

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

LONG-TERM RENEWAL CONTRACT BETWEEN THE UNITED STATES
AND
SHASTA COUNTY FOR THE BENEFIT OF
COUNTY SERVICE AREA NO. 25 -- KESWICK
PROVIDING FOR PROJECT WATER SERVICE
FROM THE TRINITY RIVER DIVISION

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THIS CONTRACT, made this ____ day of _____, 2004, in
pursuance generally of the Act of June 17, 1902 (32 Stat. 388), and acts amendatory or
supplementary thereto, including, but not limited to, the Acts of August 26, 1937 (50 Stat. 844), as
amended and supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented, July 2,
1956 (70 Stat. 483), June 21, 1963 (77 Stat. 68), October 12, 1982 (96 Stat. 1263), October 27, 1986
(100 Stat. 3050), as amended, and Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706), all
collectively hereinafter referred to as Federal Reclamation law, between THE UNITED STATES
OF AMERICA, hereinafter referred to as the United States, and SHASTA COUNTY for the benefit
of COUNTY SERVICE AREA NUMBER 25 -- KESWICK, hereinafter referred to as the
Contractor, a public agency of the State of California, duly organized, existing, and acting pursuant
to the laws thereof, with its principal place of business in California;
WITNESSETH, That:

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EXPLANATORY RECITALS

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

[2nd] WHEREAS, the United States constructed the Spring Creek Power Conduit which will be used for the furnishing of water to the Contractor pursuant to the terms of this Contract; and

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

[4th] WHEREAS, the Contractor and the United States entered into Contract No. 14-06-200-1307A, hereinafter referred to as the Existing Contract, which established terms for the delivery to the Contractor of Central Valley Project Water from the Trinity River Division from September 16, 1964 through June 31, 2004; and

[5th] WHEREAS, the United States and the Contractor have, pursuant to subsection 3404(c)(3) of the Central Valley Project Improvement Act (CVPIA), subsequently entered into a Binding Agreement identified as Binding Agreement No. 14-06-200-1307A-BA; and

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

50 [7th] WHEREAS, the United States has completed the PEIS and all other appropriate
51 environmental review necessary to provide for long-term renewal of the Existing Contract; and

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

55 [9th] WHEREAS, the United States has determined that the Contractor has fulfilled all of
56 its obligations under the Existing Contract; and

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

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

65 [12th] WHEREAS, the economies of regions within the Central Valley Project, including
66 the Contractor's, depend upon the continued availability of water, including water service from the
67 Central Valley Project; and

68 [12.1] WHEREAS, Contractor has made and will continue to make substantial capital
69 investments in diversion and treatment facilities, and requires a consistent, predictable quality of
70 raw water in order to meet Safe Drinking Water Act requirements for its municipal customers, and
71 to provide a consistent and predictable quality of water for its industrial customers; and

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

75 [13.1] WHEREAS, the Contractor is located in the region of the Redding Groundwater
76 Basin, and it is the desire of both the United States and the Contractor to facilitate the cooperative
77 efforts of local water service agencies to develop the Redding Groundwater Basin for conjunctive
78 management and use with Project Water supplies, to maximize the reasonable beneficial use of
79 water for the water service agencies and their customers in the region; and

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

87 [15th] WHEREAS, the parties intend by this Contract to develop a more cooperative
88 relationship in order to achieve their mutual goals; and

89 [16th] WHEREAS, the United States and the Contractor are willing to enter into this
90 Contract pursuant to Federal Reclamation law on the terms and conditions set forth below;

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

93 DEFINITIONS

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

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

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

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

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

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

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

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

115 (h) ~~Omitted "Eligible Lands" shall mean all lands to which Irrigation Water may~~
116 ~~be delivered in accordance with Section 204 of the Reclamation Reform Act of October 12, 1982~~
117 ~~(96 Stat. 1263), as amended, hereinafter referred to as RRA;~~

118 (i) **Omitted** ~~“Excess Lands” shall mean all lands in excess of the limitations~~
119 ~~contained in Section 204 of the RRA, other than those lands exempt from acreage limitation under~~
120 ~~Federal Reclamation law;~~

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

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

133 (l) **Omitted** ~~“Irrigation Full Cost Water Rate” shall mean the Full Cost Rate~~
134 ~~applicable to the delivery of Irrigation Water;~~

135 (m) **Omitted** ~~“Irrigation Water” shall mean water made available from the Project~~
136 ~~that is used primarily in the production of agricultural crops or livestock, including domestic use~~
137 ~~incidental thereto, and watering of livestock;~~

138 (n) **Omitted** ~~“Landholder” shall mean a party that directly or indirectly owns or~~
139 ~~leases nonexempt land, as provided in 43 CFR 426.2;~~

140 (o) “Municipal and Industrial (M&I) Water” shall mean Project Water, ~~other~~
141 ~~than Irrigation Water, made available to the Contractor~~ **for purposes other than the commercial**

142 ~~production of agricultural crops or livestock. M&I Water shall include water used for human use~~
143 ~~and purposes such as the watering of landscaping or pasture for animals (e.g., horses) which are~~
144 ~~kept for personal enjoyment or water delivered to land holdings operated in units of less than 5~~
145 ~~acres unless the Contractor establishes to the satisfaction of the Contracting Officer that the use of~~
146 ~~water delivered to any such landholding is a use described in subdivision (m) of this Article;~~

147 (p) “M&I Full Cost Water Rate” shall mean the Full Cost Rate applicable to the
148 delivery of M&I Water;

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

152 (r) ~~Omitted~~ “Operating Non-Federal Entity” shall mean the _____, a
153 ~~Non-Federal entity which has the obligation to operate and maintain all or a portion of the~~
154 ~~_____ [Division/Unit] facilities pursuant to an agreement with the United States, and which~~
155 ~~may have funding obligations with respect thereto;~~

156 (s) “Project” shall mean the Central Valley Project owned by the United States
157 and managed by the Department of the Interior, Bureau of Reclamation;

158 (t) “Project Contractors” shall mean all parties who have water service contracts
159 for Project Water from the Project with the United States pursuant to Federal Reclamation law;

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

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

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

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

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

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

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

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

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

184 TERM OF CONTRACT

185 2. (a) This Contract shall be effective March 1, 2004, through February 28, 2029.
186 In the event the Contractor wishes to renew the Contract beyond February 28, 2029, the Contractor
187 shall submit a request for renewal in writing to the Contracting Officer no later than 2 years prior to
188 the date this Contract expires. ~~The renewal of this Contract insofar as it pertains to the furnishing of~~
189 ~~Irrigation Water to the Contractor shall be governed by subdivision (b) of this Article, and the~~

190 renewal of this Contract insofar as it pertains to the furnishing of M&I Water to the Contractor shall
191 be governed by subdivision (c) of this Article.

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

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

210 ~~—————(3)—— The terms and conditions of the renewal contract described in~~
211 ~~subdivision (b)(1) of this Article and any subsequent renewal contracts shall be developed~~
212 ~~consistent with the parties' respective legal rights and obligations, and in consideration of all~~
213 ~~relevant facts and circumstances, as those circumstances exist at the time of renewal, including,~~

214 ~~without limitation, the Contractor's need for continued delivery of Project Water; environmental~~
215 ~~conditions affected by implementation of the Contract to be renewed, and specifically changes in~~
216 ~~those conditions that occurred during the life of the Contract to be renewed; the Secretary's progress~~
217 ~~toward achieving the purposes of the CVPIA as set out in Section 3402 and in implementing the~~
218 ~~specific provisions of the CVPIA; and current and anticipated economic circumstances of the region~~
219 ~~served by the Contractor.~~

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

229 (d) The Contracting Officer shall make a determination 10 years after the date of
230 execution of this Contract, and every 5 years thereafter during the term of this Contract, of whether
231 a conversion to a contract under said subsection 9(d) can be accomplished pursuant to the Act of
232 July 2, 1956 (Public Law 643). Notwithstanding any provision of this Contract, the Contractor
233 reserves and shall have all rights and benefits under Public Law 643. The Contracting Officer
234 anticipates that during the term of this contract, all authorized Project construction expected to
235 occur will have occurred, and on that basis the Contracting Officer agrees upon such completion to
236 allocate all costs that are properly assignable to the Contractor, and agrees further that, at any time
237 after such allocation is made, and subject to satisfaction of the condition set out in this subdivision,

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

255 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

256 3. (a) During each Year, consistent with all applicable State water rights, permits,
257 and licenses, Federal law, and subject to the provisions set forth in Articles 11 and 12 of this
258 Contract, the Contracting Officer shall make available for delivery to the Contractor 500 acre-feet
259 of water for irrigation and M&I purposes. Provided, that in no event shall the United States at any
260 time be obligated to furnish water at the point or points of delivery at a rate in excess of 1,250
261 gallons per minute. The facilities of the Contractor shall include devices satisfactory to the

262 Contracting Officer which will limit the rate of flow to the Contractor to 1,250 gallons per minute.
263 The United States shall not be responsible for maintaining or limiting the heads or pressures at
264 which the water is delivered. The quantity of Water Delivered to the Contractor in accordance with
265 this subdivision shall be scheduled and paid for pursuant to the provisions of Articles 4 and 7 of this
266 Contract.

267 (b) Because the capacity of the Central Valley Project to deliver Project Water
268 has been constrained in recent years and may be constrained in the future due to many factors
269 including hydrologic conditions and implementation of Federal and State laws, the likelihood of the
270 Contractor actually receiving the amount of Water set out in subdivision (a) of this Article in any
271 given Year is uncertain. The Contracting Officer's most recent modeling referenced in the PEIS
272 projected that the Contract Total set forth in this Contract will not be available to the Contractor in
273 many years. During the most recent 5 years, the Recent Historic Average of water made
274 available to the Contractor was 460 acre-feet. Nothing in subdivision (b) of this Article shall affect
275 the rights and obligations of the parties under any provision of this Contract.

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

278 (d) The Contractor shall make reasonable and beneficial use of all Project Water
279 or other water furnished pursuant to this Contract. Ground-water recharge programs (direct,
280 indirect, or in lieu), ground-water banking programs, surface water storage programs, and other
281 similar programs utilizing Project Water or other water furnished pursuant to this Contract
282 conducted within the Contractor's Service Area which are consistent with applicable State law and
283 result in use consistent with Reclamation law will be allowed; Provided, that any direct recharge
284 program(s) is (are) described in the Contractor's Water Conservation Plan submitted pursuant to
285 Article 26 of this Contract; Provided, further, that such Water Conservation Plan demonstrates

286 sufficient lawful uses exist in the Contractor's Service Area so that using a long-term average, the
287 quantity of Delivered Water is demonstrated to be reasonable for such uses and in compliance with
288 Reclamation Law. Ground-water recharge programs, ground-water banking programs, surface
289 water storage programs, and other similar programs utilizing Project Water or other water furnished
290 pursuant to this Contract conducted outside the Contractor's Service Area may be permitted upon
291 written approval of the Contracting Officer, which approval will be based upon environmental
292 documentation, Project Water rights, and Project operational concerns. The Contracting Officer
293 will address such concerns in regulations, policies, or guidelines.

294 (e) The Contractor shall comply with requirements applicable to the Contractor
295 in biological opinion(s) prepared as a result of a consultation regarding the execution of this
296 Contract undertaken pursuant to Section 7 of the Endangered Species Act of 1973, as amended, that
297 are within the Contractor's legal authority to implement. The Existing Contract, which evidences in
298 excess of 38 years of diversions for ~~irrigation and/or~~ municipal and industrial purposes of the
299 quantities of water provided in subdivision (a) of Article 3 of this Contract, will be considered in
300 developing an appropriate baseline for the Biological Assessment prepared pursuant to the
301 Endangered Species Act, and any other needed environmental review. Nothing herein shall be
302 construed to prevent the Contractor from challenging or seeking judicial relief in a court of
303 competent jurisdiction with respect to any biological opinion or other environmental documentation
304 referred to in this Article.

305 (f) As soon as possible following each declaration of Water Made Available
306 under Article 4 of this Contract, the Contracting Officer will make a determination whether Project
307 Water, or other water available to the Project, can be made available to the Contractor in addition to
308 the Contract Total under Article 3 of this Contract during the Year without adversely impacting
309 other Project Contractors. At the request of the Contractor, the Contracting Officer will consult

310 with the Contractor prior to making such a determination. If the Contracting Officer determines
311 that Project Water, or other water available to the Project, can be made available to the Contractor,
312 the Contracting Officer will announce the availability of such water and shall so notify the
313 Contractor as soon as practical. The Contracting Officer will thereafter meet with the Contractor
314 and other Project Contractors capable of taking such water to determine the most equitable and
315 efficient allocation of such water. If the Contractor requests the delivery of any quantity of such
316 water, the Contracting Officer shall make such water available to the Contractor in accordance with
317 applicable statutes, regulations, guidelines, and policies.

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

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

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

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

342 TIME FOR DELIVERY OF WATER

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

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

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

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

366 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

367 5. (a) Project Water scheduled pursuant to subdivision (b) of Article 4 of this
368 Contract shall be delivered to the Contractor at the downstream end of the metering equipment
369 installed by the United States approximately at Station 170+62.0 of the Spring Creek Power
370 Conduit and any additional point or points of delivery either on Project facilities or another location
371 or locations mutually agreed to in writing by the Contracting Officer and the Contractor.

372 (b) Omitted. ~~[DIVISIONAL ISSUE — FOR SOME DIVISIONS POINTS OF~~
373 ~~DELIVERY SPECIFICALLY IDENTIFIED.] The Contracting Officer, the Operating Non-Federal~~
374 ~~Entity, or other appropriate entity shall make all reasonable efforts to maintain sufficient flows and~~
375 ~~levels of water in the _____ Canal to deliver Project Water to the Contractor at specific~~
376 ~~turnouts established pursuant to subdivision (a) of this Article.~~

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

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

392 (e) (1) All pumps, pipelines, storage tanks, pressure regulators and controls,
393 distribution lines, and other facilities, hereinafter referred to as the facilities, required to take,
394 convey, and distribute water to the water users served by the Contractor shall be constructed or
395 installed by the Contractor at its sole expense. Operation and maintenance of the facilities and the
396 expense thereof also shall be the sole responsibility of the Contractor. The facilities may be
397 installed, operated, and maintained on or across property of the United States in the area of the
398 turnout(s) described in subdivision (a) of this Article subject to such restrictions and regulations as
399 to location, method of installation, and operation and maintenance as may be promulgated by the
400 Contracting Officer.

401 (e) (2) ~~Neither~~ The Contracting Officer ~~nor any Operating Non-Federal~~
402 ~~Entity~~ shall ~~not~~ be responsible for the control, carriage, handling, use, disposal, or distribution of
403 Project Water Delivered to the Contractor pursuant to this Contract beyond the delivery points
404 specified in subdivision (a) of this Article. The Contractor shall indemnify the United States, its

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

418 MEASUREMENT OF WATER WITHIN THE SERVICE AREA

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

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

435 (b) To the extent the information has not otherwise been provided, upon
436 execution of this Contract, the Contractor shall provide to the Contracting Officer a written report
437 describing the measurement devices or water measuring methods being used or to be used to
438 implement subdivision (a) of this Article and identifying ~~the agricultural turnouts and~~ the municipal
439 and industrial service connections or alternative measurement programs approved by the
440 Contracting Officer, at which such measurement devices or water measuring methods are being
441 used, and, if applicable, identifying the locations at which such devices and/or methods are not yet
442 being used including a time schedule for implementation at such locations. The Contracting Officer
443 shall advise the Contractor in writing within 60 days as to the adequacy of, and necessary
444 modifications, if any, of the measuring devices or water measuring methods identified in the
445 Contractor's report and if the Contracting Officer does not respond in such time, they shall be
446 deemed adequate. If the Contracting Officer notifies the Contractor that the measuring devices or
447 methods are inadequate, the parties shall within 60 days following the Contracting Officer's
448 response, negotiate in good faith the earliest practicable date by which the Contractor shall modify
449 said measuring devices and/or measuring methods as required by the Contracting Officer to ensure
450 compliance with subdivision (a) of this Article.

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

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

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

460 RATES AND METHOD OF PAYMENT FOR WATER

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

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

473 (1) Prior to July 1 of each Calendar Year, the Contracting Officer shall
474 provide the Contractor an estimate of the Charges for Project Water that will be applied to the

475 period October 1, of the current Calendar Year, through September 30, of the following Calendar
476 Year, and the basis for such estimate. The Contractor shall be allowed not less than 2 months to
477 review and comment on such estimates. On or before September 15 of each Calendar Year, the
478 Contracting Officer shall notify the Contractor in writing of the Charges to be in effect during the
479 period October 1 of the current Calendar Year, through September 30, of the following Calendar
480 Year, and such notification shall revise Exhibit "B."

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

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

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

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

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

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

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

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

544 (i) The parties acknowledge and agree that the efficient administration of this
545 Contract is their mutual goal. Recognizing that experience has demonstrated that mechanisms,
546 policies, and procedures used for establishing Rates, Charges, and Tiered Pricing Components,

547 and/or for making and allocating payments, other than those set forth in this Article may be in the
548 mutual best interest of the parties, it is expressly agreed that the parties may enter into agreements
549 to modify the mechanisms, policies, and procedures for any of those purposes while this Contract is
550 in effect without amending this Contract.

551 (j) (1) Beginning at such time as deliveries of Project Water in a Year
552 exceed 80 percent of the Contract Total, then before the end of the month following the month of
553 delivery the Contractor shall make an additional payment to the United States equal to the
554 applicable Tiered Pricing Component. The Tiered Pricing Component for the amount of Water
555 Delivered in excess of 80 percent of the Contract Total, but less than or equal to 90 percent of the
556 Contract Total, shall equal one-half of the difference between the Rate established under
557 subdivision (a) of this Article and the ~~Irrigation Full Cost Water Rate or M&I Full Cost Water Rate,~~
558 ~~whichever is applicable.~~ The Tiered Pricing Component for the amount of Water Delivered which
559 exceeds 90 percent of the Contract Total shall equal the difference between (i) the Rate established
560 under subdivision (a) of this Article and (ii) the ~~Irrigation Full Cost Water Rate or M&I Full Cost~~
561 ~~Water Rate, whichever is applicable.~~ For all Water Delivered pursuant to subdivision (a) of Article
562 3 of this Contract which is in excess of 80 percent of the Contract Total, this increment shall be
563 deemed to be divided between Irrigation Water and M&I Water in the same proportion as actual
564 deliveries of each bear to the cumulative total Water Delivered.

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

571 ~~through binding agreements executed with or approved by the Contracting Officer prior to use of~~
572 ~~such water.~~

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

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

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

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

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

609 NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICITS

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

613 SALES, TRANSFERS, OR EXCHANGES OF WATER

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

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

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

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

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

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

654 APPLICATION OF PAYMENTS AND ADJUSTMENTS

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

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

671 TEMPORARY REDUCTIONS--RETURN FLOWS

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

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

688 (c) The United States reserves the right to all seepage and return flow water
689 derived from Water Delivered to the Contractor hereunder which escapes or is discharged beyond
690 the Contractor's Service Area; Provided, that this shall not be construed as claiming for the United
691 States any right as seepage or return flow being put to reasonable and beneficial use pursuant to this
692 Contract within the Contractor's Service Area by the Contractor or those claiming by, through, or
693 under the Contractor.

694 CONSTRAINTS ON THE AVAILABILITY OF WATER

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

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

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

709 3404 of the CVPIA) and renewals thereof, to receive Project Water consistent with the contractual
710 obligations of the United States.

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

714 UNAVOIDABLE GROUNDWATER PERCOLATION

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

719 RULES AND REGULATIONS

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

725 WATER AND AIR POLLUTION CONTROL

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

729 QUALITY OF WATER

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

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

745 WATER ACQUIRED BY THE CONTRACTOR
746 OTHER THAN FROM THE UNITED STATES

747 17. (a) ~~Omitted. Water or water rights now owned or hereafter acquired by the~~
748 ~~Contractor other than from the United States and Irrigation Water furnished pursuant to the terms of~~
749 ~~this Contract may be simultaneously transported through the same distribution facilities of the~~
750 ~~Contractor subject to the following: (i) if the facilities utilized for commingling Irrigation Water~~
751 ~~and non-Project water were constructed without funds made available pursuant to Federal~~
752 ~~Reclamation law, the provisions of Federal Reclamation law will be applicable only to the~~
753 ~~Landholders of lands which receive Irrigation Water; (ii) the eligibility of land to receive Irrigation~~
754 ~~Water must be established through the certification requirements as specified in the Acreage~~

755 ~~Limitation Rules and Regulations (43 CFR Part 426); (iii) the water requirements of Eligible Lands~~
756 ~~within the Contractor's Service Area can be established and the quantity of Irrigation Water to be~~
757 ~~utilized is less than or equal to the quantity necessary to irrigate such Eligible Lands; and (iv) if the~~
758 ~~facilities utilized for commingling Irrigation Water and non-Project water are/were constructed with~~
759 ~~funds made available pursuant to Federal Reclamation law, the non-Project water will be subject to~~
760 ~~the acreage limitation provisions of Federal Reclamation law, unless the Contractor pays to the~~
761 ~~United States the incremental fee described in 43 CFR 426.15. In determining the incremental fee,~~
762 ~~the Contracting Officer will calculate annually the cost to the Federal Government, including~~
763 ~~interest of on storing or delivering non-Project water, which for purposes of this Contract shall be~~
764 ~~determined as follows: The quotient shall be the unpaid distribution system costs divided by the~~
765 ~~total irrigable acreage within the Contractor's Service Area. The incremental fee per acre is the~~
766 ~~mathematical result of such quotient times the interest rate determined using Section 202 (3) of the~~
767 ~~Act of October 12, 1982 (96 Stat. 1263). Such incremental fee will be charged to each acre of~~
768 ~~excess or full cost land within the Contractor's Service Area that receives non-Project water through~~
769 ~~Federally financed or constructed facilities. The incremental fee calculation methodology will~~
770 ~~continue during the term of this Contract absent the promulgation of a contrary Reclamation wide~~
771 ~~rule, regulation, or policy adopted after the Contractor has been afforded the opportunity to review~~
772 ~~and comment on the proposed rule, regulation, or policy. If such rule, regulation, or policy is~~
773 ~~adopted it shall supersede this provision.~~

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

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

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

792 (3) ~~Neither The United States nor the Operating Non-Federal Entity~~ shall
793 ~~not~~ be responsible for control, care, or distribution of the non-Project water before it is introduced
794 into or after it is delivered from the Project facilities. The Contractor hereby releases and agrees to
795 defend and indemnify the United States ~~and the Operating Non-Federal Entity~~, and their respective
796 officers, agents, and employees, from any claim for damage to persons or property, direct or
797 indirect, arising out of or relating to the Contractor's or its officer's, employee's, agent's or
798 assign's, act of (i) extracting or diverting non-Project water from any source, or (ii) diverting such
799 non-Project water into Project facilities.

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

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

808 OPINIONS AND DETERMINATIONS

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

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

823 COORDINATION AND COOPERATION

824 19. (a) In order to further their mutual goals and objectives, the Contracting Officer
825 and the Contractor shall communicate, coordinate, and cooperate with each other, and with other
826 affected Project Contractors, in order to improve the operation and management of the Project. The

827 communication, coordination, and cooperation regarding operations and management shall include,
828 but not be limited to, any action which will or may materially affect the quantity or quality of
829 Project Water supply, the allocation of Project Water supply, and Project financial matters
830 including, but not limited to, budget issues. The communication, coordination, and cooperation
831 provided for hereunder shall extend to all provisions of this Contract. Each party shall retain
832 exclusive decision making authority for all actions, opinion, and determinations to be made by the
833 respective party.

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

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

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

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

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

852 (3.1) The Secretary and the Contractor desire to work together to maximize
853 the reasonable beneficial use of water for their mutual benefit. As a consequence, the Secretary and
854 the Contractor will work in partnership and with others in the region of the Redding Groundwater
855 Basin, including other Contractors in the Shasta and Trinity Divisions of the CVP, to facilitate the
856 better integration with the region of the Redding Groundwater Basin of all water supplies including,
857 but not limited to, the better management and integration of surface water and groundwater,
858 transfers and exchanges of water, the development and better utilization of surface water storage,
859 the effective utilization of waste, seepage and return flow water, and other operational and
860 management options that may be identified in the future.

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

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

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

871 CHARGES FOR DELINQUENT PAYMENTS

872 20. (a) The Contractor shall be subject to interest, administrative and penalty charges
873 on delinquent installments or payments. When a payment is not received by the due date, the
874 Contractor shall pay an interest charge for each day the payment is delinquent beyond the due date.

875 When a payment becomes sixty (60) days delinquent, the Contractor shall pay an administrative
876 charge to cover additional costs of billing and processing the delinquent payment. When a payment
877 is delinquent ninety (90) days or more, the Contractor shall pay an additional penalty charge of six
878 (6%) percent per year for each day the payment is delinquent beyond the due date. Further, the
879 Contractor shall pay any fees incurred for debt collection services associated with a delinquent
880 payment.

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

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

889 EQUAL OPPORTUNITY

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

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

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

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

909 (d) The Contractor will comply with all provisions of Executive Order

910 No. 11246 of September 24, 1965, as amended, and of the rules, regulations, and relevant orders of
911 the Secretary of Labor.

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

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

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

933 GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

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

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

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

946 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

947 23. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964
948 (42 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (P.L. 93-112, as amended), the
949 Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.) and any other applicable civil rights laws,
950 as well as with their respective implementing regulations and guidelines imposed by the U.S.
951 Department of the Interior and/or Bureau of Reclamation.

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

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

965 PRIVACY ACT COMPLIANCE

966 24. **Omitted.** ~~(a) The Contractor shall comply with the Privacy Act of 1974 (5 U.S.C.~~
967 ~~552a) (the Act) and the Department of the Interior rules and regulations under the Act (43 CFR 2.45~~
968 ~~et seq.) in maintaining Landholder acreage certification and reporting records, required to be~~
969 ~~submitted to the Contractor for compliance with Sections 206 and 228 of the Reclamation Reform~~
970 ~~Act of 1982 (96 Stat. 1266), and pursuant to 43 CFR 426.18.~~

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

975 ~~_____ (c) The Contracting Officer or a designated representative shall provide the~~
976 ~~Contractor with current copies of the Interior Department Privacy Act regulations and the Bureau of~~
977 ~~Reclamation Federal Register Privacy Act System of Records Notice (Acreage Limitation Interior,~~
978 ~~Reclamation 31) which govern the maintenance, safeguarding, and disclosure of information~~
979 ~~contained in the Landholder's certification and reporting records.~~

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

984 ~~_____ (e) The Contractor shall forward promptly to the System Manager each proposed~~
985 ~~denial of access under 43 CFR 2.64; and each request for amendment of records filed under 43 CFR~~
986 ~~2.71; notify the requester accordingly of such referral; and provide the System Manager with~~
987 ~~information and records necessary to prepare an appropriate response to the requester. These~~
988 ~~requirements do not apply to individuals seeking access to their own certification and reporting~~
989 ~~forms filed with the Contractor pursuant to 43 CFR 426.18, unless the requester elects to cite the~~
990 ~~Privacy Act as a basis for the request.~~

991 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

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

1000 WATER CONSERVATION

1001 26. (a) Prior to the delivery of water provided from or conveyed through Federally
1002 constructed or Federally financed facilities pursuant to this Contract, the Contractor shall be
1003 implementing an effective water conservation and efficiency program based on the Contractor's
1004 water conservation plan that has been determined by the Contracting Officer to meet the
1005 conservation and efficiency criteria for evaluating water conservation plans established under
1006 Federal law. The water conservation and efficiency program shall contain definite water
1007 conservation objectives, appropriate economically feasible water conservation measures, and time

1008 schedules for meeting those objectives. Continued Project Water delivery pursuant to this Contract
1009 shall be contingent upon the Contractor's continued implementation of such water conservation
1010 program. In the event the Contractor's water conservation plan or any revised water conservation
1011 plan completed pursuant to subdivision (d) of Article 26 of this Contract have not yet been
1012 determined by the Contracting Officer to meet such criteria, due to circumstances which the
1013 Contracting Officer determines are beyond the control of the Contractor, water deliveries shall be
1014 made under this Contract so long as the Contractor diligently works with the Contracting Officer to
1015 obtain such determination at the earliest practicable date, and thereafter the Contractor immediately
1016 begins implementing its water conservation and efficiency program in accordance with the time
1017 schedules therein.

1018 (b) Should the amount of M&I Water delivered pursuant to subdivision (a) of
1019 Article 3 of this Contract equal or exceed 2,000 acre-feet per Year, the Contractor shall implement
1020 the Best Management Practices identified by the time frames issued by the California Urban Water
1021 Conservation Council for such M&I Water unless any such practice is determined by the
1022 Contracting Officer to be inappropriate for the Contractor.

1023 (c) The Contractor shall submit to the Contracting Officer a report on the status
1024 of its implementation of the water conservation plan on the reporting dates specified in the then
1025 existing conservation and efficiency criteria established under Federal law.

1026 (d) At 5-year intervals, the Contractor shall revise its water conservation plan to
1027 reflect the then current conservation and efficiency criteria for evaluating water conservation plans
1028 established under Federal law and submit such revised water management plan to the Contracting
1029 Officer for review and evaluation. The Contracting Officer will then determine if the water
1030 conservation plan meets Reclamation's then current conservation and efficiency criteria for
1031 evaluating water conservation plans established under Federal law.

1032 (e) If the Contractor is engaged in direct ground-water recharge, such activity
1033 shall be described in the Contractor's water conservation plan.

1034 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

1035 27. Except as specifically provided in Article 17 of this Contract, the provisions of this
1036 Contract shall not be applicable to or affect non-Project water or water rights now owned or
1037 hereafter acquired by the Contractor or any user of such water within the Contractor's Service Area.
1038 Any such water shall not be considered Project Water under this Contract. In addition, this Contract
1039 shall not be construed as limiting or curtailing any rights which the Contractor or any water user
1040 within the Contractor's Service Area acquires or has available under any other contract pursuant to
1041 Federal Reclamation law.

1042 OPERATION AND MAINTENANCE BY NON-FEDERAL ENTITY

1043 28. **Omitted.** ~~(a) The Operation and Maintenance of a portion of the Project facilities~~
1044 ~~which serve the Contractor, and responsibility for funding a portion of the costs of such Operation~~
1045 ~~and Maintenance, have been transferred to the Operating Non-Federal Entity by separate agreement~~
1046 ~~between the United States and the Operating Non-Federal Entity. That separate agreement shall not~~
1047 ~~interfere with or affect the rights or obligations of the Contractor or the United States hereunder.~~
1048 ~~_____ (b) The Contracting Officer has previously notified the Contractor in writing that~~
1049 ~~the Operation and Maintenance of a portion of the Project facilities which serve the Contractor has~~
1050 ~~been transferred to the Operating Non-Federal Entity, and therefore, the Contractor shall pay~~
1051 ~~directly to the Operating Non-Federal Entity, or to any successor approved by the Contracting~~
1052 ~~Officer under the terms and conditions of the separate agreement between the United States and the~~
1053 ~~Operating Non-Federal Entity described in subdivision (a) of this Article, all rates, charges, or~~
1054 ~~assessments of any kind, including any assessment for reserve funds, which the Operating Non-~~
1055 ~~Federal Entity or such successor determines, sets, or establishes for the Operation and Maintenance~~

1056 ~~of the portion of the Project facilities operated and maintained by the Operating Non-Federal Entity~~
1057 ~~or such successor. Such direct payments to the Operating Non-Federal Entity or such successor~~
1058 ~~shall not relieve the Contractor of its obligation to pay directly to the United States the Contractor's~~
1059 ~~share of the Project Rates, Charges, and Tiered Pricing Components except to the extent the~~
1060 ~~Operating Non-Federal Entity collects payments on behalf of the United States in accordance with~~
1061 ~~the separate agreement identified in subdivision (a) of this Article.~~

1062 ~~————— (c) ——— For so long as the Operation and Maintenance of any portion of the Project~~
1063 ~~facilities serving the Contractor is performed by the Operating Non-Federal Entity, or any successor~~
1064 ~~thereto, the Contracting Officer shall adjust those components of the Rates for Water~~
1065 ~~Delivered under this Contract representing the cost associated with the activity being performed by~~
1066 ~~the Operating Non-Federal Entity or its successor.~~

1067 ~~————— (d) ——— In the event the Operation and Maintenance of the Project facilities~~
1068 ~~operated and maintained by the Operating Non-Federal Entity is re-assumed by the United States~~
1069 ~~during the term of this Contract, the Contracting Officer shall so notify the Contractor, in~~
1070 ~~writing, and present to the Contractor a revised Exhibit "B" which shall include the portion of~~
1071 ~~the Rates to be paid by the Contractor for Project Water under this Contract representing the~~
1072 ~~Operation and Maintenance costs of the portion of such Project facilities which have been re-~~
1073 ~~assumed. The Contractor shall, thereafter, in the absence of written notification from the~~
1074 ~~Contracting Officer to the contrary, pay the Rates, Charges, and Tiered Pricing Component(s)~~
1075 ~~specified in the revised Exhibit "B" directly to the United States in compliance with Article 7 of~~
1076 ~~this Contract.~~

1077 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

1078 29. The expenditure or advance of any money or the performance of any obligation of
1079 the United States under this Contract shall be contingent upon appropriation or allotment of
1080 funds. Absence of appropriation or allotment of funds shall not relieve the Contractor from any

1081 obligations under this Contract. No liability shall accrue to the United States in case funds are
1082 not appropriated or allotted.

1083 BOOKS, RECORDS, AND REPORTS

1084 30. (a) The Contractor shall establish and maintain accounts and other books and
1085 records pertaining to administration of the terms and conditions of this Contract, including: the
1086 Contractor's financial transactions, water supply data, and Project land and right-of-way
1087 agreements; the water users' land-use (crop census), land ownership, land-leasing and water use
1088 data; and other matters that the Contracting Officer may require. Reports thereon shall be
1089 furnished to the Contracting Officer in such form and on such date or dates as the Contracting
1090 Officer may require. Subject to applicable Federal laws and regulations, each party to this
1091 Contract shall have the right during office hours to examine and make copies of the other party's
1092 books and records relating to matters covered by this Contract.

1093 (b) Notwithstanding the provisions of subdivision (a) of this Article, no
1094 books, records, or other information shall be requested from the Contractor by the Contracting
1095 Officer unless such books, records, or information are reasonably related to the administration or
1096 performance of this Contract. Any such request shall allow the Contractor a reasonable period of
1097 time within which to provide the requested books, records, or information.

1098 (c) **Omitted.** ~~At such time as the Contractor provides information to the~~
1099 ~~Contracting Officer pursuant to subdivision (a) of this Article, a copy of such information shall~~
1100 ~~be provided to the Operating Non-Federal Entity.~~

1101 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

1102 31. (a) The provisions of this Contract shall apply to and bind the successors and
1103 assigns of the parties hereto, but no assignment or transfer of this Contract or any right or interest
1104 therein shall be valid until approved in writing by the Contracting Officer.

1105 (b) The assignment of any right or interest in this Contract by either party
1106 shall not interfere with the rights or obligations of the other party to this Contract absent the
1107 written concurrence of said other party.

1108 (c) The Contracting Officer shall not unreasonably condition or withhold his
1109 approval of any proposed assignment.

1110 SEVERABILITY

1135 nothing herein is intended to waive or abridge any right or remedy that the Contractor or the
1136 United States may have.

1137 OFFICIALS NOT TO BENEFIT

1138 34. No Member of or Delegate to Congress, Resident Commissioner, or official of the
1139 Contractor shall benefit from this Contract other than as a water user or landowner in the same
1140 manner as other water users or landowners.

1141 CHANGES IN CONTRACTOR'S SERVICE AREA

1142 35. (a) While this Contract is in effect, no change may be made in the
1143 Contractor's Service Area or boundaries, by inclusion or exclusion of lands, dissolution,
1144 consolidation, merger, or otherwise, except upon the Contracting Officer's written consent.

1145 (b) Within 30 days of receipt of a request for such a change, the Contracting
1146 Officer will notify the Contractor of any additional information required by the Contracting
1147 Officer for processing said request, and both parties will meet to establish a mutually agreeable
1148 schedule for timely completion of the process. Such process will analyze whether the proposed
1149 change is likely to: (i) result in the use of Project Water contrary to the terms of this Contract;
1150 (ii) impair the ability of the Contractor to pay for Project Water furnished under this Contract or
1151 to pay for any Federally-constructed facilities for which the Contractor is responsible; and (iii)
1152 have an impact on any Project Water rights applications, permits, or licenses. In addition, the
1153 Contracting Officer shall comply with the National Environmental Policy Act and the
1154 Endangered Species Act. The Contractor will be responsible for all costs incurred by the
1155 Contracting Officer in this process, and such costs will be paid in accordance with Article 25 of
1156 this Contract.

1157 FEDERAL LAWS

1158 36. By entering into this Contract, the Contractor does not waive its rights to contest
1159 the validity or application in connection with the performance of the terms and conditions of this
1160 Contract of any Federal law or regulation; Provided, that the Contractor agrees to comply with

1161 the terms and conditions of this Contract unless and until relief from application of such Federal
1162 law or regulation to the implementing provision of the Contract is granted by a court of
1163 competent jurisdiction.

1164 NOTICES

1165 37. Any notice, demand, or request authorized or required by this Contract shall be
1166 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or
1167 delivered to the Area Manager, Bureau of Reclamation, Northern California Area Office, 16349
1168 Shasta Dam Boulevard, Shasta Lake, California 96019, and on behalf of the United States, when
1169 mailed, postage prepaid, or delivered to the Shasta County Board of Supervisors, 1855 Placer
1170 Street, Redding, California, 96001. The designation of the addressee or the address may be
1171 changed by notice given in the same manner as provided in this Article for other notices.

1172 CONFIRMATION OF CONTRACT

1173 38. The Contractor, after the execution of this Contract, shall promptly seek to secure
1174 a decree of a court of competent jurisdiction of the State of California, confirming the execution
1175 of this Contract. The Contractor shall furnish the United States a certified copy of the final
1176 decree, the validation proceedings, and all pertinent supporting records of the court approving
1177 and confirming this Contract, and decreeing and adjudging it to be lawful, valid, and binding on
1178 the Contractor.

Keswick Draft 6/27-2003
Shasta/Trinity Division Draft 6/16-2003
CVP-Wide Draft 5/23-2003
Contract No. 14-06-200-1307A- LTR1

EXHIBIT A

[Map or Description of Service Area]

EXHIBIT B

2003 Water Rates and Charges
Shasta County for the Benefit of
County Service Area No. 25 – Keswick – Trinity River Division

M&I COST OF SERVICE RATES:

Capital Rate:	\$ 9.18
O&M Rates:	
Water Marketing	3.68
Storage	5.78
Deficit Rate:	4.79
CFO/PRF Adjustment Rate 1/	<u>1.85</u>
TOTAL	<u>\$25.28</u>

CHARGES UNDER P.L. 102-575 TO THE
RESTORATION FUND 2/

Restoration Payments (3407(d)(2)(A))	<u>\$15.38</u>
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1/ Chief Financial Officer (CFO) adjustment and Provision for Replacement (PFR) expense is being distributed over a 5-year period beginning in FY 2003 for those contractors that requested those costs be deferred.

2/ Restoration fund charges are payments in addition to the water rates and were determined pursuant to Title XXXIV of Public Law 102-575. Restoration fund charges are on a fiscal year basis (10/1 - 9/30).