

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

AMENDATORY CONTRACT BETWEEN THE UNITED STATES  
AND  
PLACER COUNTY WATER AGENCY  
PROVIDING FOR PROJECT WATER SERVICE  
FROM THE AMERICAN RIVER DIVISION

Table of Contents

<u>Article No.</u>	<u>Title</u>	<u>Page No.</u>
	Preamble .....	1
	Explanatory Recitals .....	1-5
1	Definitions .....	5-9
2	Term of Contract .....	9-12
3	Water to be Made Available and Delivered to the Contractor .....	12-16
4	Time for Delivery of Water .....	16-17
5	Point of Diversion and Responsibility for Distribution of Water .....	17-19
6	Measurement of Water Within the Service Area .....	19-21
7	Rates and Method of Payment for Water .....	21-26
8	Non-Interest Bearing Operation and Maintenance Deficits .....	26
9	Sales, Transfers, or Exchanges of Water .....	27-28
10	Application of Payments and Adjustments .....	28-29
11	Temporary Reductions--Return Flows .....	29-30
12	Constraints on the Availability of Water .....	30-31
13	Unavoidable Groundwater Percolation .....	31
14	Rules and Regulations .....	31
15	Water and Air Pollution Control .....	31
16	Quality of Water .....	31-32
17	Water Acquired by the Contractor Other Than From the United States .	32-35
18	Opinions and Determinations .....	35
19	Coordination and Cooperation .....	36-37

<u>Article No.</u>	<u>Title</u>	<u>Page No.</u>
20	Charges for Delinquent Payments .....	37-38
21	Equal Opportunity .....	38-39
22	General Obligation--Benefits Conditioned Upon Payment .....	39
23	Compliance With Civil Rights Laws and Regulations .....	39-40
24	Privacy Act Compliance .....	40-41
25	Contractor to Pay Certain Miscellaneous Costs .....	41
26	Water Conservation .....	41-42
27	Existing or Acquired Water or Water Rights .....	43
28	Operation and Maintenance by Non-Federal Entity .....	43
29	Contingent on Appropriation or Allotment of Funds .....	43
30	Books, Records, and Reports .....	43-44
31	Assignment Limited--Successors and Assigns Obligated .....	44
32	Severability .....	44-45
33	Resolution of Disputes .....	45
34	Officials Not to Benefit .....	45
35	Changes in Contractor's Service Area .....	46
36	Federal Laws .....	46
37	Notices .....	46-47
38	Confirmation of Contract .....	47
	Signature Page .....	47
	Exhibit A	
	Exhibit B	

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THIS CONTRACT, made this \_\_\_\_\_ day of \_\_\_\_\_, 2002, in pursuance generally of the Act of June 17, 1902 (32 Stat. 388), and acts amendatory or supplementary thereto, including, but not limited to, the Acts of August 26, 1937 (50 Stat. 844), as amended and supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented, July 2, 1956 (70 Stat. 483), June 21, 1963 (77 Stat. 68), October 12, 1982 (96 Stat. 1262), October 27, 1986 (100 Stat. 3050), as amended, and Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706), all collectively hereinafter referred to as Federal Reclamation law, between THE UNITED STATES OF AMERICA, hereinafter referred to as the United States, and PLACER COUNTY WATER AGENCY, hereinafter referred to as the Contractor, a public agency of the State of California, duly organized, existing, and acting pursuant to the laws thereof, with its principal place of business in California;

WITNESSETH, That:

EXPLANATORY RECITALS

[1<sup>st</sup>] WHEREAS, the United States has constructed and is operating the Central Valley Project, California, for diversion, storage, carriage, distribution and beneficial use, for flood control,

30 irrigation, municipal, domestic, industrial, fish and wildlife mitigation, protection and restoration,  
31 generation and distribution of electric energy, salinity control, navigation and other beneficial uses, of  
32 waters of the Sacramento River, the American River, the Trinity River, and the San Joaquin River  
33 and their tributaries; and

34 [2<sup>nd</sup>] WHEREAS, the United States constructed Folsom Dam and Reservoir, hereinafter  
35 collectively referred to as the American River Division facilities, which will be used in part for the  
36 furnishing of water to the Contractor pursuant to the terms of this Contract; and

37 [3<sup>rd</sup>] WHEREAS, the rights to Project Water were acquired by the United States pursuant to  
38 California law for operation of the Project; and

39 [3.1] WHEREAS, the Auburn Dam and Reservoir proposed to be constructed by the United  
40 States as a Unit of the Central Valley Project has to date, not been constructed; and

41 [4<sup>th</sup>] WHEREAS, the Contractor and the United States entered into Contract  
42 No. 14-06-200-5082A dated September 18, 1970, as amended, hereinafter referred to as the Existing  
43 Contract, which established terms for the delivery to the Contractor of Central Valley Project Water  
44 from the American River Division from September 18, 1970, through December 31, 2011; and

45 [4.1] WHEREAS, Contract No. 14-06-200-5082A, as amended, provides the Contractor an  
46 entitlement of up to 117,000 acre-feet annually of Central Valley Project Water delivered at Auburn  
47 Reservoir or at some other mutually agreeable location; and

48 [4.2] WHEREAS, Contract No. 14-06-200-5082A, as amended, also recognizes that the  
49 Contractor acquired the right to divert, store, and distribute water from the American River pursuant  
50 to permits issued by the California State Water Rights Board which is now called the State Water  
51 Resources Control Board (SWRCB); and

52 [5<sup>th</sup>] Omitted; and

53 [6<sup>th</sup>] Omitted; and

54 [6.1] Omitted; and

55 [7<sup>th</sup>] WHEREAS, the United States has completed the Programmatic Environmental Impact  
56 Statement (PEIS) required under the CVPIA, and all other appropriate environmental review  
57 necessary to provide for amendment of the Existing Contract; and

58 [8<sup>th</sup>] WHEREAS, the Contractor has requested the amendment of the Existing Contract,  
59 pursuant to the terms of the Existing Contract, Federal Reclamation law, and the laws of the State of  
60 California, for water service from the Central Valley Project; and

61 [9<sup>th</sup>] WHEREAS, the United States has determined that the Contractor has fulfilled all of  
62 its obligations under the Existing Contract; and

63 [10<sup>th</sup>] WHEREAS, the Contracting Officer has determined that the Contractor has the  
64 capability to fully utilize for reasonable and beneficial use, or shown projected future reasonable and  
65 beneficial use for, the quantity of Project Water to be made available to it pursuant to this Contract;  
66 and

67 [11<sup>th</sup>] WHEREAS, water obtained from the Central Valley Project has been relied upon by  
68 urban areas within California for more than fifty (50) years, and is considered by the Contractor as an  
69 essential portion of its water supply; and

70 [12<sup>th</sup>] WHEREAS, the economies of regions within the Central Valley Project, including the  
71 Contractor's, depend upon the continued availability of water, including water service from the  
72 Central Valley Project; and

73 [13<sup>th</sup>] WHEREAS, the Secretary intends through coordination, cooperation, and partnerships  
74 to pursue measures to improve water supply, water quality, and reliability of the Project for all Project  
75 purposes; and

76 [14<sup>th</sup>] WHEREAS, the mutual goals of the United States and the Contractor include: to  
77 provide for reliable Central Valley Project Water supplies; to control costs of those supplies; to  
78 achieve repayment of the Central Valley Project as required by law; to guard reasonably against  
79 Central Valley Project Water shortages; to achieve a reasonable balance among competing demands  
80 for use of Central Valley Project Water; and to comply with all applicable environmental statutes, all  
81 consistent with the legal obligations of the United States relative to the Central Valley Project; and

82 [15<sup>th</sup>] WHEREAS, the parties intend by this Contract to develop a more cooperative  
83 relationship in order to achieve their mutual goals; and

84 [15.1] WHEREAS, the Contractor is a signatory to the Water Forum Agreement, which has  
85 the co-equal objectives to (1) provide a reliable and safe water supply for the Sacramento region's  
86 economic health and planned development through the year 2030, and (2) preserve the fishery,  
87 wildlife, recreational, and aesthetic values of the lower American River; and

88 [15.2] WHEREAS, the Contracting Officer is in support of the co-equal objectives of the  
89 Water Forum Agreement and intends to work cooperatively with the Contractor to investigate actions  
90 that they could take to implement the objectives of the Water Forum Agreement, which, if agreed to,  
91 would be the subject of a separate agreement between them; and

92 [16<sup>th</sup>] WHEREAS, the United States and the Contractor are willing to enter into this  
93 Amendatory Contract pursuant to Federal Reclamation law on the terms and conditions set forth  
94 below;

95 [17<sup>th</sup>] WHEREAS, the contract between the United States and the Contractor dated  
96 February 20, 1963, relating to the operation of the Contractor’s Middle Fork American River Project  
97 Reservoirs is still in full force and effect and is not affected by the terms and conditions of this  
98 Contract.

99 NOW, THEREFORE, in consideration of the mutual and dependent covenants herein  
100 contained, it is hereby mutually agreed by the parties hereto as follows:

101 DEFINITIONS

102 1. When used herein unless otherwise distinctly expressed, or manifestly incompatible  
103 with the intent of the parties as expressed in this Contract, the term:

104 (a) “Calendar Year” shall mean the period January 1 through December 31, both  
105 dates inclusive;

106 (b) “Charges” shall mean the payments required by Federal Reclamation law in  
107 addition to the Rates and Tiered Pricing Components specified in this Contract as determined  
108 annually by the Contracting Officer pursuant to this Contract;

109 (c) “Condition of Shortage” shall mean a condition respecting the Project during  
110 any Year such that the Contracting Officer is unable to deliver sufficient water to meet the Contract  
111 Total;

112 (d) “Contracting Officer” shall mean the Secretary of the Interior’s duly authorized  
113 representative acting pursuant to this Contract or applicable Reclamation law or regulation;

114 (e) “Contract Total” shall mean the maximum amount of water to which the  
115 Contractor is entitled under subdivision (a) of Article 3 of this Contract;

116 (f) "Contractor's Service Area" shall mean the area to which the Contractor is  
117 permitted to provide Project Water under this Contract as described in Exhibit "A" attached hereto,  
118 which may be modified from time to time in accordance with Article 35 of this Contract without  
119 amendment of this Contract;

120 (g) "CVPIA" shall mean the Central Valley Project Improvement Act, Title  
121 XXXIV of the Act of October 30, 1992 (106 Stat. 4706);

122 (g.1) "Diversion Water" shall mean American River water to which the Contractor  
123 has acquired rights thereto under Permit Nos. 13855, 13856, 13857, and 13858 issued by the  
124 California State Water Rights Board, now referred to as the State Water Resources Control Board;

125 (h) "Eligible Lands" shall mean all lands to which Irrigation Water may be  
126 delivered in accordance with Section 204 of the Reclamation Reform Act of October 12, 1982 (96  
127 Stat. 1263), as amended, hereinafter referred to as RRA;

128 (i) "Excess Lands" shall mean all lands in excess of the limitations contained in  
129 Section 204 of the RRA, other than those lands exempt from acreage limitation under Federal  
130 Reclamation law;

131 (j) "Full Cost Rate" shall mean that water rate described in Sections 205(a)(3) or  
132 202(3) of the RRA, whichever is applicable;

133 (k) "Ineligible Lands" shall mean all lands to which Irrigation Water may not be  
134 delivered in accordance with Section 204 of the RRA;

135 (l) "Irrigation Full Cost Water Rate" shall have the same meaning as "full cost" as  
136 that term is used in paragraph (3) of Section 202 of the RRA;

137 (m) "Irrigation Water" shall mean water made available from the Project that is  
138 used primarily in the production of agricultural crops or livestock, including domestic use incidental  
139 thereto, and watering of livestock;

140 (n) "Landholder" shall mean a party that directly or indirectly owns or leases  
141 nonexempt land, as provided in 43 CFR 426.2;

142 (o) "Municipal and Industrial (M&I) Water" shall mean Project Water, other than  
143 Irrigation Water, made available to the Contractor. M&I Water shall include water used for human  
144 use and purposes such as the watering of landscaping or pasture for animals (e.g., horses) which are  
145 kept for personal enjoyment or water delivered to land holdings operated in units of less than five (5)  
146 acres unless the Contractor establishes to the satisfaction of the Contracting Officer that the use of  
147 water delivered to any such landholding is a use described in subdivision (m) of this Article;

148 (p) "M&I Full Cost Water Rate" shall mean the annual rate, which, as determined  
149 by the Contracting Officer, shall amortize the expenditures for construction allocable to Project M&I  
150 facilities in service, including, O&M deficits funded, less payments, over such periods as may be  
151 required under Federal Reclamation law with interest accruing from the dates such costs were first  
152 incurred plus the applicable rate for the O&M of such Project facilities. Interest rates used in the  
153 calculation of the M&I Full Cost Rate shall comply with the Interest Rate methodology contained in  
154 Section 202 (3) (B) and (C) of the RRA, as amended. O&M charges required under Federal  
155 Reclamation law shall be collected in addition to the M&I Full Cost Water Rate;

156 (q) "Operation and Maintenance" or "O&M" shall mean normal and reasonable  
157 care, control, operation, repair, replacement (other than Capital replacement), and maintenance of  
158 Project facilities;

159 (r) Omitted;

160 (s) "Project" shall mean the Central Valley Project owned by the United States and  
161 managed by the Department of the Interior, Bureau of Reclamation;

162 (t) "Project Contractors" shall mean all parties who have water service contracts  
163 for Project Water from the Project with the United States pursuant to Federal Reclamation law;

164 (u) "Project Water" shall mean all water that is developed, diverted, stored, or  
165 delivered by the Secretary in accordance with the statutes authorizing the Project and in accordance  
166 with the terms and conditions of water rights acquired pursuant to California law;

167 (v) "Rates" shall mean the payments determined annually by the Contracting  
168 Officer in accordance with the then current applicable water ratesetting policies for the Project, as  
169 described in subdivision (a) of Article 7 of this Contract;

170 (w) "Recent Historic Average" shall mean the most recent five (5)-year average of  
171 the final forecast of Water Made Available to the Contractor pursuant to this Contract or its preceding  
172 contract(s);

173 (x) "Secretary" shall mean the Secretary of the Interior, a duly appointed  
174 successor, or an authorized representative acting pursuant to any authority of the Secretary and  
175 through any agency of the Department of the Interior;

176 (y) "Tiered Pricing Component" shall be the incremental amount to be paid for  
177 each acre-foot of Water Delivered as described in subdivision (j) of Article 7 of this Contract;

178 (z) "Water Delivered" or "Delivered Water" shall mean Project Water diverted for  
179 use by the Contractor at the point(s) of delivery approved by the Contracting Officer;

180 (aa) "Water Made Available" shall mean the estimated amount of Project Water  
181 that can be delivered to the Contractor for the upcoming Year as declared by the Contracting Officer,  
182 pursuant to subdivision (a) of Article 4 of this Contract;

183 (bb) "Water Scheduled" shall mean Project Water made available to the Contractor  
184 for which times and quantities for delivery have been established by the Contractor and Contracting  
185 Officer, pursuant to subdivision (b) of Article 4 of this Contract; and

186 (cc) "Year" shall mean the period from and including March 1 of each Calendar  
187 Year through the last day of February of the following Calendar Year.

188 TERM OF CONTRACT

189 2. (a) This Contract shall be effective March 1, 2002, through December 31, 2011.  
190 In the event the Contractor wishes to renew the Contract beyond December 31, 2011, the Contractor  
191 shall submit a request for renewal in writing to the Contracting Officer no later than two (2) years  
192 prior to the date this Contract expires. The renewal of this Contract insofar as it pertains to the  
193 furnishing of Irrigation Water to the Contractor shall be governed by subdivision (b) of this Article,  
194 and the renewal of this Contract insofar as it pertains to the furnishing of M&I Water to the  
195 Contractor shall be governed by subdivision (c) of this Article.

196 (b) (1) Under terms and conditions of a renewal contract that are mutually  
197 agreeable to the parties hereto, and upon a determination by the Contracting Officer that at the time of  
198 contract renewal the conditions set forth in subdivision (b)(2) of this Article are met, and subject to  
199 Federal and State law, this Contract, insofar as it pertains to the furnishing of Irrigation Water to the  
200 Contractor, shall be renewed for a period of twenty-five (25) years.

201 (2) The conditions which must be met for this Contract to be renewed are:  
202 (i) the Contractor has prepared a water conservation plan that has been determined by the Contracting  
203 Officer in accordance with Article 26 of this Contract to meet the conservation and efficiency criteria  
204 for evaluating such plans established under Federal law; (ii) the Contractor is implementing an

205 effective water conservation and efficiency program based on the Contractor's water conservation  
206 plan as required by Article 26 of this Contract; (iii) the Contractor is operating and maintaining all  
207 water measuring devices and implementing all water measurement methods as approved by the  
208 Contracting Officer pursuant to Article 6 of this Contract; (iv) the Contractor has reasonably and  
209 beneficially used the Project Water supplies made available to it and, based on projected demands, is  
210 reasonably anticipated and expects fully to utilize for reasonable and beneficial use the quantity of  
211 Project Water to be made available to it pursuant to such renewal; (v) the Contractor is complying  
212 with all terms and conditions of this Contract; and (vi) the Contractor has the physical and legal  
213 ability to deliver Project Water.

214 (3) The terms and conditions of the renewal contract described in  
215 subdivision (b)(1) of this Article and any subsequent renewal contracts shall be developed consistent  
216 with the parties' respective legal rights and obligations, and in consideration of all relevant facts and  
217 circumstances, as those circumstances exist at the time of renewal, including, without limitation, the  
218 Contractor's need for continued delivery of Project Water; environmental conditions affected by  
219 implementation of the Contract to be renewed, and specifically changes in those conditions that  
220 occurred during the life of the Contract to be renewed; the Secretary's progress toward achieving the  
221 purposes of the CVPIA as set out in Section 3402 and in implementing the specific provisions of the  
222 CVPIA; and current and anticipated economic circumstances of the region served by the Contractor.

223 (c) This Contract, insofar as it pertains to the furnishing of M&I Water to the  
224 Contractor, shall be renewed for a period of twenty-five (25) years and thereafter shall be renewed for  
225 successive periods of up to forty years (40) each, which periods shall be consistent with the then-  
226 existing Reclamation-wide policy, under terms and conditions mutually agreeable to the parties and

227 consistent with Federal and State law. The present Reclamation-wide policy, dated March 20, 2000,  
228 provides that the term of such contracts shall be no more than twenty-five (25) years each, subject to a  
229 variance to allow a longer term in appropriate circumstances. The Contractor shall be afforded the  
230 opportunity to comment to the Contracting Officer on the proposed adoption and application of any  
231 revised Reclamation-wide policy applicable to the delivery of Project M&I Water that would limit the  
232 term of any subsequent renewal contract with the Contractor for the furnishing of M&I Water to less  
233 than twenty-five (25) years.

234 (d) The Contracting Officer anticipates that by December 31, 2024, all authorized  
235 Project construction expected to occur will have occurred, and on that basis the Contracting Officer  
236 agrees by that date to allocate all costs that are properly assignable to the Contractor, and agrees  
237 further that, at any time after such allocation is made, and subject to satisfaction of the conditions set  
238 out in this subdivision of this Article, this Contract shall, at the request of the Contractor, be  
239 converted to a contract under subsection (c)(1) of Section 9, of the Reclamation Project Act of 1939,  
240 subject to applicable Federal law and under stated terms and conditions mutually agreeable to the  
241 Contractor and the Contracting Officer. A condition for such conversion to occur shall be a  
242 determination by the Contracting Officer that, account being taken of the amount credited to return by  
243 the Contractor as provided for under Reclamation law, the remaining amount of construction costs  
244 assignable for ultimate return by the Contractor can probably be repaid to the United States within the  
245 term of a contract under said subsection 9(c)(1). If the remaining amount of costs that are properly  
246 assignable to the Contractor cannot be determined by December 31, 2024, the Contracting Officer  
247 shall notify the Contractor, and provide the reason(s) why such a determination could not be made.  
248 Further, the Contracting Officer shall make such a determination as soon thereafter as possible so as

249 to permit, upon request of the Contractor and satisfaction of the conditions set out above, conversion  
250 to a contract under said subsection 9(c)(1). In the event such determination of costs has not been  
251 made at a time which allows conversion of this Contract during the term of this Contract or the  
252 Contractor has not requested conversion of this Contract within such term, the parties shall  
253 incorporate in any subsequent renewal contract as described in subdivision (c) of this Article a  
254 provision that carries forth in substantially identical terms the provisions of this subdivision (d). In  
255 the event the Contracting Officer is able to make a determination of the remaining amount of costs  
256 that are properly assignable to the Contractor before December 31, 2024, the Contracting Officer shall  
257 do so at the earliest time the Contracting Officer has such ability.

258 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

259 3. (a) During each Year, consistent with all applicable State water rights, permits,  
260 and licenses, Federal law, and subject to the provisions set forth in Articles 11 and 12 of this  
261 Contract, the Contracting Officer shall make available for delivery to the Contractor 35,000 acre-feet  
262 of Irrigation Water and/or M&I Water. *If agreed to by the Contracting Officer and the Contractor,*  
263 *the 35,000 acre-feet may be increased in any renewal of this contract if and when a point of diversion*  
264 *for Project Water is established on the Sacramento River as described in Article 5(a); and if and*  
265 *when the proposed Auburn Dam is fully completed, the United States obtains the*  
266 *necessary water rights for the Auburn project, and such action continues to be consistent with*  
267 *Federal and State law. The Contracting Officer agrees to recognize the relevant historic relationship*  
268 *with the Contractor relative to water supplies contemplated from Auburn Reservoir in determining*  
269 *such increased amount.* The quantity of Water Delivered to the Contractor in accordance with this  
270 subdivision shall be scheduled and paid for pursuant to the provisions of Articles 4 and 7 of this

271 Contract.

272 (1) The Contracting Officer recognizes that the Contractor has a right to  
273 Diversion Water from the American River in the amount of 120,000 acre-feet in any Year said water  
274 is available. Said Diversion Water is in addition to the Project Water made available pursuant to this  
275 Contract. The quantities of Diversion Water to which the Contractor is entitled and which are not  
276 taken or otherwise disposed of by the Contractor during that Year shall become the property of the  
277 United States.

278 (2) The quantity of Diversion Water specified in subdivision (a)(1) of this  
279 Article is contingent upon the right of the Contractor to continue to take said quantity of water  
280 annually pursuant to California law. In the event that under such law the Contractor's right to take  
281 Diversion Water is less than the amount specified in subdivision (a)(1) above, the amount of  
282 Diversion Water which the Contracting Officer will recognize under this Amendatory Contract shall  
283 be reduced accordingly.

284 (b) Because the capacity of the Central Valley Project to deliver Project Water has  
285 been constrained in recent years and may be constrained in the future due to many factors including  
286 hydrologic conditions and implementation of Federal and State laws, the likelihood of the Contractor  
287 actually receiving the amount of Water set out in subdivision (a) of this Article in any given Year is  
288 uncertain. The Contracting Officer's most recent modeling referenced in the PEIS projected that the  
289 Contract Total set forth in this Contract will not be available to the Contractor in many years. During  
290 the most recent five (5) years, the Recent Historic Average of Water Made Available to the  
291 Contractor was 31,000 acre-feet. Nothing in subdivision (b) of this Article shall affect the rights and  
292 obligations of the parties under any provision of this Contract.

293 (c) The Contractor shall utilize the Project Water in accordance with all applicable  
294 legal requirements.

295 (d) The Contractor shall make reasonable and beneficial use of all Project Water or  
296 other water furnished pursuant to this Contract. Groundwater recharge programs, groundwater  
297 banking programs, surface water storage programs, and other similar programs utilizing Project  
298 Water or other water furnished pursuant to this Contract conducted within the Contractor's Service  
299 Area which are consistent with applicable State law and result in use consistent with Reclamation law  
300 will be allowed; Provided, That any direct recharge program(s) is (are) described in the Contractor's  
301 Water Conservation Plan submitted pursuant to Article 26 of this Contract; groundwater, Provided,  
302 further, That such Water Conservation Plan demonstrates sufficient lawful uses exist in the  
303 Contractor's Service Area so that using a long-term average, the quantity of Delivered Water is  
304 demonstrated to be reasonable for such uses and in compliance with Reclamation Law. Groundwater  
305 recharge programs, groundwater banking programs, surface water storage programs, and other similar  
306 programs utilizing Project Water or other water furnished pursuant to this Contract conducted outside  
307 the Contractor's Service Area may be permitted upon written approval of the Contracting Officer,  
308 which approval will be based upon environmental documentation, Project Water rights, and Project  
309 operational concerns. The Contracting Officer will address such concerns in regulations, policies, or  
310 guidelines.

311 (e) The Contractor shall comply with requirements applicable to the Contractor in  
312 biological opinion(s) prepared as a result of a consultation regarding the execution of this Contract  
313 undertaken pursuant to Section 7 of the Endangered Species Act of 1973, as amended, that are within  
314 the Contractor's legal authority to implement. The Contractor shall comply with the limitations or

315 requirements imposed by environmental documentation applicable to the Contractor and within its  
316 legal authority to implement. Nothing herein shall be construed to prevent the Contractor from  
317 challenging or seeking judicial relief in a court of competent jurisdiction with respect to any  
318 biological opinion or other environmental documentation referred to in this Article.

319 (f) Following the declaration of Water Made Available under Article 4 of this  
320 Contract, the Contracting Officer will make a determination whether Project Water, or other water  
321 available to the Project, can be made available to the Contractor in addition to the Contract Total  
322 under Article 3 of this Contract during the Year without adversely impacting other Project  
323 Contractors. At the request of the Contractor, the Contracting Officer will consult with the  
324 Contractor prior to making such a determination. If the Contracting Officer determines that Project  
325 Water, or other water available to the Project, can be made available to the Contractor, the  
326 Contracting Officer will announce the availability of such water and shall so notify the Contractor as  
327 soon as practical. The Contracting Officer will thereafter meet with the Contractor and other Project  
328 Contractors capable of taking such water to determine the most equitable and efficient allocation of  
329 such water. If the Contractor requests the delivery of any quantity of such water, the Contracting  
330 Officer shall make such water available to the Contractor in accordance with applicable statutes,  
331 regulations, guidelines, and policies.

332 (g) The Contractor may request permission to reschedule for use during the  
333 subsequent Year some or all of the Water Made Available to the Contractor during the current Year  
334 referred to as “carryover.” The Contractor may request permission to use during the current Year a  
335 quantity of Project Water which may be made available by the United States to the Contractor during  
336 the subsequent Year referred to as “preuse.” The Contracting Officer’s written approval may permit

337 such uses in accordance with applicable statutes, regulations, guidelines, and policies.

338 (h) The Contractor's right pursuant to Federal Reclamation law and applicable  
339 State law to the reasonable and beneficial use of Water Delivered pursuant to this Contract during the  
340 term thereof and any subsequent renewal contracts, as described in Article 2 of this Contract, during  
341 the terms thereof shall not be disturbed so long as the Contractor shall fulfill all of its obligations  
342 under this Contract and any renewals thereof. Nothing in the preceding sentence shall affect the  
343 Contracting Officer's ability to impose shortages under Article 11 or subdivision (b) of Article 12 of  
344 this Contract or applicable provisions of any subsequent renewal contracts.

345 (i) Project Water furnished to the Contractor pursuant to this Contract may be  
346 delivered for purposes other than those described in subdivision (o) of Article 1 of this Contract upon  
347 written approval by the Contracting Officer in accordance with the terms and conditions of such  
348 approval.

349 (j) Omitted.

350 (k) The Contracting Officer shall make reasonable efforts to protect the water  
351 rights necessary for the Project and to provide the water available under this Contract. The  
352 Contracting Officer shall not object to participation by the Contractor, in the capacity and to the  
353 extent permitted by law, in administrative proceedings related to the Project Water rights; Provided,  
354 however, That the Contracting Officer retains the right to object to the substance of the Contractor's  
355 position in such a proceeding.

356 TIME FOR DELIVERY OF WATER

357 (4) (a) On or about February 20 of each Calendar Year, the Contracting Officer shall

358 announce the Contracting Officer's expected declaration of the Water Made Available. The  
359 declaration will be updated monthly, and more frequently if necessary, based on then-current  
360 operational and hydrologic conditions and a new declaration with changes, if any, to the Water Made  
361 Available will be made. The Contracting Officer shall provide forecasts of Project operations and the  
362 basis of the estimate, with relevant supporting information, upon the written request of the  
363 Contractor. Concurrently with the declaration of the Water Made Available, the Contracting Officer  
  
364 shall provide the Contractor with the updated Recent Historic Average. The declaration of Project  
365 operations will be expressed in terms of both Water Made Available and the Recent Historic  
366 Average.

367 (b) On or before each March 1 and at such other times as necessary, the Contractor  
368 shall submit to the Contracting Officer a written schedule, satisfactory to the Contracting Officer,  
369 showing the monthly quantities of Project Water to be delivered by the United States to the  
370 Contractor pursuant to this Contract for the Year commencing on such March 1. The Contracting  
371 Officer shall use all reasonable means to deliver Project Water according to the approved schedule for  
372 the Year commencing on such March 1.

373 (c) The Contractor shall not schedule Project Water in excess of the quantity of  
374 Project Water the Contractor intends to put to reasonable and beneficial use within the Contractor's  
375 Service Area or to sell, transfer, or exchange pursuant to Article 9 of this Contract during any Year.

376 (d) Subject to the conditions set forth in subdivision (a) of Article 3 of this  
377 Contract, the United States shall deliver Project Water to the Contractor in accordance with the initial  
378 schedule submitted by the Contractor pursuant to subdivision (b) of this Article, or any written  
379 revision(s), satisfactory to the Contracting Officer, thereto submitted within a reasonable time prior to

380 the date(s) on which the requested change(s) is/are to be implemented.

381 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

382 5. (a) Project Water scheduled pursuant to subdivision (b) of Article 4 of this  
383 Contract shall be delivered to the Contractor at Folsom Dam and any additional point or points of  
384 delivery either on Project facilities or another location or locations mutually agreed to in writing by  
385 the Contracting Officer and the Contractor, *including a potential point of delivery on the Sacramento*  
386 *River north of the American River. The parties acknowledge that the potential Sacramento River*  
387 *point of delivery may be at a point that, as of the date of this amendatory contract, is not included as*  
388 *an authorized point of delivery under the water right permits of the Project. Project Water will not*  
389 *be delivered to this point of delivery unless and until such point is added to the water right permits of*  
390 *the Project. Upon request of the Contractor, the Contracting Officer may petition the California*  
391 *State Water Resources Control Board to include the necessary point of delivery to the water rights*  
392 *for the Project, and the Contractor shall cooperate with and assist the Contracting Officer in*  
393 *prosecuting such petition in a timely manner. The Contracting Officer shall bear neither*  
394 *responsibility nor liability for existing and/or future constructed non-federal diversion or delivery*  
395 *facilities or the use thereof.*

396 (b) The parties hereby acknowledge execution of the Stipulated Agreement dated  
397 September 8, 1998, recognizing the agreement by the United States, Bureau of Reclamation, subject  
398 to certain conditions, to dismiss protests to the Contractor's petition to expand the place of use under  
399 the Contractor's water right permits.

400 (c) The Contractor shall deliver Irrigation Water in accordance with any applicable  
401 land classification provisions of Federal Reclamation law and the associated regulations. The

402 Contractor shall not deliver Project Water to land outside the Contractor's Service Area unless  
403 approved in advance by the Contracting Officer.

404 (d) All Water Delivered to the Contractor pursuant to this Contract shall be  
405 measured and recorded with equipment furnished, installed, operated, and maintained by the United  
406 States, or other appropriate entity as designated by the Contracting Officer (hereafter “other  
407 appropriate entity”) at the point or points of delivery established pursuant to subdivision (a) of this  
408 Article. Upon the request of either party to this Contract, the Contracting Officer shall investigate, or  
409 cause to be investigated, the accuracy of such measurements and shall take any necessary steps to  
410 adjust any errors appearing therein. For any period of time when accurate measurements have not  
411 been made, the Contracting Officer shall consult with the Contractor prior to making a final  
412 determination of the quantity delivered for that period of time.

413 (e) The Contracting Officer shall not be responsible for the control, carriage,  
414 handling, use, disposal, or distribution of Project Water Delivered to the Contractor pursuant to this  
415 Contract beyond the delivery points specified in subdivision (a) of this Article. The Contractor shall  
416 indemnify the United States, its officers, employees, agents, and assigns on account of damage or  
417 claim of damage of any nature whatsoever for which there is legal responsibility, including property  
418 damage, personal injury, or death arising out of or connected with the control, carriage, handling, use,  
419 disposal, or distribution of such Project Water beyond such delivery points, except for any damage or  
420 claim arising out of: (i) acts or omissions of the Contracting Officer or any of its officers, employees,  
421 agents, or assigns with the intent of creating the situation resulting in any damage or claim; (ii) willful  
422 misconduct of the Contracting Officer or any of its officers, employees, agents, or assigns; (iii)  
423 negligence of the Contracting Officer or any of its officers, employees, agents, or assigns; or (iv)

424 damage or claims resulting from a malfunction of facilities owned and/or operated by the United  
425 States.

426 MEASUREMENT OF WATER WITHIN THE SERVICE AREA

427 6. (a) By (6 months after execution), the Contractor shall ensure that, unless the  
428 Contractor establishes an alternative measurement program satisfactory to the Contracting Officer, all  
429 surface water delivered by the Contractor for irrigation purposes within the Contractor's Service Area  
430 is measured at each agricultural turnout and such water delivered by the Contractor for municipal and  
431 industrial purposes is measured at each municipal and industrial service connection. The water  
432 measuring devices or water measuring methods of comparable effectiveness must be acceptable to the  
433 Contracting Officer. The Contractor shall be responsible for installing, operating, and maintaining  
434 and repairing all such measuring devices and implementing all such water measuring methods at no  
435 cost to the United States. The Contractor shall use the information obtained from such water  
436 measuring devices or water measuring methods to ensure its proper management of the water, to bill  
437 water users for water delivered by the Contractor; and, if applicable, to record water delivered for  
438 municipal and industrial purposes by customer class as defined in the Contractor's water conservation  
439 plan provided for in Article 26 of this Contract. Nothing herein contained, however, shall preclude  
440 the Contractor from establishing and collecting any charges, assessments, or other revenues  
  
441 authorized by California law. The Contractor shall include a summary of all its annual surface water  
442 deliveries in the annual report described in subdivision (c) of Article 26.

443 (b) To the extent the information has not otherwise been provided, upon execution  
444 of this Contract, the Contractor shall provide to the Contracting Officer a written report describing the

445 measurement devices or water measuring methods being used or to be used to implement subdivision  
446 (a) of this Article and identifying the agricultural turnouts and municipal and industrial service  
447 connections or alternative measurement programs approved by the Contracting Officer, at which such  
448 measurement devices or water measuring methods are being used, and, if applicable, identifying the  
449 locations at which such devices and/or methods are not yet being used including a time schedule for  
450 implementation at such locations. The Contracting Officer shall advise the Contractor in writing  
451 within sixty (60) days as to the adequacy of, and necessary modifications, if any, of the measuring  
452 devices or water measuring methods identified in the Contractor's report and if the Contracting  
453 Officer does not respond in such time, they shall be deemed adequate. If the Contracting Officer  
454 notifies the Contractor that the measuring devices or methods are inadequate, the parties shall within  
455 sixty (60) days following the Contracting Officer's response, commence to negotiate in good faith  
456 how, and the earliest practicable date by which, the Contractor shall modify said measuring devices  
457 and/or measuring methods as required by the Contracting Officer to ensure compliance with  
458 subdivision (a) of this Article.

459 (c) All new surface water delivery systems installed for the delivery of Water  
460 Made Available under this Contract within the Contractor's Service Area after the effective date of  
461 this Contract shall also comply with the measurement provisions described in subdivision (a) of this  
462 Article.

463 (d) The Contractor shall inform the Contracting Officer and the State of California  
464 in writing by April 30 of each Year of the monthly volume of surface water delivered within the  
465 Contractor's Service Area during the previous Year.

466 (e) The Contractor shall inform the Contracting Officer on or before the twentieth

467 (20<sup>th</sup>) calendar day of each month of the quantity of Irrigation and M&I Water taken during the  
468 preceding month.

469 RATES AND METHOD OF PAYMENT FOR WATER

470 7. (a) The Contractor shall pay the United States as provided in this Article for all  
471 Delivered Water at Rates, Charges, and the Tiered Pricing Component established in accordance  
472 with: (i) the Secretary's ratesetting policy for Irrigation Water adopted in 1988 and the Secretary's  
473 then-existing ratesetting policy for M&I Water. Such ratesetting policies shall be amended, modified,  
474 or superseded only through a public notice and comment procedure; (ii) applicable Reclamation law  
475 and associated rules and regulations, or policies; and (iii) other applicable provisions of this Contract.  
476 Payments shall be made by cash transaction, wire, or any other mechanism as may be agreed to in  
477 writing by the Contractor and the Contracting Officer. The Rates, Charges, and Tiered Pricing  
478 Components applicable to the Contractor upon execution of this Contract are set forth in Exhibit "B,"  
479 as may be revised annually.

480 (b) The Contracting Officer shall notify the Contractor of the Rates, Charges, and  
481 Tiered Pricing Components as follows:

482 (1) Prior to July 1 of each Calendar Year, the Contracting Officer shall  
483 provide the Contractor an estimate of the Charges for Project Water that will be applied to the period  
484 October 1, of the current Calendar Year, through September 30, of the following Calendar Year, and  
485 the basis for such estimate. The Contractor shall be allowed not less than two (2) months to review  
486 and comment on such estimates. On or before September 15 of each Calendar Year, the Contracting  
487 Officer shall notify the Contractor in writing of the Charges to be in effect during the period  
488 October 1 of the current Calendar Year, through September 30, of the following Calendar Year, and

489 such notification shall revise Exhibit “B.”

490 (2) Prior to October 1 of each Calendar Year, the Contracting Officer shall  
491 make available to the Contractor an estimate of the Rates and Tiered Pricing Components for Project  
492 Water for the following Year and the computations and cost allocations upon which those Rates are  
493 based. The Contractor shall be allowed not less than two (2) months to review and comment on such  
494 computations and cost allocations. By December 31 of each Calendar Year, the Contracting Officer  
495 shall provide the Contractor with the final Rates and Tiered Pricing Components to be in effect for  
496 the upcoming Year, and such notification shall revise Exhibit “B.”

497 (c) At the time the Contractor submits the initial schedule for the delivery of  
498 Project Water for each Year pursuant to subdivision (b) of Article 4 of this Contract, the Contractor  
499 shall make an advance payment to the United States equal to the total amount payable pursuant to the  
500 applicable Rate(s) set under subdivision (a) of this Article, for the Project Water scheduled to be  
501 delivered pursuant to this Contract during the first two (2) calendar months of the Year. Before the  
502 end of the first month and before the end of each calendar month thereafter, the Contractor shall make  
503 an advance payment to the United States, at the Rate(s) set under subdivision (a) of this Article, for  
504 the Water Scheduled to be delivered pursuant to this Contract during the second month immediately  
505 following. Adjustments between advance payments for Water Scheduled and payments at Rates due  
506 for Water Delivered shall be made before the end of the following month; Provided, That any revised  
507 schedule submitted by the Contractor pursuant to Article 4 of this Contract which increases the  
508 amount of Water Delivered pursuant to this Contract during any month shall be accompanied with  
509 appropriate advance payment, at the Rates then in effect, to assure that Project Water is not delivered  
510 to the Contractor in advance of such payment. In any month in which the quantity of Water Delivered

511 to the Contractor pursuant to this Contract equals the quantity of Water Scheduled and paid for by the  
512 Contractor, no additional Project Water shall be delivered to the Contractor unless and until an  
513 advance payment at the Rates then in effect for such additional Project Water is made. Final  
514 adjustment between the advance payments for the Water Scheduled and payments for the quantities  
515 of Water Delivered during each Year pursuant to this Contract shall be made as soon as practicable  
516 but no later than April 30th of the following Year, or sixty (60) days after the delivery of Project  
517 Water carried over under subdivision (g) of Article 3 of this Contract if such water is not delivered by  
518 the last day of February.

519 (d) The Contractor shall also make a payment in addition to the Rate(s) in  
520 subdivision (c) of this Article to the United States for Water Delivered, at the Charges and the  
521 appropriate Tiered Pricing Component then in effect, before the end of the month following the  
522 month of delivery; Provided, That the Contractor may be granted an exception from the Tiered  
523 Pricing Component pursuant to subdivision (j)(2) of this Article. The payments shall be consistent  
524 with the quantities of M&I Water Delivered as shown in the water delivery report for the subject  
525 month prepared by the Contracting Officer. The water delivery report shall be deemed a bill for the  
526 payment of Charges and the applicable Tiered Pricing Component for Water Delivered. Adjustment  
527 for overpayment or underpayment of Charges shall be made through the adjustment of payments due  
528 to the United States for Charges for the next month. Any amount to be paid for past due payment of  
529 Charges and the Tiered Pricing Component shall be computed pursuant to Article 20 of this Contract.

530 (e) The Contractor shall pay for any Water Delivered under subdivision (d), (f), or  
531 (g) of Article 3 of this Contract as determined by the Contracting Officer pursuant to applicable

532 statutes, associated regulations, any applicable provisions of guidelines or ratesetting policies;  
533 Provided, That the Rate for Water Delivered under subdivision (d) of Article 3 of this Contract shall  
534 be no more than the otherwise applicable Rate for M&I Water under subdivision (a) of this Article.

535 (f) Payments to be made by the Contractor to the United States under this  
536 Contract may be paid from any revenues available to the Contractor.

537 (g) All revenues received by the United States from the Contractor relating to the  
538 delivery of Project Water or the delivery of non-project water through Project facilities shall be  
539 allocated and applied in accordance with Federal Reclamation law and the associated rules or  
540 regulations, and the then current Project ratesetting policy for M&I Water.

541 (h) The Contracting Officer shall keep its accounts pertaining to the administration  
542 of the financial terms and conditions of its long-term contracts, in accordance with applicable Federal  
543 standards, so as to reflect the application of Project costs and revenues. The Contracting Officer  
544 shall, each Year upon request of the Contractor, provide to the Contractor a detailed accounting of all  
545 Project and Contractor expense allocations, the disposition of all Project and Contractor revenues,  
546 and a summary of all water delivery information. The Contracting Officer and the Contractor shall  
547 enter into good faith negotiations to resolve any discrepancies or disputes relating to accountings,  
548 reports, or information.

549 (i) The parties acknowledge and agree that the efficient administration of this  
550 Contract is their mutual goal. Recognizing that experience has demonstrated that mechanisms,  
551 policies, and procedures used for establishing Rates, Charges, and Tiered Pricing Components, and/or  
552 for making and allocating payments, other than those set forth in this Article may be in the mutual  
553 best interest of the parties, it is expressly agreed that the parties may enter into agreements to modify  
554 the mechanisms, policies, and procedures for any of those purposes while this Contract is in effect

555 without amending this Contract.

556 (j) (1) Beginning at such time as deliveries of Project Water in a Year exceed  
557 eighty (80%) percent of the Contract Total, then before the end of the month following the month of  
558 delivery the Contractor shall make an additional payment to the United States equal to the applicable  
559 Tiered Pricing Component. The Tiered Pricing Component for the amount of Water Delivered in  
560 excess of eighty (80%) percent of the Contract Total, but less than or equal to ninety (90%) percent of  
561 the Contract Total, shall equal one-half of the difference between the Rate established under  
562 subdivision (a) of this Article and the M&I Full Cost Water Rate. The Tiered Pricing Component for  
563 the amount of Water Delivered which exceeds ninety (90%) percent of the Contract Total shall equal  
564 the difference between (i) the Rate established under subdivision (a) of this Article and (ii) the M&I  
565 Full Cost Water Rate.

566 (2) Subject to the Contracting Officer's written approval, the Contractor  
567 may request and receive an exemption from such Tiered Pricing Components for Project Water  
568 delivered to produce a crop which the Contracting Officer determines will provide significant and  
569 quantifiable habitat values for waterfowl in fields where the water is used and the crops are produced;  
570 Provided, That the exemption from the Tiered Pricing Components for Irrigation Water shall apply  
571 only if such habitat values can be assured consistent with the purpose of CVPIA through binding  
572 agreements executed with or approved by the Contracting Officer prior to use of such water.

573 (3) For purposes of determining the applicability of the Tiered Pricing  
574 Components pursuant to this Article, Water Delivered shall include Project Water that the Contractor  
575 transfers to others but shall not include Project Water transferred and delivered to the Contractor.

576 (k) For the term of this Contract, Rates under the respective ratesetting policies  
577 will be established to recover only reimbursable "operation and maintenance" (including any deficits)

578 and capital costs of the Project, as those terms are used in the then-current Project ratesetting policies,  
579 and interest, where appropriate, except in instances where a minimum Rate is applicable in  
580 accordance with the relevant Project ratesetting policy. Changes of significance in practices which  
581 implement the Contracting Officer's ratesetting policies will not be implemented until the  
582 Contracting Officer has provided the Contractor an opportunity to discuss the nature, need, and  
583 impact of the proposed change.

584 (l) Except as provided in subsections 3405(a)(1)(B) and 3405(f) of the CVPIA,  
585 the Rates for Project Water transferred by the Contractor shall be the Contractor's Rates adjusted  
586 upward or downward in accordance with the then-applicable CVP Ratesetting Policy to reflect the  
587 changed costs, if any, incurred by the Contracting Officer in the delivery of the transferred Project  
588 Water to the transferee's point of delivery.

589 (m) Pursuant to the Act of October 27, 1986 (100 Stat 3050), the Contracting  
590 Officer is authorized to adjust determinations of ability to pay every five (5) years.

591 NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICITS

592 8. The Contractor and the Contracting Officer concur that, as of the effective date of this  
593 Contract, the Contractor has no non-interest bearing operation and maintenance deficits and shall  
594 have no further liability therefor.

595 SALES, TRANSFERS, OR EXCHANGES OF WATER

596 9. (a) The right to receive Project Water provided for in this Contract may be sold,  
597 transferred, or exchanged to others for reasonable and beneficial uses within the State of California if  
598 such sale, transfer, or exchange is authorized by applicable Federal and State laws, and applicable  
599 guidelines or regulations then in effect. No sale, transfer, or exchange of Project Water under this  
600 Contract may take place without the prior written approval of the Contracting Officer, except as

601 provided for in subdivision (b) of this Article, and no such sales, transfers, or exchanges shall be  
602 approved absent compliance with appropriate environmental documentation including but not limited  
603 to the National Environmental Policy Act and the Endangered Species Act. Such environmental  
604 documentation should include, as appropriate, an analysis of groundwater impacts and economic and  
605 social effects, including environmental justice, of the proposed water transfers on both the transferor  
606 and transferee.

607 (b) In order to facilitate efficient water management by means of water transfers of  
608 the type historically carried out, among Project Contractors located within the same geographical  
609 area, by means of water transfers and to allow the Contractor to participate in an accelerated water  
610 transfer program during the term of this Contract, the Contracting Officer shall prepare, as  
611 appropriate, necessary environmental documentation including, but not limited to, the National  
612 Environmental Policy Act and the Endangered Species Act analyzing annual transfers within such  
613 geographical areas and the Contracting Officer shall determine whether such transfers comply with  
614 applicable law. Following the completion of the environmental documentation, such transfers  
615 addressed in such documentation shall be conducted with advance notice to the Contracting Officer,  
616 but shall not require prior written approval by the Contracting Officer. Such environmental  
617 documentation and the Contracting Officer's compliance determination shall be reviewed every five  
618 (5) years and updated, as necessary, prior to the expiration of the then-existing five (5)-year period.  
619 All subsequent environmental documentation shall include an alternative to evaluate not less than the  
620 quantity of Project Water historically transferred within the same geographical area.

621 (c) For a water transfer to qualify under subdivision (b) of this Article, such water  
622 transfer must: (i) be for irrigation purposes for lands irrigated within the previous three (3) years, or  
623 to be delivered to established wildlife refuges, groundwater basins or for municipal and industrial use

624 or for fish and wildlife purposes; (ii) occur within a single Year; (iii) occur between a willing seller  
625 and a willing buyer; (iv) convey water through existing Project facilities with no new construction or  
626 modifications to Project facilities and be between existing Project Contractors and/or the Contractor  
627 and the United States, Department of the Interior; and (v) comply with all applicable Federal, State,  
628 and local or tribal laws and requirements imposed for protection of the environment and Indian Trust  
629 Assets, as defined under Federal law. Such water transfers must not lead to land conversion.

630 (d) Solely for the purpose of determining whether Section 3405(a)(1)(M) of the  
631 CVPIA applies to the Contractor as a transferor or transferee of Project Water, the Contracting  
632 Officer acknowledges that the Contractor is within a county, watershed, or other area of origin, as  
633 those terms are utilized under California law, of water that constitutes the natural flow of the  
634 American River and its tributaries above the confluence of the American and Sacramento Rivers.

#### 635 APPLICATION OF PAYMENTS AND ADJUSTMENTS

636 10. (a) The amount of any overpayment by the Contractor of the Contractor's O&M,  
637 Capital, and deficit (if any) obligations for the Year shall be applied first to any current liabilities  
638 of the Contractor arising out of this Contract then due and payable. Overpayments of more than  
639 One Thousand Dollars (\$1,000) shall be refunded at the Contractor's request. In lieu of a refund, any  
640 amount of such overpayment at the option of the Contractor, may be credited against amounts to  
641 become due to the United States by the Contractor. With respect to overpayment, such refund or  
642 adjustment shall constitute the sole remedy of the Contractor or anyone having or claiming to have  
643 the right to the use of any of the Project Water supply provided for herein. All credits and refunds of  
644 overpayments shall be made within thirty (30) days of the Contracting Officer obtaining direction as  
645 to how to credit or refund such overpayment in response to the notice to the Contractor that it has  
646 finalized the accounts for the Year in which the overpayment was made.

647 (b) All advances for miscellaneous costs incurred for work requested by the  
648 Contractor pursuant to Article 25 of this Contract shall be adjusted to reflect the actual costs when the  
649 work has been completed. If the advances exceed the actual costs incurred, the difference will be  
650 refunded to the Contractor. If the actual costs exceed the Contractor's advances, the Contractor will  
651 be billed for the additional costs pursuant to Article 25 of this Contract.

652 TEMPORARY REDUCTIONS--RETURN FLOWS

653 11. (a) Subject to: (i) the authorized purposes and priorities of the Project and the  
654 requirements of Federal law and (ii) the obligations of the United States under existing contracts, or  
655 renewals thereof, providing for water deliveries from the Project, the Contracting Officer shall make  
656 all reasonable efforts to optimize Project Water deliveries to the Contractor as provided in this  
657 Contract.

658 (b) The Contracting Officer may temporarily discontinue or reduce the quantity of  
659 Water Delivered to the Contractor as herein provided for the purposes of investigation, inspection,  
660 maintenance, repair, or replacement of any of the Project facilities or any part thereof necessary for  
661 the delivery of Project Water to the Contractor, but so far as feasible the Contracting Officer will give  
662 the Contractor due notice in advance of such temporary discontinuance or reduction, except in case of  
663 emergency, in which case no notice need be given; Provided, That the United States shall use its best  
664 efforts to avoid any discontinuance or reduction in such service. Upon resumption of service after  
665 such reduction or discontinuance, and if requested by the Contractor, the United States will, if  
666 possible, deliver the quantity of Project Water which would have been delivered hereunder in the  
667 absence of such discontinuance or reduction.

668 (c) The United States reserves the right to all seepage and return flow water  
669 derived from Water Delivered to the Contractor hereunder which escapes or is discharged beyond the

670 Contractor's Service Area; Provided, That this shall not be construed as claiming for the United States  
671 any right as seepage or return flow being put to reasonable and beneficial use pursuant to this  
672 Contract within the Contractor's Service Area by the Contractor or those claiming by, through, or  
673 under the Contractor.

674 CONSTRAINTS ON THE AVAILABILITY OF WATER

675 12. (a) In its operation of the Project, the Contracting Officer will use all reasonable  
676 means to guard against a Condition of Shortage in the quantity of water to be made available to the  
677 Contractor pursuant to this Contract. In the event the Contracting Officer determines that a Condition  
678 of Shortage appears probable, the Contracting Officer will notify the Contractor of said determination  
679 as soon as practicable.

680 (b) If there is a Condition of Shortage because of errors in physical operations of  
681 the Project, drought, other physical causes beyond the control of the Contracting Officer or actions  
682 taken by the Contracting Officer to meet legal obligations then, except as provided in subdivision (a)  
683 of Article 18 of this Contract, no liability shall accrue against the United States or any of its officers,  
684 agents, or employees for any damage, direct or indirect, arising therefrom.

685 (c) Project Water furnished under this Amendatory Contract, and any renewals  
686 thereof, will be allocated in accordance with the then-existing Project M&I Water Shortage Policy.  
687 Such policy shall be amended, modified, or superseded only through a public notice and comment  
688 procedure.

689 UNAVOIDABLE GROUNDWATER PERCOLATION

690 13. To the extent applicable, the Contractor shall not be deemed to have delivered  
691 Irrigation Water to Excess Lands or Ineligible Lands within the meaning of this Contract if such lands  
692 are irrigated with groundwater that reaches the underground strata as an unavoidable result of the

693 delivery of Irrigation Water by the Contractor to Eligible Lands.

694 RULES AND REGULATIONS

695 14. The parties agree that the delivery of Irrigation Water or use of Federal facilities  
696 pursuant to this Contract is subject to Federal Reclamation law, including but not limited to, the  
697 Reclamation Reform Act of 1982 (43 U.S.C. 390aa et seq.), as amended and supplemented, and the  
698 rules and regulations promulgated by the Secretary of the Interior under Federal Reclamation law.

699 WATER AND AIR POLLUTION CONTROL

700 15. The Contractor, in carrying out this Contract, shall comply with all applicable water  
701 and air pollution laws and regulations of the United States and the State of California, and shall  
702 obtain all required permits or licenses from the appropriate Federal, State, or local authorities.

703 QUALITY OF WATER

704 16. (a) Project facilities used to deliver Project Water to the Contractor pursuant to  
705 this Contract shall be operated and maintained to enable the United States to deliver Project Water to  
706 the Contractor in accordance with the water quality standards specified in subsection 2(b) of the Act  
707 of August 26, 1937 (50 Stat. 850), as added by Section 101 of the Act of October 27, 1986 (100 Stat.  
708 3050), or other existing Federal laws. The United States is under no obligation to construct or furnish  
709 water treatment facilities to maintain or to improve the quality of Water Delivered to the Contractor  
710 pursuant to this Contract. The United States does not warrant the quality of Water Delivered to the  
711 Contractor pursuant to this Contract.

712 (b) The Operation and Maintenance of Project facilities shall be performed in such  
713 manner as is practicable to maintain the quality of raw water made available through such facilities at  
714 the highest level reasonably attainable as determined by the Contracting Officer. The Contractor shall  
715 be responsible for compliance with all State and Federal water quality standards applicable to surface  
716 and subsurface agricultural drainage discharges, if any, generated through the use of Federal or

717 Contractor facilities or Project Water provided by the Contractor within the Contractor's Service  
718 Area.

719 WATER ACQUIRED BY THE CONTRACTOR  
720 OTHER THAN FROM THE UNITED STATES

721 17. (a) Water or water rights now owned or hereafter acquired by the Contractor other  
722 than from the United States and Irrigation Water furnished pursuant to the terms of this Contract may  
723 be simultaneously transported through the same distribution facilities of the Contractor subject to the  
724 following: (i) if the facilities utilized for commingling Irrigation Water and were constructed without  
725 funds made available pursuant to Federal Reclamation law, the provisions of Federal Reclamation  
726 law will be applicable only to the Landholders of lands which receive Irrigation Water; (ii) the  
727 eligibility of land to receive Irrigation Water must be established through the certification  
728 requirements as specified in the Acreage Limitation Rules and Regulations (43 CFR  
729 Part 426); (iii) the water requirements of Eligible Lands within the Contractor's Service Area can be  
730 established and the quantity of Irrigation Water to be utilized is less than or equal to the quantity  
731 necessary to irrigate such Eligible Lands; and (iv) if the facilities utilized for commingling Irrigation  
732 Water and are/were constructed with funds made available pursuant to Federal Reclamation law, the  
733 Contractor will be subject to the acreage limitation provisions of Federal Reclamation law, unless the  
734 Contractor pays to the United States the incremental fee described in 43 CFR 426.15. In determining  
735 the incremental fee, the Contracting Officer will calculate annually the cost to the Federal Government,  
736 including interest of storing or delivering, which for purposes of this Contract shall be determined as  
737 follows: The quotient shall be the unpaid distribution system costs divided by the total irrigable  
738 acreage within the Contractor's Service Area. The incremental fee per acre is the mathematical result  
739 of such quotient times the interest rate determined using Section 202 (3) of the Act of October 12, 1982

740 (96 Stat. 1263). Such incremental fee will be charged to each acre of excess or full cost land within the  
741 Contractor's Service Area that receives through Federally financed or constructed facilities. The  
742 incremental fee calculation methodology will continue during the term of this Contract absent the  
743 promulgation of a contrary Reclamation-wide rule, regulation, or policy adopted after the Contractor  
744 has been afforded the opportunity to review and comment on the proposed rule, regulation, or policy.  
745 If such rule, regulation, or policy is adopted it shall supersede this provision.

746 (b) Water or water rights now owned or hereafter acquired by the Contractor, other  
747 than from the United States or adverse to the Project or its contractors (i.e., non-project water ) may be  
748 stored, conveyed, and/or diverted through Project facilities, subject to the completion of appropriate  
749 environmental documentation, with the approval of the Contracting Officer and the execution of any  
750 contract determined by the Contracting Officer to be necessary, consistent with the following  
751 provisions:

752 (1) The Contractor may introduce non-project water into Project facilities  
753 and deliver said water to lands within the Contractor's Service Area, including Ineligible Lands,  
754 subject to payment to the United States of an appropriate rate as determined by the CVP Ratesetting  
755 Policy and the Reclamation Reform Act of 1982, each as amended, modified, or superseded from time  
756 to time. In addition, if electrical power is required to pump non-project water through the facilities, the  
757 Contractor shall be responsible for obtaining the necessary power and paying the necessary charges  
758 therefor.

759 (2) Delivery of such non-project water in and through Project facilities shall  
760 only be allowed to the extent such deliveries do not: (i) interfere with other Project purposes as  
761 determined by the Contracting Officer; (ii) reduce the quantity or quality of water available to other  
762 Project water service contractors; (iii) interfere with the delivery of contractual water entitlements to

763 any other Project water service contractors; or (iv) interfere with the physical maintenance of the  
764 Project facilities; Provided, that nothing in this Article is intended to limit the United States' obligation  
765 to pass the Contractor's Diversion Water through Project storage facilities to the extent required under  
766 the applicable provisions of California law.

767 (3) The United States shall not be responsible for control, care, or  
768 distribution of the non-project water before it is introduced into or after it is delivered from the Project  
769 facilities. The Contractor hereby releases and agrees to defend and indemnify the United States and  
770 their respective officers, agents, and employees, from any claim for damage to persons or property,  
771 direct or indirect, resulting from Contractor's diversion or extraction of non-project water from any  
772 source.

773 (4) Diversion of such non-project water into Project facilities shall be  
774 consistent with all applicable laws, and if involving groundwater, consistent with any groundwater  
775 management plan applicable to the Contractor for the area from which it was extracted.

776 (5) After Project purposes are met, as determined by the Contracting Officer,  
777 the United States and the Contractor shall share priority to utilize the remaining capacity of the  
778 facilities declared to be available by the Contracting Officer for conveyance and transportation of  
779 non-project water prior to any such remaining capacity being made available to non-Project contractors.

780 OPINIONS AND DETERMINATIONS

781 18. (a) Where the terms of this Contract provide for actions to be based upon the opinion  
782 or determination of either party to this Contract, said terms shall not be construed as permitting such  
783 action to be predicated upon arbitrary, capricious, or unreasonable opinions or determinations. Both  
784 parties, notwithstanding any other provisions of this Contract, expressly reserve the right to seek relief

785 from and appropriate adjustment for any such arbitrary, capricious, or unreasonable opinion or  
786 determination. Each opinion or determination by either party shall be provided in a timely manner.  
787 Nothing in subdivision (a) of Article 18 of this Contract is intended to or shall affect or alter the  
788 standard of judicial review applicable under Federal law to any opinion or determination implementing  
789 a specific provision of Federal law embodied in statute or regulation.

790 (b)The Contracting Officer shall have the right to make determinations necessary to administer this  
791 Contract that are consistent with the provisions of this Contract, the laws of the United States and of the  
792 State of California, and the rules and regulations promulgated by the Secretary of the Interior. Such  
793 determinations shall be made in consultation with the Contractor to the extent reasonably practicable.  
794

#### 795 COORDINATION AND COOPERATION

796 19. (a) In order to further their mutual goals and objectives, the Contracting Officer and  
797 the Contractor shall communicate, coordinate, and cooperate with each other, and with other affected  
798 Project Contractors, in order to improve the operation and management of the Project. The  
799 communication, coordination, and cooperation regarding operations and management shall include, but  
800 not be limited to, any action which will or may materially affect the quantity or quality of Project Water  
801 supply, the allocation of Project Water supply, and Project financial matters including, but not limited  
802 to, budget issues. The communication, coordination, and cooperation provided for hereunder shall  
803 extend to all provisions of this Contract. Each party shall retain exclusive decision making authority for  
804 all actions, opinion, and determinations to be made by the respective party.

805 (b) Within one hundred twenty (120) days following the effective date of this  
806 Contract, the Contractor, other affected Project Contractors, and the Contracting Officer shall arrange to  
807 meet with interested Project Contractors to develop a mutually agreeable, written Project-wide process,

808 which may be amended as necessary separate and apart from this Contract. The goal of this process  
809 shall be to provide, to the extent practicable, the means of mutual communication and interaction  
810 regarding significant decisions concerning Project operation and management on a  
811 real-time basis.

812 (c) In light of the factors referred to in subdivision (b) of Article 3 of this Contract, it  
813 is the intent of the Secretary to improve water supply reliability. To carry out this intent:

814 (1) The Contracting Officer will, at the request of the Contractor, assist in the  
815 development of integrated resource management plans for the Contractor. Further, the Contracting  
816 Officer will, as appropriate, seek authorizations for implementation of partnerships to improve water  
817 supply, water quality, and reliability.

818 (2) The Secretary will, as appropriate, pursue program and project  
819 implementation and authorization in coordination with Project Contractors to improve the water supply,  
820 water quality, and reliability of the Project for all Project purposes.

821 (3) The Secretary will coordinate with Project Contractors and the State of  
822 California to seek improved water resource management.

823 (4) The Secretary will coordinate actions of agencies within the Department  
824 of the Interior that may impact the availability of water for Project purposes.

825 (5) The Contracting Officer shall periodically, but not less than annually,  
826 hold division level meetings to discuss Project operations, division level water management activities,  
827 and other issues as appropriate.

828 (d) Without limiting the contractual obligations of the Contracting Officer  
829 hereunder, nothing in this Contract shall be construed to limit or constrain the Contracting Officer's  
830 ability to communicate, coordinate, and cooperate with the Contractor or other interested stakeholders

831 or to make decisions in a timely fashion as needed to protect health, safety, or physical integrity of  
832 structures or facilities. Nothing in this Article shall be construed to limit or constrain the Contracting  
833 Officer's ability to comply with applicable laws.

#### 834 CHARGES FOR DELINQUENT PAYMENTS

835 20. (a) The Contractor shall be subject to interest, administrative, and penalty charges on  
836 delinquent installments or payments. When a payment is not received by the due date, the Contractor  
837 shall pay an interest charge for each day the payment is delinquent beyond the due date. When a  
838 payment becomes sixty (60) days delinquent, the Contractor shall pay an administrative charge to cover  
839 additional costs of billing and processing the delinquent payment. When a payment is delinquent ninety  
840 (90) days or more, the Contractor shall pay an additional penalty charge of six (6%) percent per year for  
841 each day the payment is delinquent beyond the due date. Further, the Contractor shall pay any fees  
842 incurred for debt collection services associated with a delinquent payment.

843 (b) The interest charge rate shall be the greater of the rate prescribed quarterly in the  
844 Federal Register by the Department of the Treasury for application to overdue payments, or the interest  
845 rate of one-half of one (0.5%) percent per month prescribed by Section 6 of the Reclamation Project  
846 Act of 1939 (Public Law 76-260). The interest charge rate shall be determined as of the due date and  
847 remain fixed for the duration of the delinquent period.

848 (c) When a partial payment on a delinquent account is received, the amount received  
849 shall be applied, first to the penalty, second to the administrative charges, third to the accrued interest,  
850 and finally to the overdue payment.

#### 851 EQUAL OPPORTUNITY

852 21. During the performance of this Contract, the Contractor agrees as follows:

853 (a) The Contractor will not discriminate against any employee or applicant for  
854 employment because of race, color, religion, sex, or national origin. The Contractor will take  
855 affirmative action to ensure that applicants are employed, and that employees are treated during  
856 employment, without regard to their race, color, religion, sex, or national origin. Such action shall  
857 include, but not be limited to, the following: Employment, upgrading, demotion, or transfer;  
858 recruitment or recruitment advertising; layoff or termination, rates of payment or other forms of  
859 compensation; and selection for training, including apprenticeship. The Contractor agrees to post in  
860 conspicuous places, available to employees and applicants for employment, notices to be provided by  
861 the Contracting Officer setting forth the provisions of this nondiscrimination clause.

862 (b) The Contractor will, in all solicitations or advertisements for employees placed  
863 by or on behalf of the Contractor, state that all qualified applicants will receive consideration for  
864 employment without discrimination because of race, color, religion, sex, or national origin.

865 (c) The Contractor will send to each labor union or representative of workers with  
866 which it has a collective bargaining agreement or other contract or understanding, a notice, to be  
867 provided by the Contracting Officer, advising the said labor union or workers' representative of the  
868 Contractor's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and  
869 shall post copies of the notice in conspicuous places available to employees and applicants for  
870 employment.

871 (d) The Contractor will comply with all provisions of Executive Order  
872 No. 11246 of September 24, 1965, as amended, and of the rules, regulations, and relevant orders of the  
873 Secretary of Labor.

874 (e) The Contractor will furnish all information and reports required by said amended  
875 Executive Order and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto,  
876 and will permit access to its books, records, and accounts by the Contracting Officer and the Secretary  
877 of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

878 (f) In the event of the Contractor's noncompliance with the nondiscrimination  
879 clauses of this Contract or with any of the said rules, regulations, or orders, this Contract may be  
880 canceled, terminated, or suspended, in whole or in part, and the Contractor may be declared ineligible  
881 for further Government contracts in accordance with procedures authorized in said amended Executive  
882 Order, and such other sanctions may be imposed and remedies invoked as provided in said Executive  
883 Order, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

884 (g) The Contractor will include the provisions of paragraphs (a) through (g) in every  
885 subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of  
886 Labor issued pursuant to Section 204 of said amended Executive Order, so that such provisions will be  
887 binding upon each subcontractor or vendor. The Contractor will take such action with respect to any  
888 subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such  
889 provisions, including sanctions for noncompliance: Provided, however, That in the event the  
890 Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a  
891 result of such direction, the Contractor may request the United States to enter into such litigation to  
892 protect the interests of the United States.

893 GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

894 22. (a) The obligation of the Contractor to pay the United States as provided in this  
895 Contract is a general obligation of the Contractor notwithstanding the manner in which the obligation  
896 may be distributed among the Contractor's water users and notwithstanding the default of individual  
897 water users in their obligations to the Contractor.

898 (b) The payment of charges becoming due hereunder is a condition precedent to  
899 receiving benefits under this Contract. The United States shall not make water available to the  
900 Contractor through Project facilities during any period in which the Contractor may be in arrears in the  
901 advance payment of water rates due the United States. The Contractor shall not furnish water made  
902 available pursuant to this Contract for lands or parties which are in arrears in the advance payment of

903 water rates levied or established by the Contractor.

904 (c) With respect to subdivision (b) of this Article, the Contractor shall have no  
905 obligation to require advance payment for water rates which it levies.

906 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

907 23. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964 (42  
908 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (P.L. 93-112, as amended), the Age  
909 Discrimination Act of 1975 (42 U.S.C. 6101, et seq.) and any other applicable civil rights laws, as well  
910 as with their respective implementing regulations and guidelines imposed by the U.S. Department of the  
911 Interior and/or Bureau of Reclamation.

912 (b) These statutes require that no person in the United States shall, on the grounds of  
913 race, color, national origin, handicap, or age, be excluded from participation in, be denied the benefits  
914 of, or be otherwise subjected to discrimination under any program or activity receiving financial  
915 assistance from the Bureau of Reclamation. By executing this Contract, the Contractor agrees to  
916 immediately take any measures necessary to implement this obligation, including permitting officials of  
917 the United States to inspect premises, programs, and documents.

918 (c) The Contractor makes this agreement in consideration of and for the purpose of  
919 obtaining any and all Federal grants, loans, contracts, property discounts, or other Federal financial  
920 assistance extended after the date hereof to the Contractor by the Bureau of Reclamation, including  
921 installment payments after such date on account of arrangements for Federal financial assistance which  
922 were approved before such date. The Contractor recognizes and agrees that such Federal assistance will  
923 be extended in reliance on the representations and agreements made in this Article, and that the United  
924 States reserves the right to seek judicial enforcement thereof.

925 PRIVACY ACT COMPLIANCE

926 24. (a) The Contractor shall comply with the Privacy Act of 1974 (5 U.S.C. 552a) (the  
927 Act) and the Department of the Interior rules and regulations under the Act (43 CFR 2.45 et seq.) in  
928 maintaining Landholder acreage certification and reporting records, required to be submitted to the  
929 Contractor for compliance with Sections 206 and 228 of the Reclamation Reform Act of 1982 (96 Stat.  
930 1266), and pursuant to 43 CFR 426.18.

931 (b) With respect to the application and administration of the criminal penalty  
932 provisions of the Act (5 U.S.C. 552a(i)), the Contractor and the Contractor's employees responsible for  
933 maintaining the certification and reporting records referenced in (a) above are considered to be  
934 employees of the Department of the Interior. See 5 U.S.C. 552a(m).

935 (c) The Contracting Officer or a designated representative shall provide the  
936 Contractor with current copies of the Interior Department Privacy Act regulations and the Bureau of

937 Reclamation Federal Register Privacy Act System of Records Notice (Acreage Limitation--Interior,  
938 Reclamation-31) which govern the maintenance, safeguarding, and disclosure of information contained  
939 in the Landholder's certification and reporting records.

940 (d) The Contracting Officer shall designate a full-time employee of the Bureau of  
941 Reclamation to be the System Manager who shall be responsible for making decisions on denials  
942 pursuant to 43 CFR 2.61 and 2.64 amendment requests pursuant to 43 CFR 2.72. The Contractor is  
943 authorized to grant requests by individuals for access to their own records.

944 (e) The Contractor shall forward promptly to the System Manager each proposed  
945 denial of access under 43 CFR 2.64; and each request for amendment of records filed under 43 CFR  
946 2.71; notify the requester accordingly of such referral; and provide the System Manager with  
947 information and records necessary to prepare an appropriate response to the requester. These  
948 requirements do not apply to individuals seeking access to their own certification and reporting forms  
949 filed with the Contractor pursuant to 43 CFR 426.18, unless the requester elects to cite the Privacy Act  
950 as a basis for the request.

951 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

952 25. In addition to all other payments to be made by the Contractor pursuant to this Contract,  
953 the Contractor shall pay to the United States, within sixty (60) days after receipt of a bill and detailed  
954 statement submitted by the Contracting Officer to the Contractor for such specific items of direct cost  
955 incurred by the United States for work requested by the Contractor associated with this Contract plus  
956 indirect costs in accordance with applicable Bureau of Reclamation policies and procedures. All such  
957 amounts referred to in this Article shall not exceed the amount agreed to in writing in advance by the  
958 Contractor. This Article shall not apply to costs for routine contract administration.

959 WATER CONSERVATION

960 26. (a) Prior to the delivery of water provided from or conveyed through Federally  
961 constructed or Federally financed facilities pursuant to this Contract, the Contractor shall be  
962 implementing an effective water conservation and efficiency program based on the Contractor's water  
963 conservation plan that has been determined by the Contracting Officer to meet the conservation and  
964 efficiency criteria for evaluating water conservation plans established under Federal law. The water

965 conservation and efficiency program shall contain definite water conservation objectives, appropriate  
966 economically feasible water conservation measures, and time schedules for meeting those objectives.  
967 Continued Project Water delivery pursuant to this Contract shall be contingent upon the Contractor's  
968 continued implementation of such water conservation program. In the event the Contractor's water  
969 conservation plan or any revised water conservation plan completed pursuant to subdivision (d) of  
970 Article 26 of this Contract have not yet been determined by the Contracting Officer to meet such  
971 criteria, due to circumstances which the Contracting Officer determines are beyond the control of the  
972 Contractor, water deliveries shall be made under this Contract so long as the Contractor diligently  
973 works with the Contracting Officer to obtain such determination at the earliest practicable date, and  
974 thereafter the Contractor immediately begins implementing its water conservation and efficiency  
975 program in accordance with the time schedules therein.

976 (b) Should the amount of M&I Water delivered pursuant to subdivision (a) of Article  
977 3 of this Contract equal or exceed two thousand (2,000) acre-feet per Year, the Contractor shall  
978 implement the Best Management Practices identified by the time frames issued by the California Urban  
979 Water Conservation Council for such M&I Water unless any such practice is determined by the  
980 Contracting Officer to be inappropriate for the Contractor.

981 (c) The Contractor shall submit to the Contracting Officer a report on the status of its  
982 implementation of the water conservation plan on the reporting dates specified in the then existing  
983 conservation and efficiency criteria established under Federal law.

984 (d) At five (5)-year intervals, the Contractor shall revise its water conservation plan  
985 to reflect the then current conservation and efficiency criteria for evaluating water conservation plans  
986 established under Federal law and submit such revised water management plan to the Contracting  
987 Officer for review and evaluation. The Contracting Officer will then determine if the water

988 conservation plan meets Reclamation's then current conservation and efficiency criteria for evaluating  
989 water conservation plans established under Federal law.

990 (e) If the Contractor is engaged in direct groundwater recharge, such activity shall be  
991 described in the Contractor's water conservation plan. Such Water Conservation Plan shall  
992 demonstrate sufficient lawful uses exist in the Contractor's Service Area so that using a long-term  
993 average, the quantity of Delivered Water is demonstrated to be reasonable for such uses and in  
994 compliance with Reclamation Law.

#### 995 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

996 27. Except as specifically provided in Article 17 of this Contract, the provisions of this  
997 Contract shall not be applicable to or affect non-project water or water rights now owned or hereafter  
998 acquired by the Contractor or any user of such water within the Contractor's Service Area. Any such  
999 water shall not be considered Project Water under this Contract. In addition, this Contract shall not be  
1000 construed as limiting or curtailing any rights which the Contractor or any water user within the  
1001 Contractor's Service Area acquires or has available under any other contract pursuant to Federal  
1002 Reclamation law.

#### 1003 OPERATION AND MAINTENANCE BY NON-FEDERAL ENTITY

1004 28. Omitted.

#### 1005 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

1006 29. The expenditure or advance of any money or the performance of any obligation of the  
1007 United States under this Contract shall be contingent upon appropriation or allotment of funds.  
1008 Absence of appropriation or allotment of funds shall not relieve the Contractor from any obligations  
1009 under this Contract. No liability shall accrue to the United States in case funds are not appropriated or  
1010 allotted.

1011 BOOKS, RECORDS, AND REPORTS

1012 30. (a) The Contractor shall establish and maintain accounts and other books and records  
1013 pertaining to administration of the terms and conditions of this Contract, including: the Contractor's  
1014 financial transactions, water supply data, and Project land and right-of-way agreements; the water users'  
1015 land-use (crop census), land ownership, land-leasing and water use data; and other matters that the  
1016 Contracting Officer may require. Reports thereon shall be furnished to the Contracting Officer in such  
1017 form and on such date or dates as the Contracting Officer may require. Subject to applicable Federal  
1018 laws and regulations, each party to this Contract shall have the right during office hours to examine and  
1019 make copies of the other party's books and records relating to matters covered by this Contract.

1020 (b) Notwithstanding the provisions of subdivision (a) of this Article, no books,  
1021 records, or other information shall be requested from the Contractor by the Contracting Officer unless  
1022 such books, records, or information are reasonably related to the administration or performance of this  
1023 Contract. Any such request shall allow the Contractor a reasonable period of time within which to  
1024 provide the requested books, records, or information.

1025 (c) Omitted.

1026 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

1027 31. (a) The provisions of this Contract shall apply to and bind the successors and assigns  
1028 of the parties hereto, but no assignment or transfer of this Contract or any right or interest therein shall  
1029 be valid until approved in writing by the Contracting Officer.

1030 (b) The assignment of any right or interest in this Contract by either party shall not  
1031 interfere with the rights or obligations of the other party to this Contract absent the written concurrence  
1032 of said other party.

1033 (c) The Contracting Officer shall not unreasonably condition or withhold approval of  
1034 any proposed assignment.

1035 SEVERABILITY

1036 32. In the event that a person or entity who is neither (i) a party to a Project contract, nor (ii)  
1037 a person or entity that receives Project Water from a party to a Project contract, nor (iii) an association

1038 or other form of organization whose primary function is to represent parties to Project contracts, brings  
1039 an action in a court of competent jurisdiction challenging the legality or enforceability of a provision  
1040 included in this Contract and said person, entity, association, or organization obtains a final court  
1041 decision holding that such provision is legally invalid or unenforceable and the Contractor has not  
1042 intervened in that lawsuit in support of the plaintiff(s), the parties to this Contract shall use their best  
1043 efforts to (i) within thirty (30) days of the date of such final court decision identify by mutual agreement  
1044 the provisions in this Contract which must be revised and (ii) within three (3) months thereafter  
1045 promptly agree on the appropriate revision(s). The time periods specified above may be extended by  
1046 mutual agreement of the parties. Pending the completion of the actions designated above, to the extent  
1047 it can do so without violating any applicable provisions of law, the United States shall continue to make  
1048 the quantities of Project Water specified in this Contract available to the Contractor pursuant to the  
1049 provisions of this Contract which were not found to be legally invalid or unenforceable in the final  
1050 court decision.

1051 RESOLUTION OF DISPUTES

1052 33. Should any dispute arise concerning any provisions of this Contract, or the parties' rights  
1053 and obligations thereunder, the parties shall meet and confer in an attempt to resolve the dispute. Prior  
1054 to the Contractor commencing any legal action, or the Contracting Officer referring any matter to  
1055 Department of Justice, the party shall provide to the other party thirty (30) days' written notice of the  
1056 intent to take such action; Provided, That such notice shall not be required where a delay in  
1057 commencing an action would prejudice the interests of the party that intends to file suit. During the  
1058 thirty (30)-day notice period, the Contractor and the Contracting Officer shall meet and confer in an  
1059 attempt to resolve the dispute. Except as specifically provided, nothing herein is intended to waive or  
1060 abridge any right or remedy that the Contractor or the United States may have.

1061 OFFICIALS NOT TO BENEFIT

1062 34. No Member of or Delegate to Congress, Resident Commissioner, or official of the  
1063 Contractor shall benefit from this Contract other than as a water user or landowner in the same manner  
1064 as other water users or landowners.

1065 CHANGES IN CONTRACTOR'S SERVICE AREA

1066 35. (a) While this Contract is in effect, no change may be made in the Contractor's  
1067 Service Area or boundaries, by inclusion or exclusion of lands, dissolution, consolidation, merger, or  
1068 otherwise, except upon the Contracting Officer's written consent.

1069 (b) Within thirty (30) days of receipt of a request for such a change, the Contracting  
1070 Officer will notify the Contractor of any additional information required by the Contracting Officer for  
1071 processing said request, and both parties will meet to establish a mutually agreeable schedule for timely  
1072 completion of the process. Such process will analyze whether the proposed change is likely to: (i)  
1073 result in the use of Project Water contrary to the terms of this Contract; (ii) impair the ability of the  
1074 Contractor to pay for Project Water furnished under this Contract or to pay for any Federally  
1075 constructed facilities for which the Contractor is responsible; and (iii) have an impact on any Project  
1076 Water rights applications, permits, or licenses. In addition, the Contracting Officer shall comply with  
1077 the National Environmental Policy Act and the Endangered Species Act. The Contractor will be  
1078 responsible for all costs incurred by the Contracting Officer in this process, and such costs will be paid  
1079 in accordance with Article 25 of this Contract.

1080 FEDERAL LAWS

1081 36. By entering into this Contract, the Contractor does not waive its rights to contest the  
1082 validity or application in connection with the performance of the terms and conditions of this Contract  
1083 of any Federal law or regulation; Provided, That the Contractor agrees to comply with the terms and  
1084 conditions of this Contract unless and until relief from application of such Federal law or regulation to

1085 the implementing provision of the Contract is granted by a court of competent jurisdiction.

1086 NOTICES

1087 37. Any notice, demand, or request authorized or required by this Contract shall be deemed  
1088 to have been given, on behalf of the Contractor, when mailed, postage prepaid, or delivered to the Area  
1089 Manager, Bureau of Reclamation, 7794 Folsom Dam Road, Folsom, California 95630-1799, and on  
1090 behalf of the United States, when mailed, postage prepaid, or delivered to the Board of Directors of the  
1091 Placer County Water Agency, P.O. Box 6570, Auburn, California 95604. The designation of the  
1092 addressee or the address may be changed by notice given in the same manner as provided in this Article  
1093 for other notices.

1094 CONFIRMATION OF CONTRACT

1095 38. The Contractor, after the execution of this Contract, shall promptly seek to secure a  
1096 decree of a court of competent jurisdiction of the State of California, confirming the execution of this  
1097 Contract. The Contractor shall furnish the United States a certified copy of the final decree, the  
1098 validation proceedings, and all pertinent supporting records of the court approving and confirming this  
1099 Contract, and decreeing and adjudging it to be lawful, valid, and binding on the Contractor.

1100 IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the day  
1101 and year first above written.

1102 THE UNITED STATES OF AMERICA

1103 By: \_\_\_\_\_  
1104 Regional Director, Mid-Pacific Region  
1105 Bureau of Reclamation

1106 (SEAL)

1107 PLACER COUNTY WATER AGENCY

1108 By: \_\_\_\_\_  
1109 President of the Board of Directors

1110 Attest:

1111 By: \_\_\_\_\_  
1112 Secretary of the Board of Directors

1113 (H:\public\amendatory1022.wpd)

EXHIBIT A

[Map or Description of Service Area]

EXHIBIT B  
[Initial Rates and Charges]

PLACER COUNTY WATER AGENCY  
CONTRACT NO. 14-06-200-5082A

	<u>2002 Rates</u>	<u>Per Acre-Foot</u>
	<u>M&amp;I</u>	<u>Irrigation</u>
<u>O&amp;M AND COST-OF-SERVICE RATES:</u>		
Capital Rate:	\$18.42	\$ 0.09
O&M Rate:	\$12.71	\$ 6.47
Water Marketing	\$7.05	\$6.47
Storage	5.66	0.00
Conveyance	0.00	0.00
Deficit Rate:	<u>\$ 0.00</u>	<u>\$ 0.00</u>
TOTAL COST-OF-SERVICE(COS) RATE:	\$31.13	\$ 6.56
TIERED PRICING COMPONENT >80% <90% OF CONTRACT TOTAL(M&I Full Cost Rate - COS rate / 2):		
	\$ _____	\$ _____
TIERED PRICING COMPONENT > 90% OF CONTRACT TOTAL (M&I Full Cost Rate - COS rate):		
	\$ _____	\$ _____
<u>M&amp;I FULL COST RATE:</u>		
Interest rates used in the calculation of the M&I Full Cost Rate shall comply with the Interest Rate methodology contained in Section 202 (3) (B) and (C) of the Reclamation Reform Act of October 12, 1982 (96 Stat. 1263), as amended;		
	\$ _____	\$ 0.00
<u>SURCHARGES UNDER P.L. 102-575 TO RESTORATION FUND**</u>		
Restoration Payments [3407(d)(2)(A)]	\$15.08	\$ 7.54

\*\* The surcharges are payments in addition to the water rates and are determined pursuant to Title XXXIV of P.L. 102-575. Restoration Fund surcharges under P.L. 102-575 are on a fiscal year basis (10/1 -9/30).