

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

5 LONG-TERM RENEWAL CONTRACT BETWEEN THE UNITED STATES
6 AND
7 CITY OF HURON
8 PROVIDING FOR PROJECT WATER SERVICE
9 FROM SAN LUIS UNIT

10 THIS CONTRACT, made this _____ day of _____, 2001, in pursuance
11 generally of the Act of June 17, 1902 (32 Stat. 388), and acts amendatory or supplementary thereto,
12 including, but not limited to, the Acts of August 26, 1937 (50 Stat. 844), as amended and
13 supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented, July 2, 1956 (70 Stat.
14 483), June 21, 1963 (77 Stat. 68), October 12, 1982 (96 Stat. 1262), October 27, 1986 (100 Stat.
15 3050), as amended, and Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706), all collectively
16 hereinafter referred to as Federal Reclamation law, between THE UNITED STATES OF AMERICA,
17 hereinafter referred to as the United States, and **CITY OF HURON**, hereinafter referred to as the
18 Contractor, a public agency of the State of California, duly organized, existing, and acting pursuant to
19 the laws thereof, with its principal place of business in California;

20 WITNESSETH, That:

21 EXPLANATORY RECITALS

22 [1st] WHEREAS, the United States has constructed and is operating the Central Valley
23 Project, California, for diversion, storage, carriage, distribution and beneficial use, for flood control,

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

28 [2nd] WHEREAS, the United States constructed the **San Luis Unit** and related facilities,
29 hereinafter collectively referred to as the **San Luis Unit** facilities, which will be used in part for the
30 furnishing of water to the Contractor pursuant to the terms of this Contract; and

31 [3rd] WHEREAS, the rights to Project Water were acquired by the United States pursuant to
32 California law for operation of the Project; and

33 [4th] WHEREAS, the Contractor and the United States entered into Contract No. **14-06-**
34 **200-7081A**, as amended, which established terms for the delivery to the Contractor of Project Water
35 from the **San Luis Unit** from **September 26, 1972**, through **December 31 ,2008**; and

36 [5th] WHEREAS, the Contractor and the United States have pursuant to Subsection
37 **3404(c)(3) of the Central Valley Project Improvement Act (CVPIA)**, subsequently entered into a
38 **Binding Agreement identified as Binding Agreement No. 14-06-200-7081A-BA**, which provided
39 **for the non-payment of the additional mitigation and restoration charges if the Contractor**
40 **agreed to renew their contract after completion of the Programmatic Environmental Impact**
41 **Statement and negotiation of a renewal contract; and**

42 [6th] WHEREAS, Section 3404(c) of the CVPIA provides for long-term renewal of interim
43 and existing long-term Project Water service contracts following completion of appropriate

44 environmental documentation, including a programmatic environmental impact statement (PEIS)
45 pursuant to the National Environmental Policy Act analyzing the direct and indirect impacts and
46 benefits of implementing the CVPIA and the potential renewal of all existing contracts for Project
47 Water; and

48 [7th] WHEREAS, the United States has completed the PEIS and all other appropriate
49 environmental review necessary to provide for long-term renewal of the Existing Contract; and

50 [8th] WHEREAS, the Contractor has requested the long-term renewal of the Existing
51 Contract, pursuant to the terms of the Existing Contract, Federal Reclamation law, and the laws of the
52 State of California, for water service from the Central Valley Project; and

53 [9th] WHEREAS, the United States has determined that the Contractor has fulfilled all of
54 its obligations under the Existing Contract; and

55 [10th] WHEREAS, the Contractor has demonstrated to the satisfaction of the Contracting
56 Officer that the Contractor has utilized the Project Water supplies available to it for reasonable and
57 beneficial use and/or has demonstrated projected future demand for water use such that the Contractor
58 has the capability and expects to utilize fully for reasonable and beneficial use the quantity of Project
59 Water to be made available to it pursuant to this Contract; and

60 [11th] WHEREAS, water obtained from the Central Valley Project has been relied upon by
61 urban and agricultural areas within California for more than fifty (50) years, and is considered by the
62 Contractor as an essential portion of its water supply; and

63 [12th] WHEREAS, the economies of regions within the Central Valley Project, including the
64 Contractor's, depend upon the continued availability of water, including water service from the

65 Central Valley Project; and

66 [13th] WHEREAS, the Secretary intends through coordination, cooperation, and partnerships
67 to pursue measures to improve water supply, water quality, and reliability of the Project for all Project
68 purposes; and

69 [14th] WHEREAS, the mutual goals of the United States and the Contractor include: to
70 provide for reliable Project Water supplies; to control costs of those supplies; to achieve repayment of
71 the Central Valley Project as required by law; to guard reasonably against Project Water shortages; to
72 achieve a reasonable balance among competing demands for use of Project Water; and to comply
73 with all applicable environmental statutes, all consistent with the legal obligations of the United
74 States relative to the Central Valley Project; and

75 [14.1] WHEREAS, the United States and the Contractor acknowledge that the Base Supply
76 as defined in this Contract is a more accurate reflection of the amount of water the Contractor may
77 realistically expect in many water years in light of such present conditions and expectations, and that
78 the Base Supply Contract Total does not preclude delivery to the Contractor of a Supplemental
79 Supply of Project Water as defined herein; and

80 [15th] WHEREAS, the parties intend by this Contract to develop a more cooperative
81 relationship in order to achieve their mutual goals; and

82 [16th] WHEREAS, the United States and the Contractor are willing to enter into this long-
83 term renewal contract pursuant to Federal Reclamation law on the terms and conditions set forth
84 below;

85 NOW, THEREFORE, in consideration of the mutual and dependent covenants herein

86 contained, it is hereby mutually agreed by the parties hereto as follows:

87 DEFINITIONS

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

90 (a) Omitted;

91 (a.1) "Calendar Year" shall mean the period January 1 through December 31, both
92 dates inclusive;

93 (b) "Charges" shall mean the payments required by Federal Reclamation law in
94 addition to the Rates and Tiered Pricing Components specified in this Contract as determined
95 annually by the Contracting Officer pursuant to this Contract;

96 (c) "Condition of Shortage" shall mean a condition respecting the Project during
97 any Year such that the Contracting Officer is unable to deliver sufficient water to meet the Contract
98 Total;

99 (d) "Contracting Officer" shall mean the Secretary of the Interior's duly authorized
100 representative acting pursuant to this Contract or applicable Reclamation law or regulation;

101 (e) "Contract Total" shall mean the maximum amount of water to which the
102 Contractor is entitled under subdivision (a) of Article 3 of this Contract;

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

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

109 (h) Omitted;

110 (i) Omitted;

111 (j) Omitted;

112 (k) Omitted;

113 (l) Omitted;

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

117 (n) Omitted;

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

125 (p) "M&I Full Cost Water Rate" shall mean the annual rate, which, as determined
126 by the Contracting Officer, shall amortize the expenditures for construction allocable to Project M&I
127 facilities in service, including, O&M deficits funded, less payments, over such periods as may be

128 required under Federal Reclamation law with interest accruing from the dates such costs were first
129 incurred plus the applicable rate for the O&M of such Project facilities. Interest rates used in the
130 calculation of the M&I Full Cost Rate shall comply with the Interest Rate methodology contained in
131 Section 202 (3) (B) and (C) of the Reclamation Reform Act of 1982;

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

135 (r) "Operating Non-Federal Entity" shall mean the San Luis & Delta-Mendota
136 Water Authority, a Non-Federal entity which has the obligation to operate and maintain all or a
137 portion of the **San Luis Unit** facilities pursuant to an agreement with the United States, and which
138 may have funding obligations with respect thereto;

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

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

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

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

170 **20__**. In the event the Contractor wishes to renew the Contract beyond **February 28, 20__**, the
171 Contractor shall submit a request for renewal in writing to the Contracting Officer no later than two
172 (2) years prior to the date this Contract expires. The renewal of this Contract insofar as it pertains to
173 the furnishing of M&I Water to the Contractor shall be governed by subdivision (c) of this Article.

174 (b) Omitted.

175 (c) This Contract, insofar as it pertains to the furnishing of M&I Water to the
176 Contractor, shall be renewed for a period of twenty-five (25) years and thereafter shall be renewed for
177 successive periods of up to forty (40) years each, which periods shall be consistent with the then-
178 existing Reclamation-wide policy, under terms and conditions mutually agreeable to the parties and
179 consistent with Federal and State law. The present Reclamation-wide policy, dated March 20, 2000,
180 provides that the term of such contracts shall be no more than twenty-five (25) years each, subject to a
181 variance to allow a longer term in appropriate circumstances. The Contractor shall be afforded the
182 opportunity to comment to the Contracting Officer on the proposed adoption and application of any
183 revised Reclamation-wide policy applicable to the delivery of Project M&I Water that would affect
184 the term of any subsequent renewal contract with the Contractor for the furnishing of M&I Water
185 twenty-five (25) years.

186 (d) The Contracting Officer anticipates that by December 31, 2024, all
187 authorized Project construction expected to occur will have occurred, and on that basis the
188 Contracting Officer agrees by that date to allocate all costs that are properly assignable to the
189 Contractor, and agrees further that, at any time after such allocation is made, and subject to
190 satisfaction of the condition set out in this subdivision, this Contract shall, at the request of the

191 Contractor, be converted to a contract under subsection (c)(1) of Section 9 of the Reclamation
192 Project Act of 1939, subject to applicable Federal law and under stated terms and conditions mutually
193 agreeable to the Contractor and the Contracting Officer. A condition for such conversion to occur
194 shall be a determination by the Contracting Officer that, account being taken of the amount credited
195 to return by the Contractor as provided for under Reclamation law, the remaining amount of
196 construction costs assignable for ultimate return by the Contractor can probably be repaid to the
197 United States within the term of a contract under said subsection 9(c)(1). If the remaining amount of
198 costs that are properly assignable to the Contractor cannot be determined by December 31, 2024, the
199 Contracting Officer shall notify the Contractor, and provide the reason(s) why such a determination
200 could not be made. Further, the Contracting Officer shall make such a determination as soon
201 thereafter as possible so as to permit, upon request of the Contractor and satisfaction of the conditions
202 set out above, conversion to a contract under said subsection 9(c)(1). In the event such determination
203 of costs has not been made at a time which allows conversion of this Contract during the term of this
204 Contract or the Contractor has not requested conversion of this Contract within such term, the parties
205 shall incorporate in any subsequent renewal contract as described in Article 2(c) a provision that
206 carries forth in substantially identical terms the provisions of this Article 2(d). In the event the
207 Contracting Officer is able to make a determination of the remaining amount of costs that are
208 properly assignable to the Contractor before December 31, 2024, the Contracting Officer shall do so
209 at the earliest time the Contracting Officer has such ability.

210 (e) **The parties hereto acknowledge and agree that Part A of Contract No. 14-**
211 **06-200-7080A, hereinafter referred to as the Original Contract, as amended, is replaced by this**

212 **Contract. The respective duties, covenants, and obligations of the parties in Original Contract,**
213 **as amended, which are not replaced by this Contract shall continue in full force and effect,**
214 **pending prompt completion of good faith negotiations between the parties to agree upon an**
215 **amendatory contract. Part B of the Original Contract provides for the construction, operation,**
216 **maintenance and repayment of a distribution system which part remains in force and effect.**

217 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

218 3. (a) During each Year, consistent with all applicable State water rights, permits,
219 and licenses; Federal law; and subject to the provisions set forth in Articles 11 and 12 of this
220 Contract, the Contracting Officer shall make available for delivery to the Contractor **3,000 acre-feet**
221 **of water for M&I purposes.** The quantity of Water Delivered to the Contractor in accordance with
222 this subdivision shall be scheduled and paid for pursuant to the provisions of Articles 4 and 7 of this
223 Contract.

224 (b) Because the capacity of the Central Valley Project to deliver Project Water has
225 been constrained in recent years and may be constrained in the future due to many factors including
226 hydrologic conditions and implementation of Federal and State laws, the likelihood of the Contractor
227 actually receiving the amount of water set out in subdivision (a) of this Article in any given Year is
228 uncertain. The Contracting Officer's most recent modeling referenced in the PEIS projected that the
229 Contract Total set forth in subdivision (a) of this article will not be available to the Contractor in
230 many years. During the most recent five (5) years, the Recent Historic Average made available to the
231 Contractor was **2,850 acre-feet.** Nothing in subdivision (b) of this Article shall affect the rights and

232 obligations of the parties under any provision of this Contract.

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

235 (d) The Contractor shall make reasonable and beneficial use of all Project Water or
236 other water furnished pursuant to this Contract. Groundwater recharge programs, groundwater
237 banking programs, surface water storage programs, and other similar programs utilizing Project
238 Water or other water furnished pursuant to this Contract conducted within the Contractor's Service
239 Area which are consistent with applicable State law and result in use consistent with Reclamation law
240 will be allowed; Provided, That any direct recharge program(s) is (are) described in the Contractor's
241 Water Conservation Plan submitted pursuant to Article 26 of this Contract; Provided, further, That
242 such Water Conservation Plan demonstrates sufficient lawful uses exist in the Contractor's Service
243 Area so that using a long-term average, the quantity of Delivered Water is demonstrated to be
244 reasonable for such uses and in compliance with Reclamation law. Groundwater recharge programs,
245 groundwater banking programs, surface water storage programs, and other similar programs utilizing
246 Project Water or other water furnished pursuant to this Contract conducted outside the Contractor's
247 Service Area may be permitted upon written approval of the Contracting Officer, which approval will
248 be based upon environmental documentation, Project Water rights, and Project operational concerns.
249 The Contracting Officer will address such concerns in regulations, policies, or guidelines.

250 (e) The Contractor shall comply with requirements applicable to the Contractor in
251 biological opinion(s) prepared as a result of a consultation regarding the execution of this Contract
252 undertaken pursuant to Section 7 of the Endangered Species Act of 1973, as amended, that are within

253 the Contractor's legal authority to implement. The Contractor shall comply with the limitations or
254 requirements imposed by environmental documentation applicable to the Contractor and within its
255 legal authority to implement regarding specific activities. Nothing herein shall be construed to
256 prevent the Contractor from challenging or seeking judicial relief in a court of competent jurisdiction
257 with respect to any biological opinion or other environmental documentation referred to in this
258 Article.

259 (f) Following the declaration of Water Made Available under Article 4 of this
260 Contract, the Contracting Officer will make a determination whether Project Water, or other water
261 available to the Project, can be made available to the Contractor in addition to the Contract Total
262 under Article 3 of this Contract during the Year without adversely impacting other Project
263 Contractors. At the request of the Contractor, the Contracting Officer will consult with the
264 Contractor prior to making such a determination. If the Contracting Officer determines that Project
265 Water, or other water available to the Project, can be made available to the Contractor, the
266 Contracting Officer will announce the availability of such water and shall so notify the Contractor as
267 soon as practical. The Contracting Officer will thereafter meet with the Contractor and other Project
268 Contractors capable of taking such water to determine the most equitable and efficient allocation of
269 such water. If the Contractor requests the delivery of any quantity of such water, the Contracting
270 Officer shall make such water available to the Contractor in accordance with applicable statutes,
271 regulations, guidelines, and policies.

272 (g) The Contractor may request permission to reschedule for use during the
273 subsequent Year some or all of the Water Made Available to the Contractor during the current Year

274 referred to as “carryover.” The Contractor may request permission to use during the current Year a
275 quantity of Project Water which may be made available by the United States to the Contractor during
276 the subsequent Year referred to as “preuse.” The Contracting Officer’s written approval may permit
277 such uses in accordance with applicable statutes, regulations, guidelines, and policies.

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

285 (i) Project Water furnished to the Contractor pursuant to this Contract may be
286 delivered for purposes other than those described in subdivisions (m) and (o) of Article 1 of this
287 Contract upon written approval by the Contracting Officer in accordance with the terms and
288 conditions of such approval.

289 (j) The Contracting Officer shall make reasonable efforts to protect the water
290 rights necessary for the Project and to provide the water available under this Contract. The
291 Contracting Officer shall not object to participation by the Contractor, in the capacity and to the
292 extent permitted by law, in administrative proceedings related to the Project Water rights; Provided,
293 however, That the Contracting Officer retains the right to object to the substance of the Contractor’s
294 position in such a proceeding.

TIME FOR DELIVERY OF WATER

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(4) (a) On or about February 20 of each Calendar Year, the Contracting Officer shall announce the Contracting Officer's expected declaration of the Water Made Available. The declaration will be updated monthly, and more frequently if necessary, based on then-current operational and hydrologic conditions and a new declaration with changes, if any, to the Water Made Available will be made. The Contracting Officer shall provide forecasts of Project operations and the basis of the estimate, with relevant supporting information, upon the written request of the Contractor. Concurrently with the declaration of the Water Made Available, the Contracting Officer shall provide the Contractor with the updated Recent Historic Average. The declaration of Project operations will be expressed in terms of both Water Made Available and the Recent Historic Average.

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

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

(d) Subject to the conditions set forth in subdivision (a) of Article 3 of this

316 Contract, the United States shall deliver Project Water to the Contractor in accordance with the initial
317 schedule submitted by the Contractor pursuant to subdivision (b) of this Article, or any written
318 revision(s), satisfactory to the Contracting Officer, thereto submitted within a reasonable time prior to
319 the date(s) on which the requested change(s) is/are to be implemented.

320 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

321 5. (a) Project Water scheduled pursuant to subdivision (b) of Article 4 of this
322 Contract shall be delivered to the Contractor at a point or points of delivery either on Project facilities
323 or another location or locations mutually agreed to in writing by the Contracting Officer and the
324 Contractor.

325 (b) The Contracting Officer, the Operating Non-Federal Entity, or other
326 appropriate entity shall make all reasonable efforts to maintain sufficient flows and levels of water in
327 the Project facilities to deliver Project Water to the Contractor at specific turnouts established
328 pursuant to subdivision (a) of this Article.

329 (c) The Contractor shall not deliver Project Water to land outside the Contractor's
330 Service Area unless approved in advance by the Contracting Officer.

331 (d) All Water Delivered to the Contractor pursuant to this Contract shall be
332 measured and recorded with equipment furnished, installed, operated, and maintained by the United
333 States, the Operating Non-Federal Entity or other appropriate entity as designated by the Contracting
334 Officer (hereafter "other appropriate entity") at the point or points of delivery established pursuant to
335 subdivision (a) of this Article. Upon the request of either party to this Contract, the Contracting
336 Officer shall investigate, or cause to be investigated by the responsible Operating Non-Federal Entity,

337 the accuracy of such measurements and shall take any necessary steps to adjust any errors appearing
338 therein. For any period of time when accurate measurements have not been made, the Contracting
339 Officer shall consult with the Contractor and the responsible Operating Non-Federal Entity prior to
340 making a final determination of the quantity delivered for that period of time.

341 (e) Neither the Contracting Officer nor any Operating Non-Federal Entity shall be
342 responsible for the control, carriage, handling, use, disposal, or distribution of Project Water
343 Delivered to the Contractor pursuant to this Contract beyond the delivery points specified in
344 subdivision (a) of this Article. The Contractor shall indemnify the United States, its officers,
345 employees, agents, and assigns on account of damage or claim of damage of any nature whatsoever
346 for which there is legal responsibility, including property damage, personal injury, or death arising out
347 of or connected with the control, carriage, handling, use, disposal, or distribution of such Project
348 Water beyond such delivery points, except for any damage or claim arising out of: (i) acts or
349 omissions of the Contracting Officer or any of its officers, employees, agents, or assigns, including
350 any responsible Operating Non-Federal Entity, with the intent of creating the situation resulting in any
351 damage or claim; (ii) willful misconduct of the Contracting Officer or any of its officers, employees,
352 agents, or assigns, including any responsible Operating Non-Federal Entity; (iii) negligence of the
353 Contracting Officer or any of its officers, employees, agents, or assigns including any responsible
354 Operating Non-Federal Entity; or (iv) damage or claims resulting from a malfunction of facilities
355 owned and/or operated by the United States or responsible Operating Non-Federal Entity; Provided,
356 That the Contractor is not the Operating Non-Federal Entity that owned or operated the
357 malfunctioning facility(ies) from which the damage claim arose.

358 MEASUREMENT OF WATER WITHIN THE SERVICE AREA

359 6. (a) The Contractor has established a measuring program satisfactory to the
360 Contracting Officer. The Contractor shall ensure that all surface water delivered for municipal and
361 industrial purposes is measured at each municipal and industrial service connection. The water
362 measuring devices or water measuring methods of comparable effectiveness must be acceptable to the
363 Contracting Officer. The Contractor shall be responsible for installing, operating, and maintaining
364 and repairing all such measuring devices and implementing all such water measuring methods at no
365 cost to the United States. The Contractor shall use the information obtained from such water
366 measuring devices or water measuring methods to ensure its proper management of the water, to bill
367 water users for water delivered by the Contractor; and, if applicable, to record water delivered for
368 municipal and industrial purposes by customer class as defined in the Contractor's water conservation
369 plan provided for in Article 26 of this Contract. Nothing herein contained, however, shall preclude
370 the Contractor from establishing and collecting any charges, assessments, or other revenues
371 authorized by California law. The Contractor shall include a summary of all its annual surface water
372 deliveries in the annual report described in subdivision (c) of Article 26 of this Contract.

373 (b) To the extent the information has not otherwise been provided, upon execution
374 of this Contract, the Contractor shall provide to the Contracting Officer a written report describing the
375 measurement devices or water measuring methods being used or to be used to implement subdivision
376 (a) of this Article and identifying the municipal and industrial service connections or alternative
377 measurement programs approved by the Contracting Officer, at which such measurement devices or
378 water measuring methods are being used, and, if applicable, identifying the locations at which such

379 devices and/or methods are not yet being used including a time schedule for implementation at such
380 locations. The Contracting Officer shall advise the Contractor in writing within sixty (60) days as to
381 the adequacy of, and necessary modifications, if any, of the measuring devices or water measuring
382 methods identified in the Contractor's report and if the Contracting Officer does not respond in such
383 time, they shall be deemed adequate. If the Contracting Officer notifies the Contractor that the
384 measuring devices or methods are inadequate, the parties shall within sixty (60) days following the
385 Contracting Officer's response, negotiate in good faith the earliest practicable date by which the
386 Contractor shall modify said measuring devices and/or measuring methods as required by the
387 Contracting Officer to ensure compliance with subdivision (a) of this Article.

388 (c) All new surface water delivery systems installed within the Contractor's
389 Service Area after the effective date of this Contract shall also comply with the measurement
390 provisions described in subdivision (a) of this Article.

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

394 (e) The Contractor shall inform the Contracting Officer and the Operating Non-
395 Federal Entity on or before the twentieth (20th) calendar day of each month of the quantity of M&I
396 Water taken during the preceding month.

397 RATES AND METHOD OF PAYMENT FOR WATER

398 7. (a) The Contractor shall pay the United States as provided in this Article for all
399 Delivered Water at Rates, Charges, and the Tiered Pricing Component established in accordance

400 with: (i) the Secretary’s then-existing ratesetting policy for M&I Water. Such ratesetting policies
401 shall be amended, modified, or superseded only through a public notice and comment procedure; (ii)
402 applicable Reclamation law and associated rules and regulations, or policies; and (iii) other applicable
403 provisions of this Contract. Payment shall be made by cash transaction, wire, or any other
404 mechanism as may be agreed to in writing by the Contractor and the Contracting Officer. The Rates,
405 charges, and Tiered Pricing Components applicable to the Contractor upon execution of this Contract
406 are set forth in Exhibit “B”, as may be revised annually.

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

409 (1) Prior to July 1 of each Calendar Year, the Contracting Officer shall
410 provide the Contractor an estimate of the Charges for Project Water that will be applied to the period
411 October 1, of the current Calendar Year, through September 30, of the following Calendar Year, and
412 the basis for such estimate. The Contractor shall be allowed not less than two (2) months to review
413 and comment on such estimates. On or before September 15 of each Calendar Year, the Contracting
414 Officer shall notify the Contractor in writing of the Charges to be in effect during the period October
415 1 of the current Calendar Year, through September 30, of the following Calendar Year, and such
416 notification shall revise Exhibit “B.”

417 (2) Prior to October 1 of each Calendar Year, the Contracting Officer shall
418 make available to the Contractor an estimate of the Rates and Tiered Pricing Components for Project
419 Water for the following Year and the computations and cost allocations upon which those Rates are
420 based. The Contractor shall be allowed not less than two (2) months to review and comment on such

421 computations and cost allocations. By December 31 of each Calendar Year, the Contracting Officer
422 shall provide the Contractor with the final Rates and Tiered Pricing Components to be in effect for
423 the upcoming Year, and such notification shall revise Exhibit “B.”

424 (c) At the time the Contractor submits the initial schedule for the delivery of
425 Project Water for each Year pursuant to subdivision (b) of Article 4 of this Contract, the Contractor
426 shall make an advance payment to the United States equal to the total amount payable pursuant to the
427 applicable Rate(s) set under subdivision (a) of this Article, for the Project Water scheduled to be
428 delivered pursuant to this Contract during the first two (2) calendar months of the Year. Before the
429 end of the first month and before the end of each calendar month thereafter, the Contractor shall make
430 an advance payment to the United States, at the Rate(s) set under subdivision (a) of this Article, for
431 the Water Scheduled to be delivered pursuant to this Contract during the second month immediately
432 following. Adjustments between advance payments for Water Scheduled and payments at Rates due
433 for Water Delivered shall be made before the end of the following month; Provided, That any revised
434 schedule submitted by the Contractor pursuant to Article 4 of this Contract which increases the
435 amount of Water Delivered pursuant to this Contract during any month shall be accompanied with
436 appropriate advance payment, at the Rates then in effect, to assure that Project Water is not delivered
437 to the Contractor in advance of such payment. In any month in which the quantity of Water Delivered
438 to the Contractor pursuant to this Contract equals the quantity of Water Scheduled and paid for by the
439 Contractor, no additional Project Water shall be delivered to the Contractor unless and until an
440 advance payment at the Rates then in effect for such additional Project Water is made. Final
441 adjustment between the advance payments for the Water Scheduled and payments for the quantities

442 of Water Delivered during each Year pursuant to this Contract shall be made as soon as practicable
443 but no later than April 30th of the following Year, or sixty (60) days after the delivery of Project
444 Water carried over under subdivision (f) of Article 3 of this Contract if such water is not delivered by
445 the last day of February.

446 (d) The Contractor shall also make a payment in addition to the Rate(s) in
447 subdivision (c) of this Article to the United States for Water Delivered, at the Charges and the
448 appropriate Tiered Pricing Component then in effect, before the end of the month following the
449 month of delivery; Provided, That the Contractor may be granted an exception from the Tiered
450 Pricing Component pursuant to subdivision (j)(2) of this Article. The payments shall be consistent
451 with the quantities of M&I Water Delivered as shown in the water delivery report for the subject
452 month prepared by the Operating Non-Federal Entity or, if there is no Operating Non-Federal Entity,
453 by the Contracting Officer. The water delivery report shall be deemed a bill for the payment of
454 Charges and the applicable Tiered Pricing Component for Water Delivered. Adjustment for
455 overpayment or underpayment of Charges shall be made through the adjustment of payments due to
456 the United States for Charges for the next month. Any amount to be paid for past due payment of
457 Charges and the Tiered Pricing Component shall be computed pursuant to Article 20 of this Contract.

458 (e) The Contractor shall pay for any Water Delivered under subdivision (d), (f), or
459 (g) of Article 3 of this Contract as determined by the Contracting Officer pursuant to applicable
460 statutes, associated regulations, any applicable provisions of guidelines or ratesetting policies;
461 Provided, That the Rate for Water Delivered under subdivision (d) of Article 3 of this Contract shall
462 be no more than the otherwise applicable Rate for M&I Water under subdivision (a) of this Article.

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

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

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

477 (i) The parties acknowledge and agree that the efficient administration of this
478 Contract is their mutual goal. Recognizing that experience has demonstrated that mechanisms,
479 policies, and procedures used for establishing Rates, Charges, and Tiered Pricing Components, and/or
480 for making and allocating payments, other than those set forth in this Article may be in the mutual
481 best interest of the parties, it is expressly agreed that the parties may enter into agreements to modify
482 the mechanisms, policies, and procedures for any of those purposes while this Contract is in effect
483 without amending this Contract.

484 (j) (1) Beginning at such time as deliveries of Project Water in a Year exceed
485 eighty (80%) percent of the Contract Total, then before the end of the month following the month of
486 delivery the Contractor shall make an additional payment to the United States equal to the applicable
487 Tiered Pricing Component. The Tiered Pricing Component for the amount of Water Delivered in
488 excess of eighty (80%) percent of the Contract Total, but less than or equal to ninety (90%) percent of
489 the Contract Total, shall equal the one-half of the difference between the Rate established under
490 subdivision (a) of this Article and the M&I Full Cost Water Rate. The Tiered Pricing Component for
491 the amount of Water Delivered which exceeds ninety (90%) percent of the Contract Total shall equal
492 the difference between (i) the Rate established under subdivision (a) of this Article and (ii) the M&I
493 Full Cost Water Rate.

494 (2) Omitted.

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

498 (k) For the term of this Contract, Rates applied to under the respective ratesetting
499 policies will be established to recover only reimbursable operation and maintenance (including any
500 deficits) and capital costs of the Project, as those terms are used in the then-current Project ratesetting
501 policies, and interest, where appropriate, except in instances where a minimum Rate is applicable in
502 accordance with the relevant Project ratesetting policy. Changes of significance in practices which
503 implement the Contracting Officer's ratesetting policies will not be implemented until the
504 Contracting Officer has provided the Contractor an opportunity to discuss the nature, need, and

505 impact of the proposed change.

506 (l) Except as provided in subsections 3405(a)(1)(B) and 3405(f) of the CVPIA,
507 the Rates for Project Water transferred by the Contractor shall be the Contractor's Rates adjusted
508 upward or downward to reflect the changed costs of delivery (if any) of the transferred Project Water
509 to the transferee's point of delivery in accordance with the then applicable CVP Ratesetting Policy.

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

512 NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICITS

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

516 SALES, TRANSFERS, OR EXCHANGES OF WATER

517 9. (a) The right to receive Project Water provided for in this Contract may be sold,
518 transferred, or exchanged to others for reasonable and beneficial uses within the State of California if
519 such sale, transfer, or exchange is authorized by applicable Federal and State laws, and applicable
520 guidelines or regulations then in effect. No sale, transfer, or exchange of Project Water under this
521 Contract may take place without the prior written approval of the Contracting Officer, except as
522 provided for in subdivision (b) of this Article, and no such sales, transfers, or exchanges shall be
523 approved absent compliance with appropriate environmental documentation including but not limited
524 to the National Environmental Policy Act and the Endangered Species Act. Such environmental
525 documentation should include, as appropriate, an analysis of groundwater impacts and economic and

526 social effects, including environmental justice, of the proposed water transfers on both the transferor
527 and transferee.

528 (b) In order to facilitate efficient water management by means of water transfers of
529 the type historically carried out among Project Contractors located within the same geographical area
530 and to allow the Contractor to participate in an accelerated water transfer program during the term of
531 this Contract, the Contracting Officer shall prepare, as appropriate, necessary environmental
532 documentation including, but not limited to, the National Environmental Policy Act and the
533 Endangered Species Act analyzing annual transfers within such geographical areas and the
534 Contracting Officer shall determine whether such transfers comply with applicable law. Following
535 the completion of the environmental documentation, such transfers addressed in such documentation
536 shall be conducted with advance notice to the Contracting Officer, but shall not require prior written
537 approval by the Contracting Officer. Such environmental documentation and the Contracting
538 Officer's compliance determination shall be reviewed every five (5) years and updated, as necessary,
539 prior to the expiration of the then existing five (5) -year period. All subsequent environmental
540 documentation shall include an alternative to evaluate not less than the quantity of Project Water
541 historically transferred within the same geographical area.

542 (c) For a water transfer to qualify under subdivision (b) of this Article, such water
543 transfer must: (i) be for irrigation purposes for lands irrigated within the previous three (3) years, for
544 M&I use, groundwater recharge, groundwater banking, or similar groundwater activities, surface
545 water storage, or fish and wildlife resources; not lead to land conversion; and be delivered to
546 established cropland, wildlife refuges, groundwater basins or municipal and industrial use; (ii) occur

547 within a single Year; (iii) occur between a willing seller and a willing buyer; (iv) convey water
548 through existing facilities with no new construction or modifications to facilities and be between
549 existing Project Contractors and/or the Contractor and the United States, Department of the Interior;
550 and (v) comply with all applicable Federal, State, and local or tribal laws and requirements imposed
551 for protection of the environment and Indian Trust Assets, as defined under Federal law.

552 APPLICATION OF PAYMENTS AND ADJUSTMENTS

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

564 (b) All advances for miscellaneous costs incurred for work requested by the
565 Contractor pursuant to Article 25 of this Contract shall be adjusted to reflect the actual costs when the
566 work has been completed. If the advances exceed the actual costs incurred, the difference will be
567 refunded to the Contractor. If the actual costs exceed the Contractor's advances, the Contractor will

568 be billed for the additional costs pursuant to Article 25 of this Contract.

569 TEMPORARY REDUCTIONS--RETURN FLOWS

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

575 (b) The Contracting Officer or Operating Non-Federal Entity may temporarily
576 discontinue or reduce the quantity of Water Delivered to the Contractor as herein provided for the
577 purposes of investigation, inspection, maintenance, repair, or replacement of any of the Project
578 facilities or any part thereof necessary for the delivery of Project Water to the Contractor, but so far as
579 feasible the Contracting Officer or Operating Non-Federal Entity will give the Contractor due notice
580 in advance of such temporary discontinuance or reduction, except in case of emergency, in which case
581 no notice need be given; Provided, That the United States shall use its best efforts to avoid any
582 discontinuance or reduction in such service. Upon resumption of service after such reduction or
583 discontinuance, and if requested by the Contractor, the United States will, if possible, deliver the
584 quantity of Project Water which would have been delivered hereunder in the absence of such
585 discontinuance or reduction.

586 (c) The United States reserves the right to all seepage and return flow water
587 derived from Water Delivered to the Contractor hereunder which escapes or is discharged beyond the
588 Contractor's Service Area; Provided, That this shall not be construed as claiming for the United States

589 any right as seepage or return flow being put to reasonable and beneficial use pursuant to this
590 Contract within the Contractor's Service Area by the Contractor or those claiming by, through, or
591 under the Contractor.

592 CONSTRAINTS ON THE AVAILABILITY OF WATER

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

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

603 (b.1) In any Year in which there may occur a shortage the Contracting Officer shall
604 apportion the available Project Water supply among the Contractor and others entitled, under
605 contracts existing at the time of the shortage to receive Project Water consistent with the terms of
606 those contracts.

607 (c) Project Water furnished under this Contract for M&I purposes will be allocated
608 in accordance with the then existing Project M&I Water Shortage Policy. **Such policy shall be**
609 **amended, modified, or superseded only through a public notice and comment procedure.**

610 UNAVOIDABLE GROUNDWATER PERCOLATION

611 13. Omitted.

612 RULES AND REGULATIONS

613 14. The parties agree that the delivery of Water or use of Federal facilities pursuant to this
614 Contract is subject to Federal Reclamation law, as amended and supplemented, and the rules and
615 regulations promulgated by the Secretary of the Interior under Federal Reclamation law.

616 WATER AND AIR POLLUTION CONTROL

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

620 QUALITY OF WATER

621 16. (a) Project facilities used to deliver Project Water to the Contractor pursuant to
622 this Contract shall be operated and maintained to enable the United States to deliver Project Water to
623 the Contractor in accordance with the water quality standards specified in subsection 2(b) of the Act
624 of August 26, 1937 (50 Stat. 865), as added by Section 101 of the Act of October 27, 1986 (100 Stat.
625 3050) or other existing Federal laws. The United States is under no obligation to construct or furnish
626 water treatment facilities to maintain or to improve the quality of Water Delivered to the Contractor
627 pursuant to this Contract. The United States does not warrant the quality of Water Delivered to the
628 Contractor pursuant to this Contract.

629 (b) The Operation and Maintenance of Project facilities shall be performed in such
630 manner as is practicable to maintain the quality of raw water made available through such facilities at
631 the highest level reasonably attainable as determined by the Contracting Officer. The Contractor shall
632 be responsible for compliance with all State and Federal water quality standards applicable to surface

633 and subsurface agricultural drainage discharges generated through the use of Federal or Contractor
634 facilities or Project Water provided by the Contractor within the Contractor's Service Area.

WATER ACQUIRED BY THE CONTRACTOR
OTHER THAN FROM THE UNITED STATES

637 17. (a) Omitted.

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

644 (1) The Contractor may introduce non-project water into Project facilities
645 and deliver said water within the Contractor's Service Area subject to payment to the United States
646 and/or to any applicable Operating Non-Federal Entity of an appropriate rate as determined by the
647 CVP Ratesetting Policy, as amended, modified or superceded from time to time. In addition, if
648 electrical power is required to pump non-project water through the facilities, the Contractor shall be
649 responsible for obtaining the necessary power and paying the necessary charges therefor.

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

654 any other Project water service contractors; or (iv) interfere with the physical maintenance of the
655 Project facilities.

656 (3) Neither the United States nor the Operating Non-Federal Entity shall be
657 responsible for control, care or distribution of the non-project water before it is introduced into or
658 after it is delivered from the Project facilities. The Contractor hereby releases and agrees to defend
659 and indemnify the United States and the Operating Non-Federal Entity, and their respective officers,
660 agents, and employees, from any claim for damage to persons or property, direct or indirect, resulting
661 from Contractor's diversion or extraction of non-project water from any source.

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

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

670 OPINIONS AND DETERMINATIONS

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

675 the right to seek relief from and appropriate adjustment for any such arbitrary, capricious, or
676 unreasonable opinion or determination. Each opinion or determination by either party shall be
677 provided in a timely manner. Nothing in subdivision (a) of Article 18 of this Contract is intended to
678 or shall affect or alter the standard of judicial review applicable under federal law to any opinion or
679 determination implementing a specific provision of federal law embodied in statute or regulation.

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

685 COORDINATION AND COOPERATION

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

695 (b) Within one-hundred twenty (120) days following the effective date of this

696 Contract, the Contractor, other affected Project Contractors, and the Contracting Officer shall arrange
697 to meet with interested Project Contractors to develop a mutually agreeable, written Project-wide
698 process, which may be amended as necessary separate and apart from this Contract. The goal of this
699 process shall be to provide, to the extent practicable, the means of mutual communication and
700 interaction regarding significant decisions concerning Project operation and management on a real-
701 time basis.

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

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

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

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

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

715 (5) The Contracting Officer shall periodically, but not less than annually,
716 hold division level meetings to discuss Project operations, division level water management activities,

717 and other issues as appropriate.

718 (d) Without limiting the contractual obligations of the Contracting Officer
719 hereunder, nothing in this Contract shall be construed to limit or constrain the Contracting Officer's
720 ability to communicate, coordinate, and cooperate with the Contractor or other interested stakeholders
721 or to make decisions in a timely fashion as needed to protect health, safety, physical integrity of
722 structures or facilities, or the Contracting Officer's ability to comply with applicable laws.

723 CHARGES FOR DELINQUENT PAYMENTS

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

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

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

740 EQUAL OPPORTUNITY

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

742 (a) The Contractor will not discriminate against any employee or applicant for
743 employment because of race, color, religion, sex, or national origin. The Contractor will take
744 affirmative action to ensure that applicants are employed, and that employees are treated during
745 employment, without regard to their race, color, religion, sex, or national origin. Such action shall

746 include, but not be limited to, the following: Employment, upgrading, demotion, or transfer;
747 recruitment or recruitment advertising; layoff or termination, rates of payment or other forms of
748 compensation; and selection for training, including apprenticeship. The Contractor agrees to post in
749 conspicuous places, available to employees and applicants for employment, notices to be provided by
750 the Contracting Officer setting forth the provisions of this nondiscrimination clause.

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

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

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

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

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

775 (g) The Contractor will include the provisions of paragraphs (a) through (g) in
776 every subcontract or purchase order unless exempted by the rules, regulations, or orders of the
777 Secretary of Labor issued pursuant to Section 204 of said amended Executive Order, so that such
778 provisions will be binding upon each subcontractor or vendor. The Contractor will take such action
779 with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a
780 means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That

781 in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor
782 or vendor as a result of such direction, the Contractor may request the United States to enter into such
783 litigation to protect the interests of the United States.

784 GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

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

789 (b) The payment of charges becoming due hereunder is a condition precedent to
790 receiving benefits under this Contract. The United States shall not make water available to the
791 Contractor through Project facilities during any period in which the Contractor may be in arrears in
792 the advance payment of water rates due the United States. The Contractor shall not furnish water
793 made available pursuant to this Contract for lands or parties which are in arrears in the advance
794 payment of water rates levied or established by the Contractor.

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

797 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

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

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

809 (c) The Contractor makes this agreement in consideration of and for the purpose of
810 obtaining any and all Federal grants, loans, contracts, property discounts, or other Federal financial
811 assistance extended after the date hereof to the Contractor by the Bureau of Reclamation, including
812 installment payments after such date on account of arrangements for Federal financial assistance

813 which were approved before such date. The Contractor recognizes and agrees that such Federal
814 assistance will be extended in reliance on the representations and agreements made in this Article,
815 and that the United States reserves the right to seek judicial enforcement thereof.

816 PRIVACY ACT COMPLIANCE

817 24. Omitted.

818 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

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

827 WATER CONSERVATION

828 26. (a) Prior to the delivery of water provided from or conveyed through Federally
829 constructed or Federally financed facilities pursuant to this Contract, the Contractor shall be
830 implementing an effective water conservation and efficiency program based on the Contractor's water
831 conservation plan that has been determined by the Contracting Officer to meet the conservation and
832 efficiency criteria for evaluating water conservation plans established under Federal law. The water
833 conservation and efficiency program shall contain definite water conservation objectives, appropriate
834 economically feasible water conservation measures, and time schedules for meeting those objectives.

835 Continued Project Water delivery pursuant to this Contract shall be contingent upon the Contractor's
836 continued implementation of such water conservation program. In the event the Contractor's water
837 conservation plan or any revised water conservation plan completed pursuant to subdivision (d) of
838 Article 26 of this Contract have not yet been determined by the Contracting Officer to meet such
839 criteria, due to circumstances which the Contracting Officer determines are beyond the control of the
840 Contractor, water deliveries shall be made under this Contract so long as the Contractor diligently
841 works with the Contracting Officer to obtain such determination at the earliest practicable date, and
842 thereafter the Contractor immediately begins implementing its water conservation and efficiency
843 program in accordance with the time schedules therein.

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

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

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

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

858 (e) If the Contractor is engaged in direct groundwater recharge, such activity shall
859 be described in the Contractor's water conservation plan.

860 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

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

868 OPERATION AND MAINTENANCE BY NON-FEDERAL ENTITY

869 28. (a) The Operation and Maintenance of a portion of the Project facilities which
870 serve the Contractor, and responsibility for funding a portion of the costs of such Operation and
871 Maintenance, have been transferred to the Operating Non-Federal Entity by separate agreement
872 between the United States and the Operating Non-Federal Entity. That separate agreement shall not
873 interfere with or affect the rights or obligations of the Contractor or the United States hereunder.

874 (b) The Contracting Officer has previously notified the Contractor in writing that
875 the Operation and Maintenance of a portion of the Project facilities which serve the Contractor has
876 been transferred to the Operating Non-Federal Entity, and therefore, the Contractor shall pay directly

877 to the Operating Non-Federal Entity, or to any successor approved by the Contracting Officer under
878 the terms and conditions of the separate agreement between the United States and the Operating Non-
879 Federal Entity described in subdivision (a) of this Article, all rates, charges, or assessments of any
880 kind, including any assessment for reserve funds, which the Operating Non-Federal Entity or such
881 successor determines, sets, or establishes for the Operation and Maintenance of the portion of the
882 Project facilities operated and maintained by the Operating Non-Federal Entity or such successor.
883 Such direct payments to the Operating Non-Federal Entity or such successor shall not relieve the
884 Contractor of its obligation to pay directly to the United States the Contractor's share of the Project
885 Rates, Charges, and Tiered Pricing Components except to the extent the Operating Non-Federal
886 Entity collects payments on behalf of the United States in accordance with the separate agreement
887 identified in subdivision (a) of this Article.

888 (c) For so long as the Operation and Maintenance of any portion of the Project
889 facilities serving the Contractor is performed by the Operating Non-Federal Entity, or any successor
890 thereto, the Contracting Officer shall adjust those components of the Rates for Water Delivered under
891 this Contract representing the cost associated with the activity being performed by the Operating Non-
892 Federal Entity or its successor.

893 (d) In the event the Operation and Maintenance of the Project facilities operated
894 and maintained by the Operating Non-Federal Entity is re-assumed by the United States during the
895 term of this Contract, the Contracting Officer shall so notify the Contractor, in writing, and present to
896 the Contractor a revised Exhibit "B" which shall include the portion of the Rates to be paid by the
897 Contractor for Project Water under this Contract representing the Operation and Maintenance costs of

898 the portion of such Project facilities which have been re-assumed. The Contractor shall, thereafter, in
899 the absence of written notification from the Contracting Officer to the contrary, pay the Rates,
900 Charges, and Tiered Pricing Component(s) specified in the revised Exhibit "B" directly to the United
901 States in compliance with Article 7 of this Contract.

902 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

903 29. The expenditure or advance of any money or the performance of any obligation of the
904 United States under this Contract shall be contingent upon appropriation or allotment of funds.
905 Absence of appropriation or allotment of funds shall not relieve the Contractor from any obligations
906 under this Contract. No liability shall accrue to the United States in case funds are not appropriated
907 or allotted.

908 BOOKS, RECORDS, AND REPORTS

909 30. (a) The Contractor shall establish and maintain accounts and other books and
910 records pertaining to administration of the terms and conditions of this Contract, including: the
911 Contractor's financial transactions, water supply data, and Project land and right-of-way agreements;
912 water use data; and other matters that the Contracting Officer may require. Reports thereon shall be
913 furnished to the Contracting Officer in such form and on such date or dates as the Contracting Officer
914 may require. Subject to applicable Federal laws and regulations, each party to this Contract shall
915 have the right during office hours to examine and make copies of the other party's books and records
916 relating to matters covered by this Contract.

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

922 (c) At such time as the Contractor provides information to the Contracting Officer
923 pursuant to subdivision (a) of this Article, a copy of such information shall be provided to the

924 Operating Non-Federal Entity.

925 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

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

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

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

934 SEVERABILITY

935 32. In the event that a person or entity who is neither (i) a party to a Project contract, nor
936 (ii) a person or entity that receives Project Water from a party to a Project contract, nor (iii) an
937 association or other form of organization whose primary function is to represent parties to Project
938 contracts, brings an action in a court of competent jurisdiction challenging the legality or
939 enforceability of a provision included in this Contract and said person, entity, association, or
940 organization obtains a final court decision holding that such provision is legally invalid or
941 unenforceable and the Contractor has not intervened in that lawsuit in support of the plaintiff(s), the
942 parties to this Contract shall use their best efforts to (i) within thirty (30) days of the date of such final
943 court decision identify by mutual agreement the provisions in this Contract which must be revised
944 and (ii) within three (3) months thereafter promptly agree on the appropriate revision(s). The time
945 periods specified above may be extended by mutual agreement of the parties. Pending the completion

946 of the actions designated above, to the extent it can do so without violating any applicable provisions
947 of law, the United States shall continue to make the quantities of Project Water specified in this
948 Contract available to the Contractor pursuant to the provisions of this Contract which were not found
949 to be legally invalid or unenforceable in the final court decision.

RESOLUTION OF DISPUTES

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

OFFICIALS NOT TO BENEFIT

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

CHANGES IN CONTRACTOR'S SERVICE AREA

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

968 (b) Within thirty (30) days of receipt of a request for such a change, the

969 Contracting Officer will notify the Contractor of any additional information required by the
970 Contracting Officer for processing said request, and both parties will meet to establish a mutually
971 agreeable schedule for timely completion of the process. Such process will analyze whether the
972 proposed change is likely to: (i) result in the use of Project Water contrary to the terms of this
973 Contract; (ii) impair the ability of the Contractor to pay for Project Water furnished under this
974 Contract or to pay for any Federally-constructed facilities for which the Contractor is responsible; and
975 (iii) have an impact on any Project Water rights applications, permits, or licenses. In addition, the
976 Contracting Officer shall comply with the National Environmental Policy Act and the Endangered
977 Species Act. The Contractor will be responsible for all costs incurred by the Contracting Officer in
978 this process, and such costs will be paid in accordance with Article 25 of this Contract.

979 FEDERAL LAWS

980 36. By entering into this Contract, the Contractor does not waive its rights to contest the
981 validity or application in connection with the performance of the terms and conditions of this
982 Contract of any Federal law or regulation; Provided, That the Contractor agrees to comply with the
983 terms and conditions of this Contract unless and until relief from application of such Federal law or
984 regulation to the implementing provision of the Contract is granted by a court of competent
985 jurisdiction.

986 NOTICES

987 37. Any notice, demand, or request authorized or required by this Contract shall be
988 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or delivered
989 to the Area Manager, South-Central California Area Office, 1243 N Street, Fresno, CA 97321, and on
990 behalf of the United States, when mailed, postage prepaid, or delivered to the **City Council of the**
991 **City of Huron, PO Box 339, Huron, California 93234**. The designation of the addressee or the

992 address may be changed by notice given in the same manner as provided in this Article for other
993 notices.

994 CONFIRMATION OF CONTRACT

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

1000 IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the day and
1001 year first above written.

THE UNITED STATES OF AMERICA

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

CITY OF HURON

By: _____
Mayor

Attest:

By: _____
City Clerk