights or authority under this Contract to the United States.

EQUAL EMPLOYMENT OPPORTUNITY

12. During the performance of this Contract, the City agrees as follows:
- a. The City will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, disability, or national origin. The City will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, disability, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The City agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of this nondiscrimination clause.
  - b. The City will, in all solicitations or advertisements for employees placed by or on behalf of the City, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, disability, or national origin.
  - c. The City will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding a notice, to be provided by the Contracting Officer, advising the labor union or workers' representative of the City's commitments under section 202 of Executive Order 11246 of September 24, 1965 (EO11246), and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
  - d. The City will comply with all provisions of EO 11246, and of the rules, regulations, and relevant orders of the Secretary of Labor.
  - e. The City will furnish all information and reports required by EO 11246, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to the City's books, records, and accounts by the Contracting Agency and the Secretary of Labor for Purposes of investigation to ascertain compliance with such rules, regulations, and orders.



f. In the event of the City's noncompliance with the nondiscrimination clauses of this Contract or with any of such rules, regulations, or orders, this Contract may be canceled, terminated or suspended in whole or in part and the City may be declared ineligible for further Government contracts in accordance with procedures authorized in EO 11246, and such other sanctions may be imposed and remedies invoked as provided in EO 11246 or by rules, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

g. The City will include the provisions of paragraphs (a) through (g) in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of EO 11246, so that such provisions will be binding upon each subcontractor or vendor. The City will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions, including sanctions for noncompliance; *Provided, however*, that in the event the City becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the City may request that the United States enter into such litigation to protect the interest of the United States.

#### DETERMINATIONS

13. Where the terms of this Contract provide for action to be based upon the opinion or determination of either party to this Contract, whether or not stated to be conclusive, said terms shall not be construed as permitting such action to be predicated upon arbitrary, capricious, or unreasonable opinions or determinations.

#### NOTICES

14. Any notice authorized or required by this Contract shall be made by mail, postage prepaid and return receipt requested, to the General Manager, Central Oklahoma Master Conservancy District, City of Norman, Oklahoma on behalf of the District, and to both the Mayor of the City of Norman and the Chair of the Board of Trustees of the Norman Utilities Authority, on behalf of City of Norman. The designation of the person to be notified, or the address of such person, may be changed at any time by identical notice from the party making the change. *Provided*: Notice is effective upon actual receipt by the designated recipient on behalf of the respective parties.



IN WITNESS WHEREOF, the parties hereto acting under authority of their respective governing bodies have caused this Contract to be duly executed in multiple, each of which shall constitute one and the same contract, all as of January 1, 2017.

CENTRAL OKLAHOMA MASTER CONSERVANCY DISTRICT

\_\_\_\_\_  
President Date: \_\_\_\_\_


Attest: \_\_\_\_\_ Date: \_\_\_\_\_  
Secretary

CITY OF NORMAN

\_\_\_\_\_  
Mayor Date: \_\_\_\_\_

Attest: \_\_\_\_\_ Date: \_\_\_\_\_  
City Clerk

Approved as to form and legality this 30 day of November, 2016.

  
\_\_\_\_\_  
City Attorney

NORMAN UTILITIES AUTHORITY

\_\_\_\_\_  
Chair of the Board of Trustees Date: \_\_\_\_\_

Attest: \_\_\_\_\_ Date: \_\_\_\_\_  
Secretary

Approved as to form and legality this \_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
General Counsel

APPROVED:

\_\_\_\_\_  
By: Regional Director  
United States, Dept. of Interior, Bureau of Reclamation

Date: \_\_\_\_\_