

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

LONG-TERM RENEWAL CONTRACT BETWEEN THE UNITED STATES
AND
LA GRANDE WATER DISTRICT
PROVIDING FOR PROJECT WATER SERVICE
FROM THE SACRAMENTO RIVER DIVISION

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THIS CONTRACT, made this _____ day of _____, 2004, 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. 1263), 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 LA GRANDE WATER
DISTRICT, 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:

22 EXPLANATORY RECITALS

23 [1st] WHEREAS, the United States has constructed and is operating the Central Valley
24 Project, California, for diversion, storage, carriage, distribution and beneficial use, for flood
25 control, irrigation, municipal, domestic, industrial, fish and wildlife mitigation, protection and
26 restoration, generation and distribution of electric energy, salinity control, navigation and other
27 beneficial uses, of waters of the Sacramento River, the American River, the Trinity River, and
28 the San Joaquin River and their tributaries; and

29 [2nd] WHEREAS, the United States constructed the Red Bluff Diversion Dam, and the
30 Tehama-Colusa Canal and related delivery facilities including pumping plants, hereinafter
31 collectively referred to as the Canal Facilities, which will be used in part for the furnishing of
32 water to the Contractor pursuant to the terms of this Contract; and

33 [3rd] WHEREAS, the rights to Project Water were acquired by the United States
34 pursuant to California law for operation of the Project; and

35 [4th] WHEREAS, the Contractor and the United States entered into Contract
36 No. 7-07-20-W0022, which established terms for the delivery to the Contractor of Central Valley
37 Project Water from the Canal Facilities from June 6, 1977 through February 28, 1995, and under
38 which the initial date of water delivery to the Contractor was January 1, 1981; and

39 [5th] WHEREAS, the Contractor and the United States have pursuant to subsection
40 3404(c)(1) of the Central Valley Project Improvement Act (CVPIA), subsequently entered into
41 interim renewal contract(s) identified as Contract No(s). 7-07-20-W0022-IR1, 7-07-20-W0022-
42 IR2, 7-07-20-W0022-IR3, 7-07-20-W0022-IR4, 7-07-20-W0022-IR5, 7-07-20-W0022-IR6, 7-

43 07-20-W0022-IR7, the current of which is hereinafter referred to as the Existing Contract, which
44 provided for the continued water service to the Contractor from March 1, 2003 through February
45 29, 2004; and

46 [6th] WHEREAS, Section 3404(c) of the CVPIA provides for long-term renewal of
47 interim and existing long-term Central Valley Project Water service contracts following
48 completion of appropriate environmental documentation, including a programmatic
49 environmental impact statement (PEIS) pursuant to the National Environmental Policy Act
50 analyzing the direct and indirect impacts and benefits of implementing the CVPIA and the
51 potential renewal of all existing contracts for Project Water; and

52 [7th] WHEREAS, the United States has completed the PEIS and all other appropriate
53 environmental review necessary to provide for long-term renewal of the Existing Contract; and

54 [8th] WHEREAS, the Contractor has requested the long-term renewal of the Existing
55 Contract, pursuant to the terms of the Existing Contract, Federal Reclamation law, and the laws
56 of the State of California, for water service from the Central Valley Project; and

57 [9th] WHEREAS, the United States has determined that the Contractor has fulfilled all
58 of its obligations under the Existing Contract; and

59 [10th] WHEREAS, the Contractor has demonstrated to the satisfaction of the
60 Contracting Officer that the Contractor has utilized the Central Valley Project Water supplies
61 available to it for reasonable and beneficial use and, based upon a needs analysis cooperatively
62 prepared by the Contracting Officer and the Contractor, has demonstrated projected future

63 demand for water use that exceeds the Contract Total to be made available to it pursuant to this
64 Contract; and

65 [11th] WHEREAS, water obtained from the Central Valley Project has been relied upon
66 by urban and agricultural areas within California for more than 50 years, and is considered by the
67 Contractor as an essential portion of its water supply; and

68 [12th] WHEREAS, the economies of regions within the Central Valley Project,
69 including the Contractor's, depend upon the continued availability of water, including water
70 service from the Central Valley Project; and

71 [13th] WHEREAS, the Secretary intends through coordination, cooperation, and
72 partnerships to pursue measures to improve water supply, water quality, and reliability of the
73 Project for all Project purposes; and

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

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

83 [16th] WHEREAS, the United States and the Contractor are willing to enter into this
84 Contract pursuant to Federal Reclamation law on the terms and conditions set forth 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
89 incompatible with the intent of the parties as expressed in this Contract, the term:

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

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

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

98 (d) "Contracting Officer" shall mean the Secretary of the Interior's duly
99 authorized representative acting pursuant to this Contract or applicable Reclamation law or
100 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 **Boundaries**” shall mean the area to which the Contractor is
104 permitted to provide Project Water under this Contract as described in Exhibit “A” attached
105 hereto, which may be modified from time to time in accordance with Article 35 of this Contract
106 without 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) “Eligible Lands” shall mean all lands to which Irrigation Water may be
110 delivered in accordance with Section 204 of the Reclamation Reform Act of October 12, 1982
111 (96 Stat. 1263), as amended, hereinafter referred to as RRA;

112 (i) “Excess Lands” shall mean all lands in excess of the limitations contained
113 in Section 204 of the RRA, other than those lands exempt from acreage limitation under Federal
114 Reclamation law;

115 (j) “Full Cost Rate” shall mean an annual rate, determined by the Contracting
116 Officer that amortizes the expenditures for construction properly allocable to the Project
117 Irrigation or M&I functions, as appropriate, of facilities in service including operation and
118 maintenance deficits funded, less payments, over such periods as may be required under Federal
119 Reclamation law, or applicable contract provisions. Interest will accrue on both the construction
120 expenditures and funded O&M deficits from October 12, 1982, on costs outstanding at that date,
121 or from the date incurred in the case of costs arising subsequent to October 12, 1982, and shall be
122 calculated in accordance with subsections 202(3)(B) and (3)(C) of the RRA. The Full Cost Rate

123 includes actual operation, maintenance, and replacement costs consistent with Section 426.2 of
124 the Rules and Regulations for the RRA;

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

127 (l) "Irrigation Full Cost Water Rate" shall mean the Full Cost Rate applicable
128 to the delivery of Irrigation Water;

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

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

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

141 (p) "M&I Full Cost Water Rate" shall mean the Full Cost Rate applicable to
142 the delivery of M&I Water;

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

146 (r) "Operating Non-Federal Entity" shall mean the Tehama-Colusa Canal
147 Authority, a Non-Federal entity which has the obligation to operate and maintain all or a portion
148 of the Canal Facilities pursuant to an agreement with the United States, and which may have
149 funding obligations with respect thereto;

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

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

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

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

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

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

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

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

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

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

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

180 TERM OF CONTRACT

181 2. (a) This Contract shall be effective March 1, 2004, through February 28,
182 2029. In the event the Contractor wishes to renew the Contract beyond February 28, 2029, the
183 Contractor shall submit a request for renewal in writing to the Contracting Officer no later than 2
184 years prior to the date this Contract expires. The renewal of this Contract insofar as it pertains to

185 the furnishing of Irrigation Water to the Contractor shall be governed by subdivision (b) of this
186 Article, and the renewal of this Contract insofar as it pertains to the furnishing of M&I Water to
187 the Contractor shall be governed by subdivision (c) of this Article.

188 (b) (1) On terms and conditions of a renewal contract that are mutually
189 agreeable to the parties hereto, and upon a determination by the Contracting Officer that at the
190 time of contract renewal the conditions set forth in subdivision (b)(2) of this Article are met, and
191 subject to Federal and State law, this Contract, insofar as it pertains to the furnishing of Irrigation
192 Water to the Contractor, shall be renewed for a period of 25 years.

193 (2) The conditions which must be met for this Contract to be renewed
194 are: (i) the Contractor has prepared a water conservation plan that has been determined by the
195 Contracting Officer in accordance with Article 26 of this Contract to meet the conservation and
196 efficiency criteria for evaluating such plans established under Federal law; (ii) the Contractor is
197 implementing an effective water conservation and efficiency program based on the Contractor's
198 water conservation plan as required by Article 26 of this Contract; (iii) the Contractor is
199 maintaining all water measuring devices and implementing all water measurement methods as
200 approved by the Contracting Officer pursuant to Article 6 of this Contract; (iv) the Contractor
201 has reasonably and beneficially used the Project Water supplies made available to it and, based
202 on projected demands, is reasonably anticipated and expects fully to utilize for reasonable and
203 beneficial use the quantity of Project Water to be made available to it pursuant to such renewal;
204 (v) the Contractor is complying with all terms and conditions of this Contract; and (vi) the
205 Contractor has the physical and legal ability to deliver Project Water.

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

216 (c) This Contract, insofar as it pertains to the furnishing of M&I Water to the
217 Contractor, shall be renewed for a period of 25 years and thereafter shall be renewed for
218 successive periods of up to 40 years each, which periods shall be consistent with the then-
219 existing Reclamation-wide policy, under terms and conditions mutually agreeable to the parties
220 and consistent with federal and state law. The Contractor shall be afforded the opportunity to
221 comment to the Contracting Officer on the proposed adoption and application of any revised
222 Reclamation-wide policy applicable to the delivery of Project M&I Water that would limit the
223 term of any subsequent renewal contract with the Contractor for the furnishing of M&I Water to
224 less than 25 years.

225 (d) The Contracting Officer shall make a determination 10 years after the date
226 of execution of this Contract, and every 5 years thereafter during the term of this Contract, of

227 whether a conversion to a contract under said subsection 9(d) can be accomplished pursuant to
228 the Act of July 2, 1956 (Public Law 643). Notwithstanding any provision of this Contract, the
229 Contractor reserves and shall have all rights and benefits under Public Law 643. The
230 Contracting Officer anticipates that during the term of this contract, all authorized Project
231 construction expected to occur will have occurred, and on that basis the Contracting Officer
232 agrees upon such completion to allocate all costs that are properly assignable to the Contractor,
233 and agrees further that, at any time after such allocation is made, and subject to satisfaction of
234 the condition set out in this subdivision, this Contract shall, at the request of the Contractor, be
235 converted to a contract under subsection (d), Section 9 of the Reclamation Project Act of 1939,
236 subject to applicable Federal law and under stated terms and conditions mutually agreeable to the
237 Contractor and the Contracting Officer. A condition for such conversion to occur shall be a
238 determination by the Contracting Officer that, account being taken of the amount credited to
239 return by the Contractor as provided for under Reclamation law, the remaining amount of
240 construction costs assignable for ultimate return by the Contractor can probably be repaid to the
241 United States within the term of a contract under said subsection (d). If the remaining amount of
242 costs that are properly assignable to the Contractor cannot be determined during the term of this
243 Contract, the Contracting Officer shall notify the Contractor, and provide the reason(s) why such
244 a determination could not be made. Further, the Contracting Officer shall make such a
245 determination as soon thereafter as possible so as to permit, upon request of the Contractor and
246 satisfaction of the condition set out above, conversion to a contract under said subsection (d). In
247 the event such determination of costs has not been made at a time which allows conversion of

248 this Contract during the term of this Contract or the Contractor has not requested conversion of
249 this Contract within such term, the parties shall incorporate in any subsequent renewal contract
250 as described in subdivision (b) of this Article a provision that carries forth in substantially
251 identical terms the provisions of this subdivision.

252 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

253 3. (a) During each Year, consistent with all applicable State water rights,
254 permits, and licenses, Federal law, and subject to the provisions set forth in Articles 11 and 12 of
255 this Contract, the Contracting Officer shall make available for delivery to the Contractor 5,000
256 acre-feet of water for irrigation and M&I purposes. The quantity of Water Delivered to the
257 Contractor in accordance with this subdivision shall be scheduled and paid for pursuant to the
258 provisions of Articles 4 and 7 of this Contract.

259 (b) Because the capacity of the Central Valley Project to deliver Project Water
260 has been constrained in recent years and may be constrained in the future due to many factors
261 including hydrologic conditions and implementation of Federal and State laws, the likelihood of
262 the Contractor actually receiving the amount of Water set out in subdivision (a) of this Article in
263 any given Year is uncertain. The Contracting Officer's most recent modeling referenced in the
264 PEIS projected that the Contract Total set forth in this Contract will not be available to the
265 Contractor in many years. During the most recent 5 years, the Recent Historic Average of water
266 made available to the Contractor was 4,600 acre-feet. Nothing in subdivision (b) of this Article
267 shall affect the rights and obligations of the parties under any provision of this Contract.

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

270 (d) The Contractor shall make reasonable and beneficial use of all Project
271 Water or other water furnished pursuant to this Contract. Ground-water recharge programs
272 (direct, indirect, or in lieu), ground-water banking programs, surface water storage programs, and
273 other similar programs utilizing Project Water or other water furnished pursuant to this Contract
274 conducted within the Contractor's Boundaries which are consistent with applicable State law and
275 result in use consistent with Reclamation law will be allowed; Provided, That any direct recharge
276 program(s) is (are) described in the Contractor's Water Conservation Plan submitted pursuant to
277 Article 26 of this Contract; Provided, further, That such Water Conservation Plan demonstrates
278 sufficient lawful uses exist in the Contractor's Boundaries so that using a long-term average, the
279 quantity of Delivered Water is demonstrated to be reasonable for such uses and in compliance
280 with Reclamation Law. Ground-water recharge programs, ground-water banking programs,
281 surface water storage programs, and other similar programs utilizing Project Water or other
282 water furnished pursuant to this Contract conducted outside the Contractor's Boundaries may be
283 permitted upon written approval of the Contracting Officer, which approval will be based upon
284 environmental documentation, Project Water rights, and Project operational concerns. The
285 Contracting Officer will address such concerns in regulations, policies, or guidelines.

286 (e) The Contractor shall comply with requirements applicable to the
287 Contractor in biological opinion(s) prepared as a result of a consultation regarding the execution
288 of this Contract undertaken pursuant to Section 7 of the Endangered Species Act of 1973, as

289 amended, that are within the Contractor's legal authority to implement. The Existing Contract,
290 which evidences in excess of 22 years of diversions for irrigation and/or municipal and industrial
291 purposes of the quantities of water provided in subdivision (a) of Article 3 of this Contract, will
292 be considered in developing an appropriate baseline for the Biological Assessment prepared
293 pursuant to the Endangered Species Act, and any other needed environmental review. Nothing
294 herein shall be construed to prevent the Contractor from challenging or seeking judicial relief in
295 a court of competent jurisdiction with respect to any biological opinion or other environmental
296 documentation referred to in this Article.

297 (f) As soon as possible following each declaration of Water Made Available
298 under Article 4 of this Contract, the Contracting Officer will make a determination whether
299 Project Water, or other water available to the Project, can be made available to the Contractor in
300 addition to the Contract Total under Article 3 of this Contract during the Year without adversely
301 impacting other Project Contractors. At the request of the Contractor, the Contracting Officer
302 will consult with the Contractor prior to making such a determination. If the Contracting Officer
303 determines that Project Water, or other water available to the Project, can be made available to
304 the Contractor, the Contracting Officer will announce the availability of such water and shall so
305 notify the Contractor as soon as practical. The Contracting Officer will thereafter meet with the
306 Contractor and other Project Contractors capable of taking such water to determine the most
307 equitable and efficient allocation of such water. If the Contractor requests the delivery of any
308 quantity of such water, the Contracting Officer shall make such water available to the Contractor
309 in accordance with applicable statutes, regulations, guidelines, and policies.

310 (g) The Contractor may request permission to reschedule for use during the
311 subsequent Year some or all of the Water Made Available to the Contractor during the current
312 Year referred to as “carryover.” The Contractor may request permission to use during the
313 current Year a quantity of Project Water which may be made available by the United States to
314 the Contractor during the subsequent Year referred to as “preuse.” The Contracting Officer’s
315 written approval may permit such uses in accordance with applicable statutes, regulations,
316 guidelines, and policies.

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

325 (i) Project Water furnished to the Contractor pursuant to this Contract may be
326 delivered for other than irrigation or M&I purposes upon written approval by the Contracting
327 Officer in accordance with the terms and conditions of such approval.

328 (j) The Contracting Officer shall make reasonable efforts to protect the water
329 rights necessary for the Project and to provide the water available under this Contract. The
330 Contracting Officer shall not object to participation by the Contractor, in the capacity and to the

331 extent permitted by law, in administrative proceedings related to the Project Water rights;
332 Provided, however, That the Contracting Officer retains the right to object to the substance of the
333 Contractor's position in such a proceeding; Provided further, that in such proceedings the
334 Contracting Officer shall recognize the Contractor has a legal right under the terms of this
335 Contract to use Project Water.

336 TIME FOR DELIVERY OF WATER

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

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

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

356 (d) Subject to the conditions set forth in subdivision (a) of Article 3 of this
357 Contract, the United States shall deliver Project Water to the Contractor in accordance with the
358 initial schedule submitted by the Contractor pursuant to subdivision (b) of this Article, or any
359 written revision(s), satisfactory to the Contracting Officer, thereto submitted within a reasonable
360 time prior to the date(s) on which the requested change(s) is/are to be implemented.

361 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

362 5. (a) Project Water scheduled pursuant to subdivision (b) of Article 4 of this
363 Contract shall be delivered to the Contractor at approved turnouts on the Canal Facilities and any
364 additional point or points of delivery either on Project facilities or another location or locations
365 mutually agreed to in writing by the Contracting Officer and the Contractor. **The United States**
366 **shall furnish such power as may be necessary to pump Project Water at the existing Tehama-**
367 **Colusa Canal side pumping plants and at existing relift stations at heads and elevations sufficient**
368 **to irrigate by gravity all areas within the Contractor's Boundaries below elevation 300 (MSL).**

369 (b) The Contracting Officer, the Operating Non-Federal Entity, or other
370 appropriate entity shall make all reasonable efforts to maintain sufficient flows and levels of
371 water in the Canal Facilities to deliver Project Water to the Contractor at specific turnouts
372 established pursuant to subdivision (a) of this Article. **The parties acknowledge that it may be**

373 necessary from time to time to shut down the canal for maintenance or emergencies. Except in
374 the case of emergency, the Contracting Officer shall consult with the Contractor to schedule the
375 shut down at such times and for such duration as will allow for the work to be accomplished
376 completely and efficiently, and with a minimum of disruption of water service to the Contractor.
377 In this regard, shut downs will, to the extent reasonably possible, be limited to the months of
378 December and January.

379 (c) The Contractor shall deliver Irrigation Water in accordance with any
380 applicable land classification provisions of Federal Reclamation law and the associated
381 regulations. The Contractor shall not deliver Project Water to land outside the Contractor's
382 Boundaries unless approved in advance by the Contracting Officer.

383 (d) All Water Delivered to the Contractor pursuant to this Contract shall be
384 measured and recorded with equipment furnished, installed, operated, and maintained by the
385 United States, the Operating Non-Federal Entity or other appropriate entity as designated by the
386 Contracting Officer (hereafter "other appropriate entity") at the point or points of delivery
387 established pursuant to subdivision (a) of this Article. Upon the request of either party to this
388 Contract, the Contracting Officer shall investigate, or cause to be investigated by the responsible
389 Operating Non-Federal Entity, the accuracy of such measurements and shall take any necessary
390 steps to adjust any errors appearing therein. For any period of time when accurate measurements
391 have not been made, the Contracting Officer shall consult with the Contractor and the
392 responsible Operating Non-Federal Entity prior to making a final determination of the quantity
393 delivered for that period of time.

394 (e) Neither the Contracting Officer nor any Operating Non-Federal Entity
395 shall be responsible for the control, carriage, handling, use, disposal, or distribution of Project
396 Water Delivered to the Contractor pursuant to this Contract beyond the delivery points specified
397 in subdivision (a) of this Article. The Contractor shall indemnify the United States, its officers,
398 employees, agents, and assigns on account of damage or claim of damage of any nature
399 whatsoever for which there is legal responsibility, including property damage, personal injury, or
400 death arising out of or connected with the control, carriage, handling, use, disposal, or
401 distribution of such Project Water beyond such delivery points, except for any damage or claim
402 arising out of (i) acts or omissions of the Contracting Officer or any of its officers, employees,
403 agents, or assigns, including any responsible Operating Non-Federal Entity, with the intent of
404 creating the situation resulting in any damage or claim, (ii) willful misconduct of the Contracting
405 Officer or any of its officers, employees, agents, or assigns, including any responsible Operating
406 Non-Federal Entity, (iii) negligence of the Contracting Officer or any of its officers, employees,
407 agents, or assigns including any responsible Operating Non-Federal Entity, or (iv) damage or
408 claims resulting from a malfunction of facilities owned and/or operated by the United States or
409 responsible Operating Non-Federal Entity; Provided, That the Contractor is not the Operating
410 Non-Federal Entity that owned or operated the malfunctioning facility(ies) from which the
411 damage claim arose.

412 MEASUREMENT OF WATER WITHIN THE BOUNDARIES

413 6. (a) By _____ [DATE] _____, the The Contractor shall
414 ensure that, unless the Contractor has established an alternative measurement program

415 satisfactory to the Contracting Officer, all surface water delivered for irrigation purposes within
416 the Contractor's Boundaries is measured at each agricultural turnout and such water delivered for
417 municipal and industrial purposes is measured at each municipal and industrial service
418 connection. The water measuring devices or water measuring methods of comparable
419 effectiveness must be acceptable to the Contracting Officer. The Contractor shall be responsible
420 for installing, operating, and maintaining and repairing all such measuring devices and
421 implementing all such water measuring methods at no cost to the United States. The Contractor
422 shall use the information obtained from such water measuring devices or water measuring
423 methods to ensure its proper management of the water, to bill water users for water delivered by
424 the Contractor; and, if applicable, to record water delivered for municipal and industrial purposes
425 by customer class as defined in the Contractor's water conservation plan provided for in Article
426 26 of this Contract. Nothing herein contained, however, shall preclude the Contractor from
427 establishing and collecting any charges, assessments, or other revenues authorized by California
428 law. The Contractor shall include a summary of all its annual surface water deliveries in the
429 annual report described in subdivision (c) of Article 26.

430 (b) (Contractor Specific) To the extent the information has not otherwise
431 been provided, upon execution of this Contract, the Contractor shall provide to the Contracting
432 Officer a written report describing the measurement devices or water measuring methods being
433 used or to be used to implement subdivision (a) of this Article and identifying the agricultural
434 turnouts and the municipal and industrial service connections or alternative measurement
435 programs approved by the Contracting Officer, at which such measurement devices or water

436 measuring methods are being used, and, if applicable, identifying the locations at which such
437 devices and/or methods are not yet being used including a time schedule for implementation at
438 such locations. The Contracting Officer shall advise the Contractor in writing within 60 days as
439 to the adequacy of, and necessary modifications, if any, of the measuring devices or water
440 measuring methods identified in the Contractor's report and if the Contracting Officer does not
441 respond in such time, they shall be deemed adequate. If the Contracting Officer notifies the
442 Contractor that the measuring devices or methods are inadequate, the parties shall within 60 days
443 following the Contracting Officer's response, negotiate in good faith the earliest practicable date
444 by which the Contractor shall modify said measuring devices and/or measuring methods as
445 required by the Contracting Officer to ensure compliance with subdivision (a) of this Article.

446 (c) All new surface water delivery systems installed within the Contractor's
447 Boundaries after the effective date of this Contract shall also comply with the measurement
448 provisions described in subdivision (a) of this Article.

449 (d) The Contractor shall inform the Contracting Officer and the State of
450 California in writing by April 30 of each Year of the monthly volume of surface water delivered
451 within the Contractor's Boundaries during the previous Year.

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

455 RATES AND METHOD OF PAYMENT FOR WATER

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

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

468 (1) Prior to July 1 of each Calendar Year, the Contracting Officer shall
469 provide the Contractor an estimate of the Charges for Project Water that will be applied to the
470 period October 1, of the current Calendar Year, through September 30, of the following Calendar
471 Year, and the basis for such estimate. The Contractor shall be allowed not less than 2 months to
472 review and comment on such estimates. On or before September 15 of each Calendar Year, the
473 Contracting Officer shall notify the Contractor in writing of the Charges to be in effect during the
474 period October 1 of the current Calendar Year, through September 30, of the following Calendar
475 Year, and such notification shall revise Exhibit "B."

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

484 (c) At the time the Contractor submits the initial schedule for the delivery of
485 Project Water for each Year pursuant to subdivision (b) of Article 4 of this Contract, the
486 Contractor shall make an advance payment to the United States equal to the total amount payable
487 pursuant to the applicable Rate(s) set under subdivision (a) of this Article, for the Project Water
488 scheduled to be delivered pursuant to this Contract during the first 2 calendar months of the
489 Year. Before the end of the first month and before the end of each calendar month thereafter, the
490 Contractor shall make an advance payment to the United States, at the Rate(s) set under
491 subdivision (a) of this Article, for the Water Scheduled to be delivered pursuant to this Contract
492 during the second month immediately following. Adjustments between advance payments for
493 Water Scheduled and payments at Rates due for Water Delivered shall be made before the end of
494 the following month; Provided, That any revised schedule submitted by the Contractor pursuant
495 to Article 4 of this Contract which increases the amount of Water Delivered pursuant to this
496 Contract during any month shall be accompanied with appropriate advance payment, at the Rates

497 then in effect, to assure that Project Water is not delivered to the Contractor in advance of such
498 payment. In any month in which the quantity of Water Delivered to the Contractor pursuant to
499 this Contract equals the quantity of Water Scheduled and paid for by the Contractor, no
500 additional Project Water shall be delivered to the Contractor unless and until an advance
501 payment at the Rates then in effect for such additional Project Water is made. Final adjustment
502 between the advance payments for the Water Scheduled and payments for the quantities of Water
503 Delivered during each Year pursuant to this Contract shall be made as soon as practicable but no
504 later than April 30th of the following Year, or 60 days after the delivery of Project Water carried
505 over under subdivision (f) of Article 3 of this Contract if such water is not delivered by the last
506 day of February.

507 (d) The Contractor shall also make a payment in addition to the Rate(s) in
508 subdivision (c) of this Article to the United States for Water Delivered, at the Charges and the
509 appropriate Tiered Pricing Component then in effect, before the end of the month following the
510 month of delivery; Provided, That the Contractor may be granted an exception from the Tiered
511 Pricing Component pursuant to subdivision (j)(2) of this Article. The payments shall be
512 consistent with the quantities of Irrigation Water and M&I Water Delivered as shown in the
513 water delivery report for the subject month prepared by the Operating Non-Federal Entity or, if
514 there is no Operating Non-Federal Entity, by the Contracting Officer. The water delivery report
515 shall be deemed a bill for the payment of Charges and the applicable Tiered Pricing Component
516 for Water Delivered. Adjustment for overpayment or underpayment of Charges shall be made
517 through the adjustment of payments due to the United States for Charges for the next month.

518 Any amount to be paid for past due payment of Charges and the Tiered Pricing Component shall
519 be computed pursuant to Article 20 of this Contract.

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

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

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

532 (h) The Contracting Officer shall keep its accounts pertaining to the
533 administration of the financial terms and conditions of its long-term contracts, in accordance
534 with applicable Federal standards, so as to reflect the application of Project costs and revenues.
535 The Contracting Officer shall, each Year upon request of the Contractor, provide to the
536 Contractor a detailed accounting of all Project and Contractor expense allocations, the
537 disposition of all Project and Contractor revenues, and a summary of all water delivery

538 information. The Contracting Officer and the Contractor shall enter into good faith negotiations
539 to resolve any discrepancies or disputes relating to accountings, reports, or information.

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

547 (j) (1) Beginning at such time as deliveries of Project Water in a Year
548 exceed 80 percent of the Contract Total, then before the end of the month following the month of
549 delivery the Contractor shall make an additional payment to the United States equal to the
550 applicable Tiered Pricing Component. The Tiered Pricing Component for the amount of Water
551 Delivered in excess of 80 percent of the Contract Total, but less than or equal to 90 percent of the
552 Contract Total, shall equal one-half of the difference between the Rate established under
553 subdivision (a) of this Article and the Irrigation Full Cost Water Rate or M&I Full Cost Water
554 Rate, whichever is applicable. The Tiered Pricing Component for the amount of Water
555 Delivered which exceeds 90 percent of the Contract Total shall equal the difference between (i)
556 the Rate established under subdivision (a) of this Article and (ii) the Irrigation Full Cost Water
557 Rate or M&I Full Cost Water Rate, whichever is applicable. For all Water Delivered pursuant to
558 subdivision (a) of Article 3 of this Contract which is in excess of 80 percent of the Contract

559 Total, this increment shall be deemed to be divided between Irrigation Water and M&I Water in
560 the same proportion as actual deliveries of each bear to the cumulative total Water Delivered.

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

569 (3) For purposes of determining the applicability of the Tiered Pricing
570 Components pursuant to this Article, Water Delivered shall include Project Water that the
571 Contractor transfers to others but shall not include Project Water transferred and delivered to the
572 Contractor nor shall it include the additional water provided to the Contractor under the
573 provisions of subdivision (f) of Article 3 of this Contract.

574 (k) For the term of this Contract, Rates under the respective ratesetting
575 policies will be established to recover only reimbursable "operation and maintenance" (including
576 any deficits) and capital costs of the Project, as those terms are used in the then-current Project
577 ratesetting policies, and interest, where appropriate, except in instances where a minimum Rate is
578 applicable in accordance with the relevant Project ratesetting policy. Changes of significance in
579 practices which implement the Contracting Officer's ratesetting policies will not be implemented

580 until the Contracting Officer has provided the Contractor an opportunity to discuss the nature,
581 need, and impact of the proposed change.

582 (l) Except as provided in subsections 3405(a)(1)(B) and 3405(f) of the
583 CVPIA, the Rates for Project Water transferred by the Contractor shall be the Contractor's Rates
584 adjusted upward or downward to reflect the changed costs, (if any), incurred by the Contracting
585 Officer in the delivery of the transferred Project Water to the transferee's point of delivery in
586 accordance with the then applicable CVP Ratesetting Policy. If the Contractor is receiving lower
587 Rates and Charges because of inability to pay and is transferring Project Water to another entity
588 whose Rates and Charges are not adjusted due to inability to pay, the Rates and Charges for
589 transferred Project Water shall be the Contractor's Rates and Charges unadjusted for inability to
590 pay.

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

593 NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICITS

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

597 SALES, TRANSFERS, OR EXCHANGES OF WATER

598 9. (a) The right to receive Project Water provided for in this Contract may be
599 sold, transferred, or exchanged to others for reasonable and beneficial uses within the State of
600 California if such sale, transfer, or exchange is authorized by applicable Federal and State laws,

601 and applicable guidelines or regulations then in effect. No sale, transfer, or exchange of Project
602 Water under this Contract may take place without the prior written approval of the Contracting
603 Officer, except as provided for in subdivision (b) of this Article, and no such sales, transfers, or
604 exchanges shall be approved absent compliance with appropriate environmental documentation
605 including but not limited to the National Environmental Policy Act and the Endangered Species
606 Act. Such environmental documentation should include, as appropriate, an analysis of ground-
607 water impacts and economic and social effects, including environmental justice, of the proposed
608 water transfers on both the transferor and transferee.

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

622 evaluate not less than the quantity of Project Water historically transferred within the same
623 geographical area.

624 (c) For a water transfer to qualify under subdivision (b) of this Article, such
625 water transfer must: (i) be for irrigation purposes for lands irrigated within the previous 3 years,
626 for M&I use, groundwater recharge, groundwater banking, similar groundwater activities,
627 surface water storage, or fish and wildlife resources; not lead to land conversion; and be
628 delivered to established cropland, wildlife refuges, ground-water basins or municipal and
629 industrial use; (ii) occur within a single Year; (iii) occur between a willing seller and a willing
630 buyer; (iv) convey water through existing facilities with no new construction or modifications to
631 facilities and be between existing Project Contractors and/or the Contractor and the United
632 States, Department of the Interior; and (v) comply with all applicable Federal, State, and local or
633 tribal laws and requirements imposed for protection of the environment and Indian Trust Assets,
634 as defined under Federal law.

635 (d) For the purpose of determining whether section 3405(a)(1)(M) of the
636 CVPIA applies to the Contractor as a transferor or transferee of Project Water, the Contracting
637 Officer acknowledges that the Contractor is within a county, watershed, or other area of origin,
638 as those terms are utilized under California law, of water that constitutes the natural flow of the
639 Sacramento River and its tributaries above the confluence of the American and Sacramento
640 Rivers.

641 APPLICATION OF PAYMENTS AND ADJUSTMENTS

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

653 (b) All advances for miscellaneous costs incurred for work requested by the
654 Contractor pursuant to Article 25 of this Contract shall be adjusted to reflect the actual costs
655 when the work has been completed. If the advances exceed the actual costs incurred, the
656 difference will be refunded to the Contractor. If the actual costs exceed the Contractor's
657 advances, the Contractor will be billed for the additional costs pursuant to Article 25 of this
658 Contract.

659 TEMPORARY REDUCTIONS--RETURN FLOWS

660 11. (a) Subject to: (i) the authorized purposes and priorities of the Project and the
661 requirements of Federal law; and (ii) the obligations of the United States under existing

662 contracts, or renewals thereof, providing for water deliveries from the Project, the Contracting
663 Officer shall make all reasonable efforts to optimize Project Water deliveries to the Contractor as
664 provided in this Contract.

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

676 (c) The United States reserves the right to all seepage and return flow water
677 derived from Water Delivered to the Contractor hereunder which escapes or is discharged
678 beyond the Contractor's Boundaries; Provided, That this shall not be construed as claiming for
679 the United States any right as seepage or return flow being put to reasonable and beneficial use
680 pursuant to this Contract within the Contractor's Boundaries by the Contractor or those claiming
681 by, through, or under the Contractor.

682 CONSTRAINTS ON THE AVAILABILITY OF WATER

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

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

693 (c) **In any Year in which there may occur a shortage for any of the reasons**
694 **specified in subdivision (b) above, the Contracting Officer shall apportion the available Project**
695 **Water supply among the Contractor and others entitled, under existing contracts and future**
696 **contracts (to the extent such future contracts are permitted under subsections (a) and (b) of**
697 **Section 3404 of the CVPIA) and renewals thereof, to receive Project Water consistent with the**
698 **contractual obligations of the United States.**

699 (d) **~~DIVISIONAL ISSUE — M&I Water Service Contracts — Omitted~~**

700 UNAVOIDABLE GROUNDWATER PERCOLATION

701 13. To the extent applicable, the Contractor shall not be deemed to have delivered
702 Irrigation Water to Excess Lands or Ineligible Lands within the meaning of this Contract if such

703 lands are irrigated with groundwater that reaches the underground strata as an unavoidable result
704 of the delivery of Irrigation Water by the Contractor to Eligible Lands.

705 RULES AND REGULATIONS

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

711 WATER AND AIR POLLUTION CONTROL

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

716 QUALITY OF WATER

717 16. (a) Project facilities used to deliver Project Water to the Contractor pursuant
718 to this Contract shall be operated and maintained to enable the United States to deliver Project
719 Water to the Contractor in accordance with the water quality standards specified in subsection
720 2(b) of the Act of August 26, 1937 (50 Stat. 865), as added by Section 101 of the Act of October
721 27, 1986 (100 Stat. 3050) or other existing Federal laws. The United States is under no
722 obligation to construct or furnish water treatment facilities to maintain or to improve the quality

723 of Water Delivered to the Contractor pursuant to this Contract. The United States does not
724 warrant the quality of Water Delivered to the Contractor pursuant to this Contract.

725 (b) The Operation and Maintenance of Project facilities shall be performed in
726 such manner as is practicable to maintain the quality of raw water made available through such
727 facilities at the highest level reasonably attainable as determined by the Contracting Officer. The
728 Contractor shall be responsible for compliance with all State and Federal water quality standards
729 applicable to surface and subsurface agricultural drainage discharges generated through the use
730 of Federal or Contractor facilities or Project Water provided by the Contractor within the
731 Contractor's Boundaries.

732 WATER ACQUIRED BY THE CONTRACTOR
733 OTHER THAN FROM THE UNITED STATES

734 17. (a) Water or water rights now owned or hereafter acquired by the Contractor
735 other than from the United States and Irrigation Water furnished pursuant to the terms of this
736 Contract may be simultaneously transported through the same distribution facilities of the
737 Contractor subject to the following: (i) if the facilities utilized for commingling Irrigation Water
738 and non-Project water were constructed without funds made available pursuant to Federal
739 Reclamation law, the provisions of Federal Reclamation law will be applicable only to the
740 Landholders of lands which receive Irrigation Water; (ii) the eligibility of land to receive
741 Irrigation Water must be established through the certification requirements as specified in the
742 Acreage Limitation Rules and Regulations (43 CFR Part 426); (iii) the water requirements of
743 Eligible Lands within the Contractor's Boundaries can be established and the quantity of
744 Irrigation Water to be utilized is less than or equal to the quantity necessary to irrigate such
745 Eligible Lands; and (iv) if the facilities utilized for commingling Irrigation Water and non-

746 Project water are/were constructed with funds made available pursuant to Federal Reclamation
747 law, the non-Project water will be subject to the acreage limitation provisions of Federal
748 Reclamation law, unless the Contractor pays to the United States the incremental fee described in
749 43 CFR 426.15. In determining the incremental fee, the Contracting Officer will calculate
750 annually the cost to the Federal Government, including interest **of on** storing or delivering non-
751 Project water, which for purposes of this Contract shall be determined as follows: The quotient
752 shall be the unpaid distribution system costs divided by the total irrigable acreage within the
753 Contractor's Boundaries. The incremental fee per acre is the mathematical result of such
754 quotient times the interest rate determined using Section 202 (3) of the Act of October 12, 1982
755 (96 Stat. 1263). Such incremental fee will be charged to each acre of excess or full cost land
756 within the Contractor's Boundaries that receives non-Project water through Federally financed or
757 constructed facilities. The incremental fee calculation methodology will continue during the
758 term of this Contract absent the promulgation of a contrary Reclamation-wide rule, regulation, or
759 policy adopted after the Contractor has been afforded the opportunity to review and comment on
760 the proposed rule, regulation, or policy. If such rule, regulation, or policy is adopted it shall
761 supersede this provision.

762 (b) Water or water rights now owned or hereafter acquired by the Contractor,
763 other than from the United States, may be stored, conveyed, and/or diverted through Project
764 facilities, subject to the completion of appropriate environmental documentation, with the
765 approval of the Contracting Officer and the execution of any contract determined by the
766 Contracting Officer to be necessary, consistent with the following provisions:

767 (1) The Contractor may introduce non-Project water into Project
768 facilities and deliver said water to lands within the Contractor's Boundaries, including Ineligible
769 Lands, subject to payment to the United States and/or to any applicable Operating Non-Federal

770 Entity of an appropriate rate as determined by the CVP Ratesetting Policy and the RRA of 1982,
771 each as amended, modified, or superceded from time to time. In addition, if electrical power is
772 required to pump non-Project water through the facilities, the Contractor shall be responsible for
773 obtaining the necessary power and paying the necessary charges therefor.

774 (2) Delivery of such non-Project water in and through Project facilities
775 shall only be allowed to the extent such deliveries do not: (i) interfere with other Project
776 purposes as determined by the Contracting Officer; (ii) reduce the quantity or quality of water
777 available to other Project water service contractors; (iii) interfere with the delivery of contractual
778 water entitlements to any other Project water service contractors; or (iv) interfere with the
779 physical maintenance of the Project facilities.

780 (3) Neither the United States nor the Operating Non-Federal Entity
781 shall be responsible for control, care, or distribution of the non-Project water before it is
782 introduced into or after it is delivered from the Project facilities. The Contractor hereby releases
783 and agrees to defend and indemnify the United States and the Operating Non-Federal Entity, and
784 their respective officers, agents, and employees, from any claim for damage to persons or
785 property, direct or indirect, arising out of or relating to the Contractor's or its officer's,
786 employee's, agent's or assign's, act of (i) extracting or diverting non-Project water from any
787 source, or (ii) diverting such non-Project water into Project facilities.

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

791 (5) After Project purposes are met, as determined by the Contracting
792 Officer, the United States and the Contractor shall share priority to utilize the remaining capacity
793 of the facilities declared to be available by the Contracting Officer for conveyance and

794 transportation of non-Project water prior to any such remaining capacity being made available to
795 non-Project contractors.

796 OPINIONS AND DETERMINATIONS

797 18. (a) Where the terms of this Contract provide for actions to be based upon the
798 opinion or determination of either party to this Contract, said terms shall not be construed as
799 permitting such action to be predicated upon arbitrary, capricious, or unreasonable opinions or
800 determinations. Both parties, notwithstanding any other provisions of this Contract, expressly
801 reserve the right to seek relief from and appropriate adjustment for any such arbitrary, capricious,
802 or unreasonable opinion or determination. Each opinion or determination by either party shall be
803 provided in a timely manner. Nothing in subdivision (a) of Article 18 of this Contract is
804 intended to or shall affect or alter the standard of judicial review applicable under Federal law to
805 any opinion or determination implementing a specific provision of Federal law embodied in
806 statute or regulation.

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

812 COORDINATION AND COOPERATION

813 19. (a) In order to further their mutual goals and objectives, the Contracting
814 Officer and the Contractor shall communicate, coordinate, and cooperate with each other, and
815 with other affected Project Contractors, in order to improve the operation and management of the
816 Project. The communication, coordination, and cooperation regarding operations and
817 management shall include, but not be limited to, any action which will or may materially affect

818 the quantity or quality of Project Water supply, the allocation of Project Water supply, and
819 Project financial matters including, but not limited to, budget issues. The communication,
820 coordination, and cooperation provided for hereunder shall extend to all provisions of this
821 Contract. Each party shall retain exclusive decision making authority for all actions, opinion,
822 and determinations to be made by the respective party.

823 (b) Within 120 days following the effective date of this Contract, the
824 Contractor, other affected Project Contractors, and the Contracting Officer shall arrange to meet
825 with interested Project Contractors to develop a mutually agreeable, written Project-wide
826 process, which may be amended as necessary separate and apart from this Contract. The goal of
827 this process shall be to provide, to the extent practicable, the means of mutual communication
828 and interaction regarding significant decisions concerning Project operation and management on
829 a real-time basis.

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

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

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

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

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

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

847 (d) Without limiting the contractual obligations of the Contracting Officer
848 under the other Articles of this Contract, nothing in this Article shall be construed to limit or
849 constrain the Contracting Officer's ability to communicate, coordinate, and cooperate with the
850 Contractor or other interested stakeholders or to make decisions in a timely fashion as needed to
851 protect health, safety, physical integrity of structures or facilities.

852 CHARGES FOR DELINQUENT PAYMENTS

853 20. (a) The Contractor shall be subject to interest, administrative and penalty
854 charges on delinquent installments or payments. When a payment is not received by the due
855 date, the Contractor shall pay an interest charge for each day the payment is delinquent beyond
856 the due date. When a payment becomes sixty (60) days delinquent, the Contractor shall pay an
857 administrative charge to cover additional costs of billing and processing the delinquent payment.
858 When a payment is delinquent ninety (90) days or more, the Contractor shall pay an additional
859 penalty charge of six (6%) percent per year for each day the payment is delinquent beyond the
860 due date. Further, the Contractor shall pay any fees incurred for debt collection services
861 associated with a delinquent payment.

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

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

870

EQUAL OPPORTUNITY

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

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

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

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

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

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

900 (f) In the event of the Contractor's noncompliance with the nondiscrimination
901 clauses of this Contract or with any of the said rules, regulations, or orders, this Contract may be
902 canceled, terminated, or suspended, in whole or in part, and the Contractor may be declared
903 ineligible for further Government contracts in accordance with procedures authorized in said
904 amended Executive Order, and such other sanctions may be imposed and remedies invoked as

905 provided in said Executive Order, or by rule, regulation, or order of the Secretary of Labor, or as
906 otherwise provided by law.

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

916 GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

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

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

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

930 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

931 23. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964
932 (42 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (P.L. 93-112, as amended), the
933 Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.) and any other applicable civil rights
934 laws, as well as with their respective implementing regulations and guidelines imposed by the
935 U.S. Department of the Interior and/or Bureau of Reclamation.

936 (b) These statutes require that no person in the United States shall, on the
937 grounds of race, color, national origin, handicap, or age, be excluded from participation in, be
938 denied the benefits of, or be otherwise subjected to discrimination under any program or activity

939 receiving financial assistance from the Bureau of Reclamation. By executing this Contract, the
940 Contractor agrees to immediately take any measures necessary to implement this obligation,
941 including permitting officials of the United States to inspect premises, programs, and documents.

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

950 PRIVACY ACT COMPLIANCE

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

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

960 (c) The Contracting Officer or a designated representative shall provide the
961 Contractor with current copies of the Interior Department Privacy Act regulations and the Bureau
962 of Reclamation Federal Register Privacy Act System of Records Notice (Acreage Limitation-
963 Interior, Reclamation-31) which govern the maintenance, safeguarding, and disclosure of
964 information contained in the Landholder's certification and reporting records.

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

969 (e) The Contractor shall forward promptly to the System Manager each
970 proposed denial of access under 43 CFR 2.64; and each request for amendment of records filed
971 under 43 CFR 2.71; notify the requester accordingly of such referral; and provide the System
972 Manager with information and records necessary to prepare an appropriate response to the
973 requester. These requirements do not apply to individuals seeking access to their own

974 certification and reporting forms filed with the Contractor pursuant to 43 CFR 426.18, unless the
975 requester elects to cite the Privacy Act as a basis for the request.

976 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

977 25. In addition to all other payments to be made by the Contractor pursuant to this
978 Contract, the Contractor shall pay to the United States, within 60 days after receipt of a bill and
979 detailed statement submitted by the Contracting Officer to the Contractor for such specific items
980 of direct cost incurred by the United States for work requested by the Contractor associated with
981 this Contract plus indirect costs in accordance with applicable Bureau of Reclamation policies
982 and procedures. All such amounts referred to in this Article shall not exceed the amount agreed
983 to in writing in advance by the Contractor. This Article shall not apply to costs for routine
984 contract administration.

985 WATER CONSERVATION

986 26. (a) Prior to the delivery of water provided from or conveyed through
987 Federally constructed or Federally financed facilities pursuant to this Contract, the Contractor
988 shall be implementing an effective water conservation and efficiency program based on the
989 Contractor's water conservation plan that has been determined by the Contracting Officer to meet
990 the conservation and efficiency criteria for evaluating water conservation plans established under
991 Federal law. The water conservation and efficiency program shall contain definite water
992 conservation objectives, appropriate economically feasible water conservation measures, and
993 time schedules for meeting those objectives. Continued Project Water delivery pursuant to this
994 Contract shall be contingent upon the Contractor's continued implementation of such water
995 conservation program. In the event the Contractor's water conservation plan or any revised water
996 conservation plan completed pursuant to subdivision (d) of Article 26 of this Contract have not
997 yet been determined by the Contracting Officer to meet such criteria, due to circumstances which
998 the Contracting Officer determines are beyond the control of the Contractor, water deliveries

999 shall be made under this Contract so long as the Contractor diligently works with the Contracting
1000 Officer to obtain such determination at the earliest practicable date, and thereafter the Contractor
1001 immediately begins implementing its water conservation and efficiency program in accordance
1002 with the time schedules therein.

1003 (b) Should the amount of M&I Water delivered pursuant to subdivision (a) of
1004 Article 3 of this Contract equal or exceed 2,000 acre-feet per Year, the Contractor shall
1005 implement the Best Management Practices identified by the time frames issued by the California
1006 Urban Water Conservation Council for such M&I Water unless any such practice is determined
1007 by the Contracting Officer to be inappropriate for the Contractor.

1008 (c) The Contractor shall submit to the Contracting Officer a report on the
1009 status of its implementation of the water conservation plan on the reporting dates specified in the
1010 then existing conservation and efficiency criteria established under Federal law.

1011 (d) At 5-year intervals, the Contractor shall revise its water conservation plan
1012 to reflect the then current conservation and efficiency criteria for evaluating water conservation
1013 plans established under Federal law and submit such revised water management plan to the
1014 Contracting Officer for review and evaluation. The Contracting Officer will then determine if
1015 the water conservation plan meets Reclamation's then current conservation and efficiency
1016 criteria for evaluating water conservation plans established under Federal law.

1017 (e) If the Contractor is engaged in direct ground-water recharge, such activity
1018 shall be described in the Contractor's water conservation plan.

1019 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

1020 27. Except as specifically provided in Article 17 of this Contract, the provisions of
1021 this Contract shall not be applicable to or affect non-Project water or water rights now owned or
1022 hereafter acquired by the Contractor or any user of such water within the Contractor's

1023 Boundaries. Any such water shall not be considered Project Water under this Contract. In
1024 addition, this Contract shall not be construed as limiting or curtailing any rights which the
1025 Contractor or any water user within the Contractor's Boundaries acquires or has available under
1026 any other contract pursuant to Federal Reclamation law.

1027 OPERATION AND MAINTENANCE BY NON-FEDERAL ENTITY

1028 28. (a) The Operation and Maintenance of a portion of the Project facilities which
1029 serve the Contractor, and responsibility for funding a portion of the costs of such Operation and
1030 Maintenance, have been transferred to the Operating Non-Federal Entity by separate agreement
1031 between the United States and the Operating Non-Federal Entity. That separate agreement shall
1032 not interfere with or affect the rights or obligations of the Contractor or the United States
1033 hereunder.

1034 (b) The Contracting Officer has previously notified the Contractor in writing
1035 that the Operation and Maintenance of a portion of the Project facilities which serve the
1036 Contractor has been transferred to the Operating Non-Federal Entity, and therefore, the
1037 Contractor shall pay directly to the Operating Non-Federal Entity, or to any successor approved
1038 by the Contracting Officer under the terms and conditions of the separate agreement between the
1039 United States and the Operating Non-Federal Entity described in subdivision (a) of this Article,
1040 all rates, charges, or assessments of any kind, including any assessment for reserve funds, which
1041 the Operating Non-Federal Entity or such successor determines, sets, or establishes for the
1042 Operation and Maintenance of the portion of the Project facilities operated and maintained by the
1043 Operating Non-Federal Entity or such successor. Such direct payments to the Operating Non-
1044 Federal Entity or such successor shall not relieve the Contractor of its obligation to pay directly
1045 to the United States the Contractor's share of the Project Rates, Charges, and Tiered Pricing
1046 Components except to the extent the Operating Non-Federal Entity collects payments on behalf

1047 of the United States in accordance with the separate agreement identified in subdivision (a) of
1048 this Article.

1049 (c) For so long as the Operation and Maintenance of any portion of the
1050 Project facilities serving the Contractor is performed by the Operating Non-Federal Entity, or
1051 any successor thereto, the Contracting Officer shall adjust those components of the Rates for
1052 Water Delivered under this Contract representing the cost associated with the activity being
1053 performed by the Operating Non-Federal Entity or its successor.

1054 (d) In the event the Operation and Maintenance of the Project facilities
1055 operated and maintained by the Operating Non-Federal Entity is re-assumed by the United States
1056 during the term of this Contract, the Contracting Officer shall so notify the Contractor, in
1057 writing, and present to the Contractor a revised Exhibit "B" which shall include the portion of
1058 the Rates to be paid by the Contractor for Project Water under this Contract representing the
1059 Operation and Maintenance costs of the portion of such Project facilities which have been re-
1060 assumed. The Contractor shall, thereafter, in the absence of written notification from the
1061 Contracting Officer to the contrary, pay the Rates, Charges, and Tiered Pricing Component(s)
1062 specified in the revised Exhibit "B" directly to the United States in compliance with Article 7 of
1063 this Contract.

1064 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

1065 29. The expenditure or advance of any money or the performance of any obligation of
1066 the United States under this Contract shall be contingent upon appropriation or allotment of
1067 funds. Absence of appropriation or allotment of funds shall not relieve the Contractor from any
1068 obligations under this Contract. No liability shall accrue to the United States in case funds are
1069 not appropriated or allotted.

1070

BOOKS, RECORDS, AND REPORTS

1071 30. (a) The Contractor shall establish and maintain accounts and other books and
1072 records pertaining to administration of the terms and conditions of this Contract, including: the
1073 Contractor's financial transactions, water supply data, and Project land and right-of-way
1074 agreements; the water users' land-use (crop census), land ownership, land-leasing and water use
1075 data; and other matters that the Contracting Officer may require. Reports thereon shall be
1076 furnished to the Contracting Officer in such form and on such date or dates as the Contracting
1077 Officer may require. Subject to applicable Federal laws and regulations, each party to this
1078 Contract shall have the right during office hours to examine and make copies of the other party's
1079 books and records relating to matters covered by this Contract.

1080 (b) Notwithstanding the provisions of subdivision (a) of this Article, no
1081 books, records, or other information shall be requested from the Contractor by the Contracting
1082 Officer unless such books, records, or information are reasonably related to the administration or
1083 performance of this Contract. Any such request shall allow the Contractor a reasonable period of
1084 time within which to provide the requested books, records, or information.

1085 (c) At such time as the Contractor provides information to the Contracting
1086 Officer pursuant to subdivision (a) of this Article, a copy of such information shall be provided
1087 to the Operating Non-Federal Entity.

1088 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

1089 31. (a) The provisions of this Contract shall apply to and bind the successors and
1090 assigns of the parties hereto, but no assignment or transfer of this Contract or any right or interest
1091 therein shall be valid until approved in writing by the Contracting Officer.

1092 (b) The assignment of any right or interest in this Contract by either party
1093 shall not interfere with the rights or obligations of the other party to this Contract absent the
1094 written concurrence of said other party.

1095 (c) The Contracting Officer shall not unreasonably condition or withhold his
1096 approval of any proposed assignment.

1097 SEVERABILITY

1098 32. In the event that a person or entity who is neither (i) a party to a Project contract,
1099 nor (ii) a person or entity that receives Project Water from a party to a Project contract, nor (iii)
1100 an association or other form of organization whose primary function is to represent parties to
1101 Project contracts, brings an action in a court of competent jurisdiction challenging the legality or
1102 enforceability of a provision included in this Contract and said person, entity, association, or
1103 organization obtains a final court decision holding that such provision is legally invalid or
1104 unenforceable and the Contractor has not intervened in that lawsuit in support of the plaintiff(s),
1105 the parties to this Contract shall use their best efforts to (i) within 30 days of the date of such
1106 final court decision identify by mutual agreement the provisions in this Contract which must be
1107 revised, and (ii) within 3 months thereafter promptly agree on the appropriate revision(s). The
1108 time periods specified above may be extended by mutual agreement of the parties. Pending the
1109 completion of the actions designated above, to the extent it can do so without violating any
1110 applicable provisions of law, the United States shall continue to make the quantities of Project
1111 Water specified in this Contract available to the Contractor pursuant to the provisions of this
1112 Contract which were not found to be legally invalid or unenforceable in the final court decision.

1113 RESOLUTION OF DISPUTES

1114 33. Should any dispute arise concerning any provisions of this Contract, or the
1115 parties' rights and obligations thereunder, the parties shall meet and confer in an attempt to
1116 resolve the dispute. Prior to the Contractor commencing any legal action, or the Contracting
1117 Officer referring any matter to Department of Justice, the party shall provide to the other party
1118 30 days' written notice of the intent to take such action; Provided, That such notice shall not be
1119 required where a delay in commencing an action would prejudice the interests of the party that
1120 intends to file suit. During the 30-day notice period, the Contractor and the Contracting Officer

1121 shall meet and confer in an attempt to resolve the dispute. Except as specifically provided,
1122 nothing herein is intended to waive or abridge any right or remedy that the Contractor or the
1123 United States may have.

1124 OFFICIALS NOT TO BENEFIT

1125 34. No Member of or Delegate to Congress, Resident Commissioner, or official of the
1126 Contractor shall benefit from this Contract other than as a water user or landowner in the same
1127 manner as other water users or landowners.

1128 CHANGES IN CONTRACTOR'S BOUNDARIES

1129 35. (a) While this Contract is in effect, no change may be made in the
1130 Contractor's **Boundaries**, by inclusion or exclusion of lands, dissolution, consolidation, merger,
1131 or otherwise, except upon the Contracting Officer's written consent.

1132 (b) Within 30 days of receipt of a request for such a change, the Contracting
1133 Officer will notify the Contractor of any additional information required by the Contracting
1134 Officer for processing said request, and both parties will meet to establish a mutually agreeable
1135 schedule for timely completion of the process. Such process will analyze whether the proposed
1136 change is likely to: (i) result in the use of Project Water contrary to the terms of this Contract;
1137 (ii) impair the ability of the Contractor to pay for Project Water furnished under this Contract or
1138 to pay for any Federally-constructed facilities for which the Contractor is responsible; and (iii)
1139 have an impact on any Project Water rights applications, permits, or licenses. In addition, the
1140 Contracting Officer shall comply with the National Environmental Policy Act and the
1141 Endangered Species Act. The Contractor will be responsible for all costs incurred by the
1142 Contracting Officer in this process, and such costs will be paid in accordance with Article 25 of
1143 this Contract.

1144 FEDERAL LAWS

1145 36. By entering into this Contract, the Contractor does not waive its rights to contest
1146 the validity or application in connection with the performance of the terms and conditions of this
1147 Contract of any Federal law or regulation; Provided, That the Contractor agrees to comply with
1148 the terms and conditions of this Contract unless and until relief from application of such Federal
1149 law or regulation to the implementing provision of the Contract is granted by a court of
1150 competent jurisdiction.

1151 NOTICES

1152 37. Any notice, demand, or request authorized or required by this Contract shall be
1153 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or
1154 delivered to the Area Manager, Bureau of Reclamation, Northern California Area Office, 16349
1155 Shasta Dam Boulevard, Shasta Lake, California 96019, and on behalf of the United States, when
1156 mailed, postage prepaid, or delivered to the Board of Directors of the La Grande Water District,
1157 P. O. Box 756, 2005 Husted Road, Williams, California 95987. The designation of the
1158 addressee or the address may be changed by notice given in the same manner as provided in this
1159 Article for other notices.

1160 CONFIRMATION OF CONTRACT

1161 38. The Contractor, after the execution of this Contract, shall promptly seek to secure
1162 a decree of a court of competent jurisdiction of the State of California, confirming the execution
1163 of this Contract. The Contractor shall furnish the United States a certified copy of the final
1164 decree, the validation proceedings, and all pertinent supporting records of the court approving
1165 and confirming this Contract, and decreeing and adjudging it to be lawful, valid, and binding on
1166 the Contractor.

La Grande WD Draft 6/25-2003
R.O. Final CVP-Wide 6/10-2003
Sac. Valley Division Draft 5/28-2003
CVP-Wide Draft 5/23-2003
Contract No. 7-07-20-W0022-LTR1

EXHIBIT A

[Map or Description of Boundaries]

La Grande WD Draft 6/25-2003
R.O. Final CVP-Wide 6/10-2003
Sac. Valley Division Draft 5/28-2003
CVP-Wide Draft 5/23-2003
Contract No. 7-07-20-W0022-LTR1

EXHIBIT B
[Initial Rates and Charges]