

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

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

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6 AND  
7 WESTSIDE WATER DISTRICT  
8 PROVIDING FOR PROJECT WATER SERVICE  
9 FROM THE SACRAMENTO RIVER DIVISION  
10

11 THIS CONTRACT, made this \_\_\_\_\_ day of \_\_\_\_\_, 2004, in  
12 pursuance generally of the Act of June 17, 1902 (32 Stat. 388), and acts amendatory or  
13 supplementary thereto, including, but not limited to, the Acts of August 26, 1937 (50 Stat. 844), as  
14 amended and supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented, July 2,  
15 1956 (70 Stat. 483), June 21, 1963 (77 Stat. 68), October 12, 1982 (96 Stat. 1263), October 27, 1986  
16 (100 Stat. 3050), as amended, and Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706), all  
17 collectively hereinafter referred to as Federal Reclamation law, between THE UNITED STATES  
18 OF AMERICA, hereinafter referred to as the United States, and WESTSIDE WATER DISTRICT,  
19 hereinafter referred to as the Contractor, a public agency of the State of California, duly organized,  
20 existing, and acting pursuant to the laws thereof, with its principal place of business in California;

21 WITNESSETH, That:

22 EXPLANATORY RECITALS

23 [1<sup>st</sup>] 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 control,  
25 irrigation, municipal, domestic, industrial, fish and wildlife mitigation, protection and restoration,  
26 generation and distribution of electric energy, salinity control, navigation and other beneficial uses,  
27 of waters of the Sacramento River, the American River, the Trinity River, and the San Joaquin  
28 River and their tributaries; and

29 [2<sup>nd</sup>] 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 water  
32 to the Contractor pursuant to the terms of this Contract; and

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

35 [4<sup>th</sup>] WHEREAS, the Contractor and the United States entered into Contract  
36 No. 14-06-200-8222, as amended on September 16, 1964, which established terms for the delivery  
37 to the Contractor of Central Valley Project Water from the Canal Facilities from March 16, 1960  
38 through February 28, 1995, and under which the initial date of water delivery to the Contractor was  
39 January 1, 1982; and

40 [5<sup>th</sup>] WHEREAS, the Contractor and the United States have pursuant to subsection  
41 3404(c)(1) of the Central Valley Project Improvement Act (CVPIA), subsequently entered into  
42 interim renewal contract(s) identified as Contract No(s). 14-06-200-8222-IR1, 14-06-200-8222-IR2,  
43 14-06-200-8222-IR3, 14-06-200-8222-IR4, 14-06-200-8222-IR5, 14-06-200-8222-IR6, and 14-06-  
44 200-8222-IR7, the current of which is hereinafter referred to as the Existing Contract, which

45 provided for the continued water service to the Contractor from March 1, 2003 through February  
46 29, 2004; and

47 [5.1] WHEREAS, the United States and the County of Colusa entered into Contract No.  
48 No. 14-06-200-8310A which established terms for the delivery to the County of Colusa of Central  
49 Valley Project Water from the Canal Facilities; and

50 [5.2] WHEREAS, the County of Colusa and the Contractor entered into a partial  
51 assignment on March 27, 2002, identified as Contract No. 14-06-200-8310X, to permanently assign  
52 to the Contractor 40,000 acre-feet of the Central Valley Project water made available to the County  
53 of Colusa pursuant to Contract No. 14-06-200-8310A; and

54 [5.3] WHEREAS, the Contractor desires to merge the Existing Contract and Contract No.  
55 14-06-200-8310X into a single contract identified as Contract No. 14-06-200-8222-LTR1; and

56 [6<sup>th</sup>] WHEREAS, Section 3404(c) of the CVPIA provides for long-term renewal of  
57 interim and existing long-term Central Valley Project Water service contracts following completion  
58 of appropriate environmental documentation, including a programmatic environmental impact  
59 statement (PEIS) pursuant to the National Environmental Policy Act analyzing the direct and  
60 indirect impacts and benefits of implementing the CVPIA and the potential renewal of all existing  
61 contracts for Project Water; and

62 [7<sup>th</sup>] WHEREAS, the United States has completed the PEIS and all other appropriate  
63 environmental review necessary to provide for long-term renewal of the Existing Contract; and

64 [8<sup>th</sup>] WHEREAS, the Contractor has requested the long-term renewal of the Existing  
65 Contract, pursuant to the terms of the Existing Contract, Federal Reclamation law, and the laws of  
66 the State of California, for water service from the Central Valley Project; and

67 [9<sup>th</sup>] WHEREAS, the United States has determined that the Contractor has fulfilled all of  
68 its obligations under the Existing Contract; and

69 [10<sup>th</sup>] WHEREAS, the Contractor has demonstrated to the satisfaction of the Contracting  
70 Officer that the Contractor has utilized the Central Valley Project Water supplies available to it for  
71 reasonable and beneficial use and, based upon a needs analysis cooperatively prepared by the  
72 Contracting Officer and the Contractor, has demonstrated projected future demand for water use  
73 that exceeds the Contract Total to be made available to it pursuant to this Contract; and

74 [11<sup>th</sup>] WHEREAS, water obtained from the Central Valley Project has been relied upon by  
75 urban and agricultural areas within California for more than 50 years, and is considered by the  
76 Contractor as an essential portion of its water supply; and

77 [12<sup>th</sup>] WHEREAS, the economies of regions within the Central Valley Project, including  
78 the Contractor's, depend upon the continued availability of water, including water service from the  
79 Central Valley Project; and

80 [13<sup>th</sup>] WHEREAS, the Secretary intends through coordination, cooperation, and  
81 partnerships to pursue measures to improve water supply, water quality, and reliability of the  
82 Project for all Project purposes; and

83 [14<sup>th</sup>] WHEREAS, the mutual goals of the United States and the Contractor include: to  
84 provide for reliable Central Valley Project Water supplies; to control costs of those supplies; to  
85 achieve repayment of the Central Valley Project as required by law; to guard reasonably against  
86 Central Valley Project Water shortages; to achieve a reasonable balance among competing demands  
87 for use of Central Valley Project Water; and to comply with all applicable environmental statutes,  
88 all consistent with the legal obligations of the United States relative to the Central Valley Project;  
89 and

90 [15<sup>th</sup>] WHEREAS, the parties intend by this Contract to develop a more cooperative  
91 relationship in order to achieve their mutual goals; and

92 [16<sup>th</sup>] WHEREAS, the United States and the Contractor are willing to enter into this

93 Contract pursuant to Federal Reclamation law on the terms and conditions set forth below;

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

96 DEFINITIONS

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

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

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

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

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

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

112 (f) “Contractor's Boundaries” shall mean the area to which the Contractor is  
113 permitted to provide Project Water under this Contract as described in Exhibit “A” attached hereto,  
114 which may be modified from time to time in accordance with Article 35 of this Contract without  
115 amendment of this Contract;

116 (g) “CVPIA” shall mean the Central Valley Project Improvement Act, Title  
117 XXXIV of the Act of October 30, 1992 (106 Stat. 4706);

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

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

124 (j) “Full Cost Rate” shall mean an annual rate, determined by the Contracting  
125 Officer that amortizes the expenditures for construction properly allocable to the Project Irrigation  
126 or M&I functions, as appropriate, of facilities in service including operation and maintenance  
127 deficits funded, less payments, over such periods as may be required under Federal Reclamation  
128 law, or applicable contract provisions. Interest will accrue on both the construction expenditures  
129 and funded O&M deficits from October 12, 1982, on costs outstanding at that date, or from the date  
130 incurred in the case of costs arising subsequent to October 12, 1982, and shall be calculated in  
131 accordance with subsections 202(3)(B) and (3)(C) of the RRA. The Full Cost Rate includes actual  
132 operation, maintenance, and replacement costs consistent with Section 426.2 of the Rules and  
133 Regulations for the RRA;

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

136 (l) “Irrigation Full Cost Water Rate” shall mean the Full Cost Rate applicable to  
137 the delivery of Irrigation Water;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

186 TERM OF CONTRACT

187 2. (a) This Contract shall be effective March 1, 2004, through February 28, 2029.

188 In the event the Contractor wishes to renew the Contract beyond February 28, 2029, the Contractor

189 shall submit a request for renewal in writing to the Contracting Officer no later than 2 years prior to

190 the date this Contract expires. The renewal of this Contract insofar as it pertains to the furnishing of

191 Irrigation Water to the Contractor shall be governed by subdivision (b) of this Article, and the

192 renewal of this Contract insofar as it pertains to the furnishing of M&I Water to the Contractor shall

193 be governed by subdivision (c) of this Article.

194 (b) (1) On terms and conditions of a renewal contract that are mutually

195 agreeable to the parties hereto, and upon a determination by the Contracting Officer that at the time

196 of contract renewal the conditions set forth in subdivision (b)(2) of this Article are met, and subject

197 to Federal and State law, this Contract, insofar as it pertains to the furnishing of Irrigation Water to

198 the Contractor, shall be renewed for a period of 25 years.

199 (2) The conditions which must be met for this Contract to be renewed

200 are: (i) the Contractor has prepared a water conservation plan that has been determined by the

201 Contracting Officer in accordance with Article 26 of this Contract to meet the conservation and

202 efficiency criteria for evaluating such plans established under Federal law; (ii) the Contractor is

203 implementing an effective water conservation and efficiency program based on the Contractor's

204 water conservation plan as required by Article 26 of this Contract; (iii) the Contractor is maintaining

205 all water measuring devices and implementing all water measurement methods as approved by the

206 Contracting Officer pursuant to Article 6 of this Contract; (iv) the Contractor has reasonably and

207 beneficially used the Project Water supplies made available to it and, based on projected demands,

208 is reasonably anticipated and expects fully to utilize for reasonable and beneficial use the quantity

209 of Project Water to be made available to it pursuant to such renewal; (v) the Contractor is

210 complying with all terms and conditions of this Contract; and (vi) the Contractor has the physical  
211 and legal ability to deliver Project Water.

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

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

231 (d) The Contracting Officer shall make a determination 10 years after the date of  
232 execution of this Contract, and every 5 years thereafter during the term of this Contract, of whether  
233 a conversion to a contract under said subsection 9(d) can be accomplished pursuant to the Act of

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

257 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

258 3. (a) During each Year, consistent with all applicable State water rights, permits,  
259 and licenses, Federal law, and subject to the provisions set forth in Articles 11 and 12 of this  
260 Contract, the Contracting Officer shall make available for delivery to the Contractor 65,000 acre-  
261 feet of water for irrigation and M&I purposes. The quantity of Water Delivered to the Contractor in  
262 accordance with this subdivision shall be scheduled and paid for pursuant to the provisions of  
263 Articles 4 and 7 of this Contract.

264 (b) Because the capacity of the Central Valley Project to deliver Project Water  
265 has been constrained in recent years and may be constrained in the future due to many factors  
266 including hydrologic conditions and implementation of Federal and State laws, the likelihood of the  
267 Contractor actually receiving the amount of Water set out in subdivision (a) of this Article in any  
268 given Year is uncertain. The Contracting Officer's most recent modeling referenced in the PEIS  
269 projected that the Contract Total set forth in this Contract will not be available to the Contractor in  
270 many years. During the most recent 5 years, the Recent Historic Average of water made available  
271 to the Contractor was 59,800 acre-feet. Nothing in subdivision (b) of this Article shall affect the  
272 rights and obligations of the parties under any provision of this Contract.

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

275 (d) The Contractor shall make reasonable and beneficial use of all Project Water  
276 or other water furnished pursuant to this Contract. Ground-water recharge programs (direct,  
277 indirect, or in lieu), ground-water banking programs, surface water storage programs, and other  
278 similar programs utilizing Project Water or other water furnished pursuant to this Contract  
279 conducted within the Contractor's Boundaries which are consistent with applicable State law and  
280 result in use consistent with Reclamation law will be allowed; Provided, that any direct recharge

281 program(s) is (are) described in the Contractor's Water Conservation Plan submitted pursuant to  
282 Article 26 of this Contract; Provided, further, that such Water Conservation Plan demonstrates  
283 sufficient lawful uses exist in the Contractor's Boundaries so that using a long-term average, the  
284 quantity of Delivered Water is demonstrated to be reasonable for such uses and in compliance with  
285 Reclamation Law. Ground-water recharge programs, ground-water banking programs, surface  
286 water storage programs, and other similar programs utilizing Project Water or other water furnished  
287 pursuant to this Contract conducted outside the Contractor's Boundaries may be permitted upon  
288 written approval of the Contracting Officer, which approval will be based upon environmental  
289 documentation, Project Water rights, and Project operational concerns. The Contracting Officer  
290 will address such concerns in regulations, policies, or guidelines.

291 (e) The Contractor shall comply with requirements applicable to the Contractor  
292 in biological opinion(s) prepared as a result of a consultation regarding the execution of this  
293 Contract undertaken pursuant to Section 7 of the Endangered Species Act of 1973, as amended, that  
294 are within the Contractor's legal authority to implement. The Existing Contract, which evidences in  
295 excess of 21 years of diversions for irrigation and/or municipal and industrial purposes of the  
296 quantities of water provided in subdivision (a) of Article 3 of this Contract, will be considered in  
297 developing an appropriate baseline for the Biological Assessment prepared pursuant to the  
298 Endangered Species Act, and any other needed environmental review. Nothing herein shall be  
299 construed to prevent the Contractor from challenging or seeking judicial relief in a court of  
300 competent jurisdiction with respect to any biological opinion or other environmental documentation  
301 referred to in this Article.

302 (f) As soon as possible following each declaration of Water Made Available  
303 under Article 4 of this Contract, the Contracting Officer will make a determination whether Project  
304 Water, or other water available to the Project, can be made available to the Contractor in addition to

305 the Contract Total under Article 3 of this Contract during the Year without adversely impacting  
306 other Project Contractors. At the request of the Contractor, the Contracting Officer will consult  
307 with the Contractor prior to making such a determination. If the Contracting Officer determines  
308 that Project Water, or other water available to the Project, can be made available to the Contractor,  
309 the Contracting Officer will announce the availability of such water and shall so notify the  
310 Contractor as soon as practical. The Contracting Officer will thereafter meet with the Contractor  
311 and other Project Contractors capable of taking such water to determine the most equitable and  
312 efficient allocation of such water. If the Contractor requests the delivery of any quantity of such  
313 water, the Contracting Officer shall make such water available to the Contractor in accordance with  
314 applicable statutes, regulations, guidelines, and policies.

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

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

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

331 (j) The Contracting Officer shall make reasonable efforts to protect the water  
332 rights necessary for the Project and to provide the water available under this Contract. The  
333 Contracting Officer shall not object to participation by the Contractor, in the capacity and to the  
334 extent permitted by law, in administrative proceedings related to the Project Water rights; Provided,  
335 however, that the Contracting Officer retains the right to object to the substance of the Contractor's  
336 position in such a proceeding; Provided further, that in such proceedings the Contracting Officer  
337 shall recognize the Contractor has a legal right under the terms of this Contract to use Project  
338 Water.

339 TIME FOR DELIVERY OF WATER

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

349 (b) On or before each March 1 and at such other times as necessary, the  
350 Contractor shall submit to the Contracting Officer a written schedule, satisfactory to the Contracting  
351 Officer, showing the monthly quantities of Project Water to be delivered by the United States to the

352 Contractor pursuant to this Contract for the Year commencing on such March 1. The Contracting  
353 Officer shall use all reasonable means to deliver Project Water according to the approved schedule  
354 for the Year commencing on such March 1.

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

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

363 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

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

371 (b) The Contracting Officer, the Operating Non-Federal Entity, or other  
372 appropriate entity shall make all reasonable efforts to maintain sufficient flows and levels of water  
373 in the Canal Facilities to deliver Project Water to the Contractor at specific turnouts established  
374 pursuant to subdivision (a) of this Article. The parties acknowledge that it may be necessary from  
375 time to time to shut down some or all of the Canal Facilities for maintenance or emergencies.

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

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

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

396 (e) Neither the Contracting Officer nor any Operating Non-Federal Entity shall  
397 be responsible for the control, carriage, handling, use, disposal, or distribution of Project Water  
398 Delivered to the Contractor pursuant to this Contract beyond the delivery points specified in  
399 subdivision (a) of this Article. The Contractor shall indemnify the United States, its officers,

400 employees, agents, and assigns on account of damage or claim of damage of any nature whatsoever  
401 for which there is legal responsibility, including property damage, personal injury, or death arising  
402 out of or connected with the control, carriage, handling, use, disposal, or distribution of such Project  
403 Water beyond such delivery points, except for any damage or claim arising out of (i) acts or  
404 omissions of the Contracting Officer or any of its officers, employees, agents, or assigns, including  
405 any responsible Operating Non-Federal Entity, with the intent of creating the situation resulting in  
406 any damage or claim, (ii) willful misconduct of the Contracting Officer or any of its officers,  
407 employees, agents, or assigns, including any responsible Operating Non-Federal Entity, (iii)  
408 negligence of the Contracting Officer or any of its officers, employees, agents, or assigns including  
409 any responsible Operating Non-Federal Entity, or (iv) damage or claims resulting from a  
410 malfunction of facilities owned and/or operated by the United States or responsible Operating Non-  
411 Federal Entity; Provided, that the Contractor is not the Operating Non-Federal Entity that owned or  
412 operated the malfunctioning facility(ies) from which the damage claim arose.

413 MEASUREMENT OF WATER WITHIN THE BOUNDARIES

414 6. (a) The Contractor shall ensure that, unless the Contractor has established  
415 ~~establishes~~ an alternative measurement program satisfactory to the Contracting Officer, all surface  
416 water delivered for irrigation purposes within the Contractor's Boundaries is measured at each  
417 agricultural turnout and such water delivered for municipal and industrial purposes is measured at  
418 each municipal and industrial service connection. The water measuring devices or water measuring  
419 methods of comparable effectiveness must be acceptable to the Contracting Officer. The Contractor  
420 shall be responsible for installing, operating, and maintaining and repairing all such measuring  
421 devices and implementing all such water measuring methods at no cost to the United States. The  
422 Contractor shall use the information obtained from such water measuring devices or water  
423 measuring methods to ensure its proper management of the water, to bill water users for water

424 delivered by the Contractor; and, if applicable, to record water delivered for municipal and  
425 industrial purposes by customer class as defined in the Contractor's water conservation plan  
426 provided for in Article 26 of this Contract. Nothing herein contained, however, shall preclude the  
427 Contractor from establishing and collecting any charges, assessments, or other revenues authorized  
428 by California law. The Contractor shall include a summary of all its annual surface water deliveries  
429 in the annual report described in subdivision (c) of Article 26.

430 (b) To the extent the information has not otherwise been provided, upon  
431 execution of this Contract, the Contractor shall provide to the Contracting Officer a written report  
432 describing the measurement devices or water measuring methods being used or to be used to  
433 implement subdivision (a) of this Article and identifying the agricultural turnouts and the municipal  
434 and industrial service connections or alternative measurement programs approved by the  
435 Contracting Officer, at which such measurement devices or water measuring methods are being  
436 used, and, if applicable, identifying the locations at which such devices and/or methods are not yet  
437 being used including a time schedule for implementation at such locations. The Contracting Officer  
438 shall advise the Contractor in writing within 60 days as to the adequacy of, and necessary  
439 modifications, if any, of the measuring devices or water measuring methods identified in the  
440 Contractor's report and if the Contracting Officer does not respond in such time, they shall be  
441 deemed adequate. If the Contracting Officer notifies the Contractor that the measuring devices or  
442 methods are inadequate, the parties shall within 60 days following the Contracting Officer's  
443 response, negotiate in good faith the earliest practicable date by which the Contractor shall modify  
444 said measuring devices and/or measuring methods as required by the Contracting Officer to ensure  
445 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 Non-  
453 Federal Entity on or before the 20<sup>th</sup> calendar day of each month of the quantity of Irrigation and  
454 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 all  
457 Delivered Water at Rates, Charges, and the Tiered Pricing Component established in accordance  
458 with (i) the Secretary's ratesetting policy for Irrigation Water adopted in 1988 and the Secretary's  
459 then-existing ratesetting policy for M&I Water. Such ratesetting policies shall be amended,  
460 modified, or superseded only through a public notice and comment procedure; (ii) applicable  
461 Reclamation law and associated rules and regulations, or policies; and (iii) other applicable  
462 provisions of this Contract. Payments shall be made by cash transaction, wire, or any other  
463 mechanism as may be agreed to in writing by the Contractor and the Contracting Officer. The  
464 Rates, Charges, and Tiered Pricing Components applicable to the Contractor upon execution of this  
465 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, and  
467 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 for  
478 Project Water for the following Year and the computations and cost allocations upon which those  
479 Rates are based. The Contractor shall be allowed not less than 2 months to review and comment on  
480 such computations and cost allocations. By December 31 of each Calendar Year, the Contracting  
481 Officer shall provide the Contractor with the final Rates and Tiered Pricing Components to be in  
482 effect for the upcoming Year, and such notification shall revise Exhibit "B."

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

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

505 (d) The Contractor shall also make a payment in addition to the Rate(s) in  
506 subdivision (c) of this Article to the United States for Water Delivered, at the Charges and the  
507 appropriate Tiered Pricing Component then in effect, before the end of the month following the  
508 month of delivery; Provided, that the Contractor may be granted an exception from the Tiered  
509 Pricing Component pursuant to subdivision (j)(2) of this Article. The payments shall be consistent  
510 with the quantities of Irrigation Water and M&I Water Delivered as shown in the water delivery  
511 report for the subject month prepared by the Operating Non-Federal Entity or, if there is no  
512 Operating Non-Federal Entity, by the Contracting Officer. The water delivery report shall be  
513 deemed a bill for the payment of Charges and the applicable Tiered Pricing Component for Water  
514 Delivered. Adjustment for overpayment or underpayment of Charges shall be made through the  
515 adjustment of payments due to the United States for Charges for the next month. Any amount to be  
516 paid for past due payment of Charges and the Tiered Pricing Component shall be computed  
517 pursuant to Article 20 of this Contract.

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

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

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

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

538                   (i)     The parties acknowledge and agree that the efficient administration of this  
539 Contract is their mutual goal. Recognizing that experience has demonstrated that mechanisms,  
540 policies, and procedures used for establishing Rates, Charges, and Tiered Pricing Components,  
541 and/or for making and allocating payments, other than those set forth in this Article may be in the

542 mutual best interest of the parties, it is expressly agreed that the parties may enter into agreements  
543 to modify the mechanisms, policies, and procedures for any of those purposes while this Contract is  
544 in effect without amending this Contract.

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

559 (2) Subject to the Contracting Officer's written approval, the Contractor  
560 may request and receive an exemption from such Tiered Pricing Components for Project Water  
561 delivered to produce a crop which the Contracting Officer determines will provide significant and  
562 quantifiable habitat values for waterfowl in fields where the water is used and the crops are  
563 produced; Provided, that the exemption from the Tiered Pricing Components for Irrigation Water  
564 shall apply only if such habitat values can be assured consistent with the purposes of CVPIA

565 through binding agreements executed with or approved by the Contracting Officer prior to use of  
566 such water.

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

572 (k) For the term of this Contract, Rates under the respective ratesetting policies  
573 will be established to recover only reimbursable “operation and maintenance” (including any  
574 deficits) and capital costs of the Project, as those terms are used in the then-current Project  
575 ratesetting policies, and interest, where appropriate, except in instances where a minimum Rate is  
576 applicable in accordance with the relevant Project ratesetting policy. Changes of significance in  
577 practices which implement the Contracting Officer’s ratesetting policies will not be implemented  
578 until the Contracting Officer has provided the Contractor an opportunity to discuss the nature, need,  
579 and impact of the proposed change.

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

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

590 (n) *(Note this proposed language is still under review)* The Contractor asserts  
591 that it is not legally obligated to repay any Central Valley Project deficits or deficit related interest  
592 charges claimed by the United States to have accrued as of the date of this Contract. By entering  
593 into this Contract, the Contractor does not waive any legal rights or remedies that it may have with  
594 respect to such disputed issues. Notwithstanding the execution of this Contract, and payments made  
595 hereunder, the Contractor may challenge in the appropriate administrative or judicial forums: (1) the  
596 computation, or imposition of any deficit charges accruing under the Existing Contract; (2) interest  
597 accruing on any such deficits; (3) the inclusion of any such deficit charges or interest in the Rates;  
598 (4) the application by the United States of payments made by the Contractor under its Existing  
599 Contract; and (5) the application of such payments in the Rates. The Contracting Officer agrees that  
600 the Contractor shall be entitled to the benefit of any administrative or judicial ruling in favor of any  
601 other Central Valley Project M&I contractor on any of these issues, provided that, the basis for such  
602 ruling is applicable to the Contractor.

#### 603 NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICITS

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

#### 607 SALES, TRANSFERS, OR EXCHANGES OF WATER

608 9. (a) The right to receive Project Water provided for in this Contract may be sold,  
609 transferred, or exchanged to others for reasonable and beneficial uses within the State of California  
610 if such sale, transfer, or exchange is authorized by applicable Federal and State laws, and applicable  
611 guidelines or regulations then in effect. No sale, transfer, or exchange of Project Water under this

612 Contract may take place without the prior written approval of the Contracting Officer, except as  
613 provided for in subdivision (b) of this Article, and no such sales, transfers, or exchanges shall be  
614 approved absent compliance with appropriate environmental documentation including but not  
615 limited to the National Environmental Policy Act and the Endangered Species Act. Such  
616 environmental documentation should include, as appropriate, an analysis of ground-water impacts  
617 and economic and social effects, including environmental justice, of the proposed water transfers on  
618 both the transferor and transferee.

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

633 (c) For a water transfer to qualify under subdivision (b) of this Article, such  
634 water transfer must: (i) be for irrigation purposes for lands irrigated within the previous 3 years, for  
635 M&I use, groundwater recharge, groundwater banking, similar groundwater activities, surface water

636 storage, or fish and wildlife resources; not lead to land conversion; and be delivered to established  
637 cropland, wildlife refuges, ground-water basins or municipal and industrial use; (ii) occur within a  
638 single Year; (iii) occur between a willing seller and a willing buyer; (iv) convey water through  
639 existing facilities with no new construction or modifications to facilities and be between existing  
640 Project Contractors and/or the Contractor and the United States, Department of the Interior; and (v)  
641 comply with all applicable Federal, State, and local or tribal laws and requirements imposed for  
642 protection of the environment and Indian Trust Assets, as defined under Federal law.

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

648 APPLICATION OF PAYMENTS AND ADJUSTMENTS

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

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

665 TEMPORARY REDUCTIONS--RETURN FLOWS

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

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

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

688 CONSTRAINTS ON THE AVAILABILITY OF WATER

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

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

699 (c) In any Year in which there may occur a shortage for any of the reasons  
700 specified in subdivision (b) above, the Contracting Officer shall apportion the available Project  
701 Water supply among the Contractor and others entitled, under existing contracts and future  
702 contracts (to the extent such future contracts are permitted under subsections (a) and (b) of Section

703 3404 of the CVPIA) and renewals thereof, to receive Project Water consistent with the contractual  
704 obligations of the United States.

705 (d) Project Water furnished under this Contract will be allocated in accordance  
706 with the then-existing Project M&I Water Shortage Policy. Such policy shall be amended,  
707 modified, or superseded only through a public notice and comment procedure.

708 UNAVOIDABLE GROUNDWATER PERCOLATION

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

713 RULES AND REGULATIONS

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

718 WATER AND AIR POLLUTION CONTROL

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

722

723

724 QUALITY OF WATER  
725 16. (a) Project facilities used to deliver Project Water to the Contractor pursuant to  
726 this Contract shall be operated and maintained to enable the United States to deliver Project Water  
727 to the Contractor in accordance with the water quality standards specified in subsection 2(b) of the  
728 Act of August 26, 1937 (50 Stat. 865), as added by Section 101 of the Act of October 27, 1986 (100  
729 Stat. 3050) or other existing Federal laws. The United States is under no obligation to construct or  
730 furnish water treatment facilities to maintain or to improve the quality of Water Delivered to the  
731 Contractor pursuant to this Contract. The United States does not warrant the quality of Water  
732 Delivered to the Contractor pursuant to this Contract.

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

740 WATER ACQUIRED BY THE CONTRACTOR  
741 OTHER THAN FROM THE UNITED STATES

742 17. (a) Water or water rights now owned or hereafter acquired by the Contractor  
743 other than from the United States and Irrigation Water furnished pursuant to the terms of this  
744 Contract may be simultaneously transported through the same distribution facilities of the  
745 Contractor subject to the following: (i) if the facilities utilized for commingling Irrigation Water

746 and non-Project water were constructed without funds made available pursuant to Federal  
747 Reclamation law, the provisions of Federal Reclamation law will be applicable only to the  
748 Landholders of lands which receive Irrigation Water; (ii) the eligibility of land to receive Irrigation  
749 Water must be established through the certification requirements as specified in the Acreage  
750 Limitation Rules and Regulations (43 CFR Part 426); (iii) the water requirements of Eligible Lands  
751 within the Contractor's Boundaries can be established and the quantity of Irrigation Water to be  
752 utilized is less than or equal to the quantity necessary to irrigate such Eligible Lands; and (iv) if the  
753 facilities utilized for commingling Irrigation Water and non-Project water are/were constructed with  
754 funds made available pursuant to Federal Reclamation law, the non-Project water will be subject to  
755 the acreage limitation provisions of Federal Reclamation law, unless the Contractor pays to the  
756 United States the incremental fee described in 43 CFR 426.15. In determining the incremental fee,  
757 the Contracting Officer will calculate annually the cost to the Federal Government, including  
758 interest on storing or delivering non-Project water, which for purposes of this Contract shall be  
759 determined as follows: The quotient shall be the unpaid distribution system costs divided by the  
760 total irrigable acreage within the Contractor's Boundaries. The incremental fee per acre is the  
761 mathematical result of such quotient times the interest rate determined using Section 202 (3) of the  
762 Act of October 12, 1982 (96 Stat. 1263). Such incremental fee will be charged to each acre of  
763 excess or full cost land within the Contractor's Boundaries that receives non-Project water through  
764 Federally financed or constructed facilities. The incremental fee calculation methodology will  
765 continue during the term of this Contract absent the promulgation of a contrary Reclamation-wide  
766 rule, regulation, or policy adopted after the Contractor has been afforded the opportunity to review  
767 and comment on the proposed rule, regulation, or policy. If such rule, regulation, or policy is  
768 adopted it shall supersede this provision.

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

774                   (1)     The Contractor may introduce non-Project water into Project facilities  
775 and deliver said water to lands within the Contractor's Boundaries, including Ineligible Lands,  
776 subject to payment to the United States and/or to any applicable Operating Non-Federal Entity of an  
777 appropriate rate as determined by the CVP Ratesetting Policy and the RRA of 1982, each as  
778 amended, modified, or superceded from time to time. In addition, if electrical power is required to  
779 pump non-Project water through the facilities, the Contractor shall be responsible for obtaining the  
780 necessary power and paying the necessary charges therefor.

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

787                   (3)     Neither the United States nor the Operating Non-Federal Entity shall  
788 be responsible for control, care, or distribution of the non-Project water before it is introduced into  
789 or after it is delivered from the Project facilities. The Contractor hereby releases and agrees to  
790 defend and indemnify the United States and the Operating Non-Federal Entity, and their respective  
791 officers, agents, and employees, from any claim for damage to persons or property, direct or  
792 indirect, arising out of or relating to the Contractor's or its officer's, employee's, agent's or

793 assign's, act of (i) extracting or diverting non-Project water from any source, or (ii) diverting such  
794 non-Project water into Project facilities.

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

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

803 OPINIONS AND DETERMINATIONS

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

813 (b) The Contracting Officer shall have the right to make determinations  
814 necessary to administer this Contract that are consistent with the provisions of this Contract, the  
815 laws of the United States and of the State of California, and the rules and regulations promulgated

816 by the Secretary of the Interior. Such determinations shall be made in consultation with the  
817 Contractor to the extent reasonably practicable.

818 COORDINATION AND COOPERATION

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

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

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

838 (1) The Contracting Officer will, at the request of the Contractor, assist in  
839 the development of integrated resource management plans for the Contractor. Further, the

840 Contracting Officer will, as appropriate, seek authorizations for implementation of partnerships to  
841 improve water supply, water quality, and reliability.

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

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

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

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

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

857 CHARGES FOR DELINQUENT PAYMENTS

858 20. (a) The Contractor shall be subject to interest, administrative and penalty charges  
859 on delinquent installments or payments. When a payment is not received by the due date, the  
860 Contractor shall pay an interest charge for each day the payment is delinquent beyond the due date.  
861 When a payment becomes sixty (60) days delinquent, the Contractor shall pay an administrative  
862 charge to cover additional costs of billing and processing the delinquent payment. When a payment  
863 is delinquent ninety (90) days or more, the Contractor shall pay an additional penalty charge of six  
864 (6%) percent per year for each day the payment is delinquent beyond the due date. Further, the  
865 Contractor shall pay any fees incurred for debt collection services associated with a delinquent  
866 payment.

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

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

875 EQUAL OPPORTUNITY

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

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

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

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

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

898 (e) The Contractor will furnish all information and reports required by said  
899 amended Executive Order and by the rules, regulations, and orders of the Secretary of Labor, or

900 pursuant thereto, and will permit access to its books, records, and accounts by the Contracting  
901 Officer and the Secretary of Labor for purposes of investigation to ascertain compliance with such  
902 rules, regulations, and orders.

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

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

919 GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

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

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

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

932 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS



968 pursuant to 43 CFR 2.61 and 2.64 amendment requests pursuant to 43 CFR 2.72. The Contractor is  
969 authorized to grant requests by individuals for access to their own records.

970 (e) The Contractor shall forward promptly to the System Manager each proposed  
971 denial of access under 43 CFR 2.64; and each request for amendment of records filed under 43 CFR  
972 2.71; notify the requester accordingly of such referral; and provide the System Manager with  
973 information and records necessary to prepare an appropriate response to the requester. These  
974 requirements do not apply to individuals seeking access to their own certification and reporting  
975 forms filed with the Contractor pursuant to 43 CFR 426.18, unless the requester elects to cite the  
976 Privacy Act as a basis for the request.

977 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

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

986 WATER CONSERVATION

987 26. (a) Prior to the delivery of water provided from or conveyed through Federally  
988 constructed or Federally financed facilities pursuant to this Contract, the Contractor shall be  
989 implementing an effective water conservation and efficiency program based on the Contractor's  
990 water conservation plan that has been determined by the Contracting Officer to meet the  
991 conservation and efficiency criteria for evaluating water conservation plans established under  
992 Federal law. The water conservation and efficiency program shall contain definite water  
993 conservation objectives, appropriate economically feasible water conservation measures, and time  
994 schedules for meeting those objectives. Continued Project Water delivery pursuant to this Contract

995 shall be contingent upon the Contractor's continued implementation of such water conservation  
996 program. In the event the Contractor's water conservation plan or any revised water conservation  
997 plan completed pursuant to subdivision (d) of Article 26 of this Contract have not yet been  
998 determined by the Contracting Officer to meet such criteria, due to circumstances which the  
999 Contracting Officer determines are beyond the control of the Contractor, water deliveries shall be  
1000 made under this Contract so long as the Contractor diligently works with the Contracting Officer to  
1001 obtain such determination at the earliest practicable date, and thereafter the Contractor immediately  
1002 begins implementing its water conservation and efficiency program in accordance with the time  
1003 schedules therein.

1004 (b) Should the amount of M&I Water delivered pursuant to subdivision (a) of  
1005 Article 3 of this Contract equal or exceed 2,000 acre-feet per Year, the Contractor shall implement  
1006 the Best Management Practices identified by the time frames issued by the California Urban Water  
1007 Conservation Council for such M&I Water unless any such practice is determined by the  
1008 Contracting Officer to be inappropriate for the Contractor.

1009 (c) The Contractor shall submit to the Contracting Officer a report on the status  
1010 of its implementation of the water conservation plan on the reporting dates specified in the then  
1011 existing conservation and efficiency criteria established under Federal law.

1012 (d) At 5-year intervals, the Contractor shall revise its water conservation plan to  
1013 reflect the then current conservation and efficiency criteria for evaluating water conservation plans  
1014 established under Federal law and submit such revised water management plan to the Contracting  
1015 Officer for review and evaluation. The Contracting Officer will then determine if the water  
1016 conservation plan meets Reclamation's then current conservation and efficiency criteria for  
1017 evaluating water conservation plans established under Federal law.

1018 (e) If the Contractor is engaged in direct ground-water recharge, such activity  
1019 shall be described in the Contractor's water conservation plan.

1020 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

1021 27. Except as specifically provided in Article 17 of this Contract, the provisions of this  
1022 Contract shall not be applicable to or affect non-Project water or water rights now owned or  
1023 hereafter acquired by the Contractor or any user of such water within the Contractor's Boundaries.  
1024 Any such water shall not be considered Project Water under this Contract. In addition, this Contract  
1025 shall not be construed as limiting or curtailing any rights which the Contractor or any water user  
1026 within the Contractor's Boundaries acquires or has available under any other contract pursuant to  
1027 Federal Reclamation law.

1028 OPERATION AND MAINTENANCE BY NON-FEDERAL ENTITY

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

1034 (b) The Contracting Officer has previously notified the Contractor in writing that  
1035 the Operation and Maintenance of a portion of the Project facilities which serve the Contractor has  
1036 been transferred to the Operating Non-Federal Entity, and therefore, the Contractor shall pay  
1037 directly to the Operating Non-Federal Entity, or to any successor approved by the Contracting  
1038 Officer under the terms and conditions of the separate agreement between the United States and the  
1039 Operating Non-Federal Entity described in subdivision (a) of this Article, all rates, charges, or  
1040 assessments of any kind, including any assessment for reserve funds, which the Operating Non-  
1041 Federal Entity or such successor determines, sets, or establishes for the Operation and Maintenance

1042 of the portion of the Project facilities operated and maintained by the Operating Non-Federal Entity  
1043 or such successor. Such direct payments to the Operating Non-Federal Entity or such successor  
1044 shall not relieve the Contractor of its obligation to pay directly to the United States the Contractor's  
1045 share of the Project Rates, Charges, and Tiered Pricing Components except to the extent the  
1046 Operating Non-Federal Entity collects payments on behalf of the United States in accordance with  
1047 the separate agreement identified in subdivision (a) of this Article.

1048 (c) For so long as the Operation and Maintenance of any portion of the Project  
1049 facilities serving the Contractor is performed by the Operating Non-Federal Entity, or any successor  
1050 thereto, the Contracting Officer shall adjust those components of the Rates for Water  
1051 Delivered under this Contract representing the cost associated with the activity being performed by  
1052 the Operating Non-Federal Entity or its successor.

1053 (d) In the event the Operation and Maintenance of the Project facilities  
1054 operated and maintained by the Operating Non-Federal Entity is re-assumed by the United States  
1055 during the term of this Contract, the Contracting Officer shall so notify the Contractor, in  
1056 writing, and present to the Contractor a revised Exhibit "B" which shall include the portion of  
1057 the Rates to be paid by the Contractor for Project Water under this Contract representing the  
1058 Operation and Maintenance costs of the portion of such Project facilities which have been re-  
1059 assumed. The Contractor shall, thereafter, in the absence of written notification from the  
1060 Contracting Officer to the contrary, pay the Rates, Charges, and Tiered Pricing Component(s)  
1061 specified in the revised Exhibit "B" directly to the United States in compliance with Article 7 of  
1062 this Contract.

1063 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

1064 29. The expenditure or advance of any money or the performance of any obligation of  
1065 the United States under this Contract shall be contingent upon appropriation or allotment of

1066 funds. Absence of appropriation or allotment of funds shall not relieve the Contractor from any  
1067 obligations under this Contract. No liability shall accrue to the United States in case funds are  
1068 not appropriated or allotted.

1069 BOOKS, RECORDS, AND REPORTS

1070 30. (a) The Contractor shall establish and maintain accounts and other books and  
1071 records pertaining to administration of the terms and conditions of this Contract, including: the  
1072 Contractor's financial transactions, water supply data, and Project land and right-of-way  
1073 agreements; the water users' land-use (crop census), land ownership, land-leasing and water use  
1074 data; and other matters that the Contracting Officer may require. Reports thereon shall be  
1075 furnished to the Contracting Officer in such form and on such date or dates as the Contracting  
1076 Officer may require. Subject to applicable Federal laws and regulations, each party to this  
1077 Contract shall have the right during office hours to examine and make copies of the other party's  
1078 books and records relating to matters covered by this Contract.

1079 (b) Notwithstanding the provisions of subdivision (a) of this Article, no  
1080 books, records, or other information shall be requested from the Contractor by the Contracting  
1081 Officer unless such books, records, or information are reasonably related to the administration or  
1082 performance of this Contract. Any such request shall allow the Contractor a reasonable period of  
1083 time within which to provide the requested books, records, or information.

1084 (c) At such time as the Contractor provides information to the Contracting  
1085 Officer pursuant to subdivision (a) of this Article, a copy of such information shall be provided  
1086 to the Operating Non-Federal Entity.

1087                    ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

1088                    31.     (a)     The provisions of this Contract shall apply to and bind the successors and  
1089 assigns of the parties hereto, but no assignment or transfer of this Contract or any right or interest  
1090 therein shall be valid until approved in writing by the Contracting Officer.

1091                    (b)     The assignment of any right or interest in this Contract by either party  
1092 shall not interfere with the rights or obligations of the other party to this Contract absent the  
1093 written concurrence of said other party.

1094                    (c)     The Contracting Officer shall not unreasonably condition or withhold his  
1095 approval of any proposed assignment.

1096                    SEVERABILITY

1097                    32.     In the event that a person or entity who is neither (i) a party to a Project contract,  
1098 nor (ii) a person or entity that receives Project Water from a party to a Project contract, nor (iii)  
1099 an association or other form of organization whose primary function is to represent parties to  
1100 Project contracts, brings an action in a court of competent jurisdiction challenging the legality or  
1101 enforceability of a provision included in this Contract and said person, entity, association, or  
1102 organization obtains a final court decision holding that such provision is legally invalid or  
1103 unenforceable and the Contractor has not intervened in that lawsuit in support of the plaintiff(s),  
1104 the parties to this Contract shall use their best efforts to (i) within 30 days of the date of such  
1105 final court decision identify by mutual agreement the provisions in this Contract which must be  
1106 revised, and (ii) within 3 months thereafter promptly agree on the appropriate revision(s). The  
1107 time periods specified above may be extended by mutual agreement of the parties. Pending the  
1108 completion of the actions designated above, to the extent it can do so without violating any  
1109 applicable provisions of law, the United States shall continue to make the quantities of Project  
1110 Water specified in this Contract available to the Contractor pursuant to the provisions of this  
1111 Contract which were not found to be legally invalid or unenforceable in the final court decision.

1112 RESOLUTION OF DISPUTES

1113 33. Should any dispute arise concerning any provisions of this Contract, or the  
1114 parties' rights and obligations thereunder, the parties shall meet and confer in an attempt to  
1115 resolve the dispute. Prior to the Contractor commencing any legal action, or the Contracting  
1116 Officer referring any matter to Department of Justice, the party shall provide to the other party  
1117 30 days' written notice of the intent to take such action; Provided, that such notice shall not be  
1118 required where a delay in commencing an action would prejudice the interests of the party that  
1119 intends to file suit. During the 30-day notice period, the Contractor and the Contracting Officer  
1120 shall meet and confer in an attempt to resolve the dispute. Except as specifically provided,  
1121 nothing herein is intended to waive or abridge any right or remedy that the Contractor or the  
1122 United States may have.

1123 OFFICIALS NOT TO BENEFIT

1124 34. No Member of or Delegate to Congress, Resident Commissioner, or official of the  
1125 Contractor shall benefit from this Contract other than as a water user or landowner in the same  
1126 manner as other water users or landowners.

1127 CHANGES IN BOUNDARIES

1128 35. (a) While this Contract is in effect, no change may be made in the  
1129 Contractor's Boundaries, by inclusion or exclusion of lands, dissolution, consolidation, merger,  
1130 or otherwise, except upon the Contracting Officer's written consent.

1131 (b) Within 30 days of receipt of a request for such a change, the Contracting  
1132 Officer will notify the Contractor of any additional information required by the Contracting  
1133 Officer for processing said request, and both parties will meet to establish a mutually agreeable  
1134 schedule for timely completion of the process. Such process will analyze whether the proposed  
1135 change is likely to: (i) result in the use of Project Water contrary to the terms of this Contract;  
1136 (ii) impair the ability of the Contractor to pay for Project Water furnished under this Contract or

1137 to pay for any Federally-constructed facilities for which the Contractor is responsible; and (iii)  
1138 have an impact on any Project Water rights applications, permits, or licenses. In addition, the  
1139 Contracting Officer shall comply with the National Environmental Policy Act and the  
1140 Endangered Species Act. The Contractor will be responsible for all costs incurred by the  
1141 Contracting Officer in this process, and such costs will be paid in accordance with Article 25 of  
1142 this Contract.

1143 FEDERAL LAWS

1144 36. By entering into this Contract, the Contractor does not waive its rights to contest  
1145 the validity or application in connection with the performance of the terms and conditions of this  
1146 Contract of any Federal law or regulation; Provided, that the Contractor agrees to comply with  
1147 the terms and conditions of this Contract unless and until relief from application of such Federal  
1148 law or regulation to the implementing provision of the Contract is granted by a court of  
1149 competent jurisdiction.

1150 NOTICES

1151 37. Any notice, demand, or request authorized or required by this Contract shall be  
1152 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or  
1153 delivered to the Area Manager, Bureau of Reclamation, Northern California Area Office, 16349  
1154 Shasta Dam Boulevard, Shasta Lake, California 96019, and on behalf of the United States, when  
1155 mailed, postage prepaid, or delivered to the Board of Directors of the Westside Water District,  
1156 5005 State Highway 20, Williams, California 95987. The designation of the addressee or the  
1157 address may be changed by notice given in the same manner as provided in this Article for other  
1158 notices.

1159 CONFIRMATION OF CONTRACT

1160           38.     The Contractor, after the execution of this Contract, shall promptly seek to secure  
1161 a decree of a court of competent jurisdiction of the State of California, confirming the execution  
1162 of this Contract. The Contractor shall furnish the United States a certified copy of the final  
1163 decree, the validation proceedings, and all pertinent supporting records of the court approving  
1164 and confirming this Contract, and decreeing and adjudging it to be lawful, valid, and binding on  
1165 the Contractor.

1166                    IN WITNESS WHEREOF, the parties hereto have executed this Contract as of  
1167 the day and year first above written.

1168                    THE UNITED STATES OF AMERICA

1169                    By: \_\_\_\_\_  
1170                    Regional Director, Mid-Pacific Region  
1171                    Bureau of Reclamation

1172                    WESTSIDE WATER DISTRICT

1173                    By: \_\_\_\_\_  
1174                    President of the Board of Directors

1175                    Attest:

1176                    By: \_\_\_\_\_  
1177                    Secretary of the Board of Directors

Westside 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. 14-06-200-8222-LTR1

EXHIBIT A

[Map or Description of Boundaries]

Westside 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. 14-06-200-8222-LTR1

**EXHIBIT B**  
[Initial Rates and Charges]