

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

LONG-TERM RENEWAL CONTRACT BETWEEN THE UNITED STATES
AND
MOUNTAIN GATE COMMUNITY SERVICES DISTRICT
PROVIDING FOR PROJECT WATER SERVICE
FROM THE SHASTA 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 MOUNTAIN GATE
COMMUNITY SERVICES DISTRICT, hereinafter referred to as the Contractor, a public agency
of the State of California, duly organized, existing, and acting pursuant to the laws thereof, with its
principal place of business in California;
WITNESSETH, That:

22 EXPLANATORY RECITALS

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

29 [2nd] WHEREAS, the United States constructed the Shasta Dam and Reservoir which will
30 be used in the furnishing of water to the Contractor pursuant to the terms of this Contract; and

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

33 [4th] WHEREAS, the Contractor and the United States entered into Contract
34 No. 14-06-200-6998, as amended by letter of Agreement dated November 21, 1975, which
35 established terms for the delivery to the Contractor of Central Valley Project Water from the Shasta
36 Division from March 12, 1958 through July 31, 2003; and

37 [5th] WHEREAS, the Contractor and the United States have pursuant to subsection
38 3404(c)(1) of the Central Valley Project Improvement Act (CVPIA), subsequently entered into
39 interim renewal contract(s) identified as Contract No(s). 14-06-200-6998-IR1, the current of which
40 is hereinafter referred to as the Existing Contract, which provided for the continued water service to
41 the Contractor from August 1, 2003 through February 29, 2004; and

42 [6th] WHEREAS, Section 3404(c) of the CVPIA provides for long-term renewal of
43 interim and existing long-term Central Valley Project Water service contracts following completion
44 of appropriate environmental documentation, including a programmatic environmental impact
45 statement (PEIS) pursuant to the National Environmental Policy Act analyzing the direct and

46 indirect impacts and benefits of implementing the CVPIA and the potential renewal of all existing
47 contracts for Project Water; and

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

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

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

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

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

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

66 [12.1] WHEREAS, Contractor has made and will continue to make substantial capital
67 investments in diversion and treatment facilities, and requires a consistent, predictable quality of
68 raw water in order to meet Safe Drinking Water Act requirements for its municipal customers, and
69 to provide a consistent and predictable quality of water for its industrial customers; and

70 [13th] WHEREAS, the Secretary intends through coordination, cooperation, and
71 partnerships to pursue measures to improve water supply, water quality, and reliability of the
72 Project for all Project purposes; and

73 [13.1] WHEREAS, the Contractor is located in the region of the Redding Groundwater
74 Basin, and it is the desire of both the United States and the Contractor to facilitate the cooperative
75 efforts of local water service agencies to develop the Redding Groundwater Basin for conjunctive
76 management and use with Project Water supplies, to maximize the reasonable beneficial use of
77 water for the water service agencies and their customers in the region; and

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

85 [15th] WHEREAS, the parties intend by this Contract to develop a more cooperative
86 relationship in order to achieve their mutual goals; and

87 [16th] WHEREAS, the United States and the Contractor are willing to enter into this
88 Contract pursuant to Federal Reclamation law on the terms and conditions set forth below;

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

91 DEFINITIONS

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

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

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

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

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

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

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

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

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

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

119 (j) “Full Cost Rate” shall mean an annual rate, determined by the Contracting
120 Officer that amortizes the expenditures for construction properly allocable to the Project Irrigation
121 or M&I functions, as appropriate, of facilities in service including operation and maintenance
122 deficits funded, less payments, over such periods as may be required under Federal Reclamation
123 law, or applicable contract provisions. Interest will accrue on both the construction expenditures
124 and funded O&M deficits from October 12, 1982, on costs outstanding at that date, or from the date
125 incurred in the case of costs arising subsequent to October 12, 1982, and shall be calculated in
126 accordance with subsections 202(3)(B) and (3)(C) of the **Reclamation Reform Act of October 12,**
127 **1982 (96 Stat. 1263)** (RRA). The Full Cost Rate includes actual operation, maintenance, and
128 replacement costs consistent with Section 426.2 of the Rules and Regulations for the RRA;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

182 TERM OF CONTRACT

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

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

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

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

208 ————— (3) — The terms and conditions of the renewal contract described in
209 subdivision (b)(1) of this Article and any subsequent renewal contracts shall be developed
210 consistent with the parties' respective legal rights and obligations, and in consideration of all
211 relevant facts and circumstances, as those circumstances exist at the time of renewal, including,
212 without limitation, the Contractor's need for continued delivery of Project Water; environmental

213 ~~conditions affected by implementation of the Contract to be renewed, and specifically changes in~~
214 ~~those conditions that occurred during the life of the Contract to be renewed; the Secretary's progress~~
215 ~~toward achieving the purposes of the CVPIA as set out in Section 3402 and in implementing the~~
216 ~~specific provisions of the CVPIA; and current and anticipated economic circumstances of the region~~
217 ~~served by the Contractor.~~

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

227 (d) The Contracting Officer shall make a determination 10 years after the date of
228 execution of this Contract, and every 5 years thereafter during the term of this Contract, of whether
229 a conversion to a contract under said subsection 9(d) can be accomplished pursuant to the Act of
230 July 2, 1956 (Public Law 643). Notwithstanding any provision of this Contract, the Contractor
231 reserves and shall have all rights and benefits under Public Law 643. The Contracting Officer
232 anticipates that during the term of this contract, all authorized Project construction expected to
233 occur will have occurred, and on that basis the Contracting Officer agrees upon such completion to
234 allocate all costs that are properly assignable to the Contractor, and agrees further that, at any time
235 after such allocation is made, and subject to satisfaction of the condition set out in this subdivision,
236 this Contract shall, at the request of the Contractor, be converted to a contract under subsection (d),
237 Section 9 of the Reclamation Project Act of 1939, subject to applicable Federal law and under stated

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

253 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

254 3. (a) During each Year, consistent with all applicable State water rights, permits,
255 and licenses, Federal law, and subject to the provisions set forth in Articles 11 and 12 of this
256 Contract, the Contracting Officer shall make available for delivery to the Contractor 350 acre-feet
257 of water for irrigation and M&I purposes. Provided, that the United States shall not be responsible
258 for the maintenance of water levels in Shasta Reservoir to permit the Contractor to withdraw water
259 from said reservoir. The quantity of Water Delivered to the Contractor in accordance with this
260 subdivision shall be scheduled and paid for pursuant to the provisions of Articles 4 and 7 of this
261 Contract.

262 (b) Because the capacity of the Central Valley Project to deliver Project Water
263 has been constrained in recent years and may be constrained in the future due to many factors
264 including hydrologic conditions and implementation of Federal and State laws, the likelihood of the
265 Contractor actually receiving the amount of Water set out in subdivision (a) of this Article in any
266 given Year is uncertain. The Contracting Officer's most recent modeling referenced in the PEIS
267 projected that the Contract Total set forth in this Contract will not be available to the Contractor in
268 many years. During the most recent 5 years, the Recent Historic Average of water made available
269 to the Contractor was 322 acre-feet. Nothing in subdivision (b) of this Article shall affect the rights
270 and obligations of the parties under any provision of this Contract.

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

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

287 documentation, Project Water rights, and Project operational concerns. The Contracting Officer
288 will address such concerns in regulations, policies, or guidelines.

289 (e) The Contractor shall comply with requirements applicable to the Contractor
290 in biological opinion(s) prepared as a result of a consultation regarding the execution of this
291 Contract undertaken pursuant to Section 7 of the Endangered Species Act of 1973, as amended, that
292 are within the Contractor's legal authority to implement. The Existing Contract, which evidences in
293 excess of 45 years of diversions for ~~irrigation and/or~~ municipal and industrial purposes of the
294 quantities of water provided in subdivision (a) of Article 3 of this Contract, will be considered in
295 developing an appropriate baseline for the Biological Assessment prepared pursuant to the
296 Endangered Species Act, and any other needed environmental review. Nothing herein shall be
297 construed to prevent the Contractor from challenging or seeking judicial relief in a court of
298 competent jurisdiction with respect to any biological opinion or other environmental documentation
299 referred to in this Article.

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

311 water, the Contracting Officer shall make such water available to the Contractor in accordance with
312 applicable statutes, regulations, guidelines, and policies.

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

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

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

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

335 shall recognize the Contractor has a legal right under the terms of this Contract to use Project
336 Water.

337 TIME FOR DELIVERY OF WATER

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

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

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

356 (d) Subject to the conditions set forth in subdivision (a) of Article 3 of this
357 Contract, the United States shall deliver Project Water to the Contractor in accordance with the
358 initial schedule submitted by the Contractor pursuant to subdivision (b) of this Article, or any

359 written revision(s), satisfactory to the Contracting Officer, thereto submitted within a reasonable
360 time prior to the date(s) on which the requested change(s) is/are to be implemented.

361 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

362 5. (a) Project Water scheduled pursuant to subdivision (b) of Article 4 of this
363 Contract shall be delivered to the Contractor at **Shasta Reservoir** and any additional point or points
364 of delivery either on Project facilities or another location or locations mutually agreed to in writing
365 by the Contracting Officer and the Contractor.

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

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

375 (d) All Water Delivered to the Contractor pursuant to this Contract shall be
376 measured and recorded with equipment furnished, installed, operated, and maintained by the
377 **Contractor** ~~United States, the Operating Non-Federal Entity or other appropriate entity as designated~~
378 ~~by the Contracting Officer (hereafter "other appropriate entity")~~ at the point or points of delivery
379 established pursuant to subdivision (a) of this Article. Upon the request of either party to this
380 Contract, the Contracting Officer shall investigate, ~~or cause to be investigated by the responsible~~
381 ~~Operating Non-Federal Entity,~~ the accuracy of such measurements and shall take any necessary
382 steps to adjust any errors appearing therein. For any period of time when accurate measurements
383 have not been made, the Contracting Officer shall consult with the Contractor ~~and the responsible~~

384 ~~Operating Non-Federal Entity~~ prior to making a final determination of the quantity delivered for
385 that period of time.

386 (e) (1) All pumps, pipelines, storage tanks, distribution lines, and other
387 facilities required to take, convey, and distribute water to the water users within the Contractor's
388 Service Area shall be constructed or installed by the Contractor at its sole expense. Operation and
389 maintenance of the facilities and the expense thereof also shall be the sole responsibility of the
390 Contractor. Said facilities may be installed, operated and maintained on or across property of the
391 United States in the Shasta Reservoir area, subject to such restrictions and regulations as to location,
392 method of installation, and operation and maintenance as may be promulgated by the Contracting
393 Officer.

394 (e) (2) ~~Neither~~ The Contracting Officer ~~nor any Operating Non-Federal~~
395 ~~Entity~~ shall be responsible for the control, carriage, handling, use, disposal, or distribution of
396 Project Water Delivered to the Contractor pursuant to this Contract beyond the delivery points
397 specified in subdivision (a) of this Article. The Contractor shall indemnify the United States, its
398 officers, employees, agents, and assigns on account of damage or claim of damage of any nature
399 whatsoever for which there is legal responsibility, including property damage, personal injury, or
400 death arising out of or connected with the control, carriage, handling, use, disposal, or distribution
401 of such Project Water beyond such delivery points, except for any damage or claim arising out of (i)
402 acts or omissions of the Contracting Officer or any of its officers, employees, agents, or assigns,
403 ~~including any responsible Operating Non-Federal Entity~~, with the intent of creating the situation
404 resulting in any damage or claim, (ii) willful misconduct of the Contracting Officer or any of its
405 officers, employees, agents, or assigns, ~~including any responsible Operating Non-Federal Entity~~,

406 (iii) negligence of the Contracting Officer or any of its officers, employees, agents, or assigns
407 ~~including any responsible Operating Non-Federal Entity~~, or (iv) damage or claims resulting from a
408 malfunction of facilities owned and/or operated by the United States ~~or responsible Operating Non-~~
409 ~~Federal Entity~~; Provided, that the Contractor is not the ~~Operating Non-Federal~~ entity that owned or
410 operated the malfunctioning facility(ies) from which the damage claim arose.

411 MEASUREMENT OF WATER WITHIN THE SERVICE AREA

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

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

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

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

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

450 (e) The Contractor shall inform the Contracting Officer ~~and the Operating Non-~~
451 ~~Federal Entity~~ on or before the 20 10th calendar day of each month of the quantity of ~~Irrigation and~~
452 M&I Water taken during the preceding month.

453 RATES AND METHOD OF PAYMENT FOR WATER

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

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

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

474 (2) Prior to October 1 of each Calendar Year, the Contracting Officer
475 shall make available to the Contractor an estimate of the Rates and Tiered Pricing Components for
476 Project Water for the following Year and the computations and cost allocations upon which those
477 Rates are based. The Contractor shall be allowed not less than 2 months to review and comment on
478 such computations and cost allocations. By December 31 of each Calendar Year, the Contracting

479 Officer shall provide the Contractor with the final Rates and Tiered Pricing Components to be in
480 effect for the upcoming Year, and such notification shall revise Exhibit "B."

481 (c) At the time the Contractor submits the initial schedule for the delivery of
482 Project Water for each Year pursuant to subdivision (b) of Article 4 of this Contract, the Contractor
483 shall make an advance payment to the United States equal to the total amount payable pursuant to
484 the applicable Rate(s) set under subdivision (a) of this Article, for the Project Water scheduled to be
485 delivered pursuant to this Contract during the first 2 calendar months of the Year. Before the end of
486 the first month and before the end of each calendar month thereafter, the Contractor shall make an
487 advance payment to the United States, at the Rate(s) set under subdivision (a) of this Article, for the
488 Water Scheduled to be delivered pursuant to this Contract during the second month immediately
489 following. Adjustments between advance payments for Water Scheduled and payments at Rates
490 due for Water Delivered shall be made before the end of the following month; Provided, that any
491 revised schedule submitted by the Contractor pursuant to Article 4 of this Contract which increases
492 the amount of Water Delivered pursuant to this Contract during any month shall be accompanied
493 with appropriate advance payment, at the Rates then in effect, to assure that Project Water is not
494 delivered to the Contractor in advance of such payment. In any month in which the quantity of
495 Water Delivered to the Contractor pursuant to this Contract equals the quantity of Water Scheduled
496 and paid for by the Contractor, no additional Project Water shall be delivered to the Contractor
497 unless and until an advance payment at the Rates then in effect for such additional Project Water is
498 made. Final adjustment between the advance payments for the Water Scheduled and payments for
499 the quantities of Water Delivered during each Year pursuant to this Contract shall be made as soon
500 as practicable but no later than April 30th of the following Year, or 60 days after the delivery of
501 Project Water carried over under subdivision (f) of Article 3 of this Contract if such water is not
502 delivered by the last day of February.

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

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

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

524 (g) All revenues received by the United States from the Contractor relating to the
525 delivery of Project Water or the delivery of non-project water through Project facilities shall be
526 allocated and applied in accordance with Federal Reclamation law and the associated rules or

527 regulations, and the then current Project ratesetting ~~policy policies~~ for M&I Water ~~or Irrigation~~
528 ~~Water~~.

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

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

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

552 exceeds 90 percent of the Contract Total shall equal the difference between (i) the Rate established
553 under subdivision (a) of this Article and (ii) the ~~Irrigation Full Cost Water Rate or M&I Full Cost~~
554 ~~Water Rate, whichever is applicable. For all Water Delivered pursuant to subdivision (a) of Article~~
555 ~~3 of this Contract which is in excess of 80 percent of the Contract Total, this increment shall be~~
556 ~~deemed to be divided between Irrigation Water and M&I Water in the same proportion as actual~~
557 ~~deliveries of each bear to the cumulative total Water Delivered.~~

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

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

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

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

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

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

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

602 NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICITS

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

606 SALES, TRANSFERS, OR EXCHANGES OF WATER

607 9. (a) The right to receive Project Water provided for in this Contract may be sold,
608 transferred, or exchanged to others for reasonable and beneficial uses within the State of California
609 if such sale, transfer, or exchange is authorized by applicable Federal and State laws, and applicable
610 guidelines or regulations then in effect. No sale, transfer, or exchange of Project Water under this
611 Contract may take place without the prior written approval of the Contracting Officer, except as
612 provided for in subdivision (b) of this Article, and no such sales, transfers, or exchanges shall be
613 approved absent compliance with appropriate environmental documentation including but not
614 limited to the National Environmental Policy Act and the Endangered Species Act. Such
615 environmental documentation should include, as appropriate, an analysis of ground-water impacts
616 and economic and social effects, including environmental justice, of the proposed water transfers on
617 both the transferor and transferee.

618 (b) In order to facilitate efficient water management by means of water transfers
619 of the type historically carried out among Project Contractors located within the same geographical
620 area and to allow the Contractor to participate in an accelerated water transfer program during the
621 term of this Contract, the Contracting Officer shall prepare, as appropriate, necessary environmental
622 documentation including, but not limited to, the National Environmental Policy Act and the
623 Endangered Species Act analyzing annual transfers within such geographical areas and the
624 Contracting Officer shall determine whether such transfers comply with applicable law. Following
625 the completion of the environmental documentation, such transfers addressed in such
626 documentation shall be conducted with advance notice to the Contracting Officer, but shall not

627 require prior written approval by the Contracting Officer. Such environmental documentation and
628 the Contracting Officer's compliance determination shall be reviewed every 5 years and updated, as
629 necessary, prior to the expiration of the then-existing 5-year period. All subsequent environmental
630 documentation shall include an alternative to evaluate not less than the quantity of Project Water
631 historically transferred within the same geographical area.

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

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

647 APPLICATION OF PAYMENTS AND ADJUSTMENTS

648 10. (a) The amount of any overpayment by the Contractor of the Contractor's O&M,
649 Capital, and deficit (if any) obligations for the Year shall be applied first to any current liabilities of
650 the Contractor arising out of this Contract then due and payable. Overpayments of more than
651 \$1,000 shall be refunded at the Contractor's request. In lieu of a refund, any amount of such

652 overpayment at the option of the Contractor, may be credited against amounts to become due to the
653 United States by the Contractor. With respect to overpayment, such refund or adjustment shall
654 constitute the sole remedy of the Contractor or anyone having or claiming to have the right to the
655 use of any of the Project Water supply provided for herein. All credits and refunds of overpayments
656 shall be made within 30 days of the Contracting Officer obtaining direction as to how to credit or
657 refund such overpayment in response to the notice to the Contractor that it has finalized the
658 accounts for the Year in which the overpayment was made.

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

664 TEMPORARY REDUCTIONS--RETURN FLOWS

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

670 (b) The Contracting Officer ~~or Operating Non-Federal Entity~~ may temporarily
671 discontinue or reduce the quantity of Water Delivered to the Contractor as herein provided for the
672 purposes of investigation, inspection, maintenance, repair, or replacement of any of the Project
673 facilities or any part thereof necessary for the delivery of Project Water to the Contractor, but so far
674 as feasible the Contracting Officer ~~or Operating Non-Federal Entity~~ will give the Contractor due
675 notice in advance of such temporary discontinuance or reduction, except in case of emergency, in

676 which case no notice need be given; Provided, that the United States shall use its best efforts to
677 avoid any discontinuance or reduction in such service. Upon resumption of service after such
678 reduction or discontinuance, and if requested by the Contractor, the United States will, if possible,
679 deliver the quantity of Project Water which would have been delivered hereunder in the absence of
680 such discontinuance or reduction.

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

687 CONSTRAINTS ON THE AVAILABILITY OF WATER

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

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

698 (c) In any Year in which there may occur a shortage for any of the reasons
699 specified in subdivision (b) above, the Contracting Officer shall apportion the available Project
700 Water supply among the Contractor and others entitled, under existing contracts and future
701 contracts (to the extent such future contracts are permitted under subsections (a) and (b) of Section
702 3404 of the CVPIA) and renewals thereof, to receive Project Water consistent with the contractual
703 obligations of the United States.

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

707 UNAVOIDABLE GROUNDWATER PERCOLATION

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

712 RULES AND REGULATIONS

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

718 WATER AND AIR POLLUTION CONTROL

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

722 QUALITY OF WATER

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

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

738 WATER ACQUIRED BY THE CONTRACTOR
739 OTHER THAN FROM THE UNITED STATES

740 17. (a) **Omitted.** ~~Water or water rights now owned or hereafter acquired by the~~
741 ~~Contractor other than from the United States and Irrigation Water furnished pursuant to the terms of~~

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

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

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

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

785 (3) ~~Neither The United States nor the Operating Non-Federal Entity~~ shall
786 ~~not~~ be responsible for control, care, or distribution of the non-Project water before it is introduced
787 into or after it is delivered from the Project facilities. The Contractor hereby releases and agrees to
788 defend and indemnify the United States ~~and the Operating Non-Federal Entity~~, and ~~their~~ ~~its~~
789 respective officers, agents, and employees, from any claim for damage to persons or property, direct
790 or indirect, arising out of or relating to the Contractor's or its officer's, employee's, agent's or

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

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

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

801 OPINIONS AND DETERMINATIONS

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

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

816 COORDINATION AND COOPERATION

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

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

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

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

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

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

845 (3.1) The Secretary and the Contractor desire to work together to maximize
846 the reasonable beneficial use of water for their mutual benefit. As a consequence, the Secretary and
847 the Contractor will work in partnership and with others in the region of the Redding Groundwater
848 Basin, including other Contractors in the Shasta and Trinity Divisions of the CVP, to facilitate the
849 better integration with the region of the Redding Groundwater Basin of all water supplies including,
850 but not limited to, the better management and integration of surface water and groundwater,
851 transfers and exchanges of water, the development and better utilization of surface water storage,
852 the effective utilization of waste, seepage and return flow water, and other operational and
853 management options that may be identified in the future.

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

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

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

864 CHARGES FOR DELINQUENT PAYMENTS

900 and shall post copies of the notice in conspicuous places available to employees and applicants for
901 employment.

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

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

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

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

926 GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

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

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

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

939 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

940 23. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964
941 (42 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (P.L. 93-112, as amended), the
942 Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.) and any other applicable civil rights laws,
943 as well as with their respective implementing regulations and guidelines imposed by the U.S.
944 Department of the Interior and/or Bureau of Reclamation.

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

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

958 PRIVACY ACT COMPLIANCE

959 24. ~~Omitted.~~ (a) ~~The Contractor shall comply with the Privacy Act of 1974 (5 U.S.C.~~
960 ~~552a) (the Act) and the Department of the Interior rules and regulations under the Act (43 CFR 2.45~~
961 ~~et seq.) in maintaining Landholder acreage certification and reporting records, required to be~~
962 ~~submitted to the Contractor for compliance with Sections 206 and 228 of the Reclamation Reform~~
963 ~~Act of 1982 (96 Stat. 1266), and pursuant to 43 CFR 426.18.~~

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

968 ~~_____ (c) The Contracting Officer or a designated representative shall provide the~~
969 ~~Contractor with current copies of the Interior Department Privacy Act regulations and the Bureau of~~
970 ~~Reclamation Federal Register Privacy Act System of Records Notice (Acreage Limitation Interior,~~

971 ~~Reclamation 31) which govern the maintenance, safeguarding, and disclosure of information~~
972 ~~contained in the Landholder's certification and reporting records.~~

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

977 ~~_____ (e) The Contractor shall forward promptly to the System Manager each proposed~~
978 ~~denial of access under 43 CFR 2.64; and each request for amendment of records filed under 43 CFR~~
979 ~~2.71; notify the requester accordingly of such referral; and provide the System Manager with~~
980 ~~information and records necessary to prepare an appropriate response to the requester. These~~
981 ~~requirements do not apply to individuals seeking access to their own certification and reporting~~
982 ~~forms filed with the Contractor pursuant to 43 CFR 426.18, unless the requester elects to cite the~~
983 ~~Privacy Act as a basis for the request.~~

984 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

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

993 WATER CONSERVATION

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

1000 conservation objectives, appropriate economically feasible water conservation measures, and time
1001 schedules for meeting those objectives. Continued Project Water delivery pursuant to this Contract
1002 shall be contingent upon the Contractor's continued implementation of such water conservation
1003 program. In the event the Contractor's water conservation plan or any revised water conservation
1004 plan completed pursuant to subdivision (d) of Article 26 of this Contract have not yet been
1005 determined by the Contracting Officer to meet such criteria, due to circumstances which the
1006 Contracting Officer determines are beyond the control of the Contractor, water deliveries shall be
1007 made under this Contract so long as the Contractor diligently works with the Contracting Officer to
1008 obtain such determination at the earliest practicable date, and thereafter the Contractor immediately
1009 begins implementing its water conservation and efficiency program in accordance with the time
1010 schedules therein.

1011 (b) Should the amount of M&I Water delivered pursuant to subdivision (a) of
1012 Article 3 of this Contract equal or exceed 2,000 acre-feet per Year, the Contractor shall implement
1013 the Best Management Practices identified by the time frames issued by the California Urban Water
1014 Conservation Council for such M&I Water unless any such practice is determined by the
1015 Contracting Officer to be inappropriate for the Contractor.

1016 (c) The Contractor shall submit to the Contracting Officer a report on the status
1017 of its implementation of the water conservation plan on the reporting dates specified in the then
1018 existing conservation and efficiency criteria established under Federal law.

1019 (d) At 5-year intervals, the Contractor shall revise its water conservation plan to
1020 reflect the then current conservation and efficiency criteria for evaluating water conservation plans
1021 established under Federal law and submit such revised water management plan to the Contracting
1022 Officer for review and evaluation. The Contracting Officer will then determine if the water
1023 conservation plan meets Reclamation's then current conservation and efficiency criteria for
1024 evaluating water conservation plans established under Federal law.

1025 (e) If the Contractor is engaged in direct ground-water recharge, such activity
1026 shall be described in the Contractor's water conservation plan.

1027 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

1028 27. Except as specifically provided in Article 17 of this Contract, the provisions of this
1029 Contract shall not be applicable to or affect non-Project water or water rights now owned or
1030 hereafter acquired by the Contractor or any user of such water within the Contractor's Service Area.
1031 Any such water shall not be considered Project Water under this Contract. In addition, this Contract
1032 shall not be construed as limiting or curtailing any rights which the Contractor or any water user
1033 within the Contractor's Service Area acquires or has available under any other contract pursuant to
1034 Federal Reclamation law.

1035 OPERATION AND MAINTENANCE BY NON-FEDERAL ENTITY

1036 28. **Omitted.** ~~(a) The Operation and Maintenance of a portion of the Project facilities~~
1037 ~~which serve the Contractor, and responsibility for funding a portion of the costs of such Operation~~
1038 ~~and Maintenance, have been transferred to the Operating Non-Federal Entity by separate agreement~~
1039 ~~between the United States and the Operating Non-Federal Entity. That separate agreement shall not~~
1040 ~~interfere with or affect the rights or obligations of the Contractor or the United States hereunder.~~

1041 ~~—————(b) The Contracting Officer has previously notified the Contractor in writing that~~
1042 ~~the Operation and Maintenance of a portion of the Project facilities which serve the Contractor has~~
1043 ~~been transferred to the Operating Non-Federal Entity, and therefore, the Contractor shall pay~~
1044 ~~directly to the Operating Non-Federal Entity, or to any successor approved by the Contracting~~
1045 ~~Officer under the terms and conditions of the separate agreement between the United States and the~~
1046 ~~Operating Non-Federal Entity described in subdivision (a) of this Article, all rates, charges, or~~
1047 ~~assessments of any kind, including any assessment for reserve funds, which the Operating Non-~~
1048 ~~Federal Entity or such successor determines, sets, or establishes for the Operation and Maintenance~~
1049 ~~of the portion of the Project facilities operated and maintained by the Operating Non-Federal Entity~~

1050 ~~or such successor. Such direct payments to the Operating Non-Federal Entity or such successor~~
1051 ~~shall not relieve the Contractor of its obligation to pay directly to the United States the Contractor's~~
1052 ~~share of the Project Rates, Charges, and Tiered Pricing Components except to the extent the~~
1053 ~~Operating Non-Federal Entity collects payments on behalf of the United States in accordance with~~
1054 ~~the separate agreement identified in subdivision (a) of this Article.~~

1055 ~~————— (c) ——— For so long as the Operation and Maintenance of any portion of the Project~~
1056 ~~facilities serving the Contractor is performed by the Operating Non-Federal Entity, or any successor~~
1057 ~~thereto, the Contracting Officer shall adjust those components of the Rates for Water~~
1058 ~~Delivered under this Contract representing the cost associated with the activity being performed by~~
1059 ~~the Operating Non-Federal Entity or its successor.~~

1060 ~~————— (d) ——— In the event the Operation and Maintenance of the Project facilities~~
1061 ~~operated and maintained by the Operating Non-Federal Entity is re-assumed by the United States~~
1062 ~~during the term of this Contract, the Contracting Officer shall so notify the Contractor, in~~
1063 ~~writing, and present to the Contractor a revised Exhibit "B" which shall include the portion of~~
1064 ~~the Rates to be paid by the Contractor for Project Water under this Contract representing the~~
1065 ~~Operation and Maintenance costs of the portion of such Project facilities which have been re-~~
1066 ~~assumed. The Contractor shall, thereafter, in the absence of written notification from the~~
1067 ~~Contracting Officer to the contrary, pay the Rates, Charges, and Tiered Pricing Component(s)~~
1068 ~~specified in the revised Exhibit "B" directly to the United States in compliance with Article 7 of~~
1069 ~~this Contract.~~

1070 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

1071 29. The expenditure or advance of any money or the performance of any obligation of
1072 the United States under this Contract shall be contingent upon appropriation or allotment of
1073 funds. Absence of appropriation or allotment of funds shall not relieve the Contractor from any
1074 obligations under this Contract. No liability shall accrue to the United States in case funds are
1075 not appropriated or allotted.

1076

BOOKS, RECORDS, AND REPORTS

1077 30. (a) The Contractor shall establish and maintain accounts and other books and
1078 records pertaining to administration of the terms and conditions of this Contract, including: the
1079 Contractor's financial transactions, water supply data, and Project land and right-of-way
1080 agreements; the water users' land-use (crop census), land ownership, land-leasing and water use
1081 data; and other matters that the Contracting Officer may require. Reports thereon shall be
1082 furnished to the Contracting Officer in such form and on such date or dates as the Contracting
1083 Officer may require. Subject to applicable Federal laws and regulations, each party to this
1084 Contract shall have the right during office hours to examine and make copies of the other party's
1085 books and records relating to matters covered by this Contract.

1086 (b) Notwithstanding the provisions of subdivision (a) of this Article, no
1087 books, records, or other information shall be requested from the Contractor by the Contracting
1088 Officer unless such books, records, or information are reasonably related to the administration or
1089 performance of this Contract. Any such request shall allow the Contractor a reasonable period of
1090 time within which to provide the requested books, records, or information.

1091 (c) ~~At such time as the Contractor provides information to the~~
1092 ~~Contracting Officer pursuant to subdivision (a) of this Article, a copy of such information shall~~
1093 ~~be provided to the Operating Non-Federal Entity.~~

1094 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

1095 31. (a) The provisions of this Contract shall apply to and bind the successors and
1096 assigns of the parties hereto, but no assignment or transfer of this Contract or any right or interest
1097 therein shall be valid until approved in writing by the Contracting Officer.

1098 (b) The assignment of any right or interest in this Contract by either party
1099 shall not interfere with the rights or obligations of the other party to this Contract absent the
1100 written concurrence of said other party.

1101 (c) The Contracting Officer shall not unreasonably condition or withhold his
1102 approval of any proposed assignment.

1103

SEVERABILITY

1128 nothing herein is intended to waive or abridge any right or remedy that the Contractor or the
1129 United States may have.

1130 OFFICIALS NOT TO BENEFIT

1131 34. No Member of or Delegate to Congress, Resident Commissioner, or official of the
1132 Contractor shall benefit from this Contract other than as a water user or landowner in the same
1133 manner as other water users or landowners.

1134 CHANGES IN CONTRACTOR'S SERVICE AREA

1135 35. (a) While this Contract is in effect, no change may be made in the
1136 Contractor's Service Area or boundaries, by inclusion or exclusion of lands, dissolution,
1137 consolidation, merger, or otherwise, except upon the Contracting Officer's written consent.

1138 (b) Within 30 days of receipt of a request for such a change, the Contracting
1139 Officer will notify the Contractor of any additional information required by the Contracting
1140 Officer for processing said request, and both parties will meet to establish a mutually agreeable
1141 schedule for timely completion of the process. Such process will analyze whether the proposed
1142 change is likely to: (i) result in the use of Project Water contrary to the terms of this Contract;
1143 (ii) impair the ability of the Contractor to pay for Project Water furnished under this Contract or
1144 to pay for any Federally-constructed facilities for which the Contractor is responsible; and (iii)
1145 have an impact on any Project Water rights applications, permits, or licenses. In addition, the
1146 Contracting Officer shall comply with the National Environmental Policy Act and the
1147 Endangered Species Act. The Contractor will be responsible for all costs incurred by the
1148 Contracting Officer in this process, and such costs will be paid in accordance with Article 25 of
1149 this Contract.

1150 FEDERAL LAWS

1151 36. By entering into this Contract, the Contractor does not waive its rights to contest
1152 the validity or application in connection with the performance of the terms and conditions of this
1153 Contract of any Federal law or regulation; Provided, that the Contractor agrees to comply with

1154 the terms and conditions of this Contract unless and until relief from application of such Federal
1155 law or regulation to the implementing provision of the Contract is granted by a court of
1156 competent jurisdiction.

1157 NOTICES

1158 37. Any notice, demand, or request authorized or required by this Contract shall be
1159 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or
1160 delivered to the Area Manager, Bureau of Reclamation, Northern California Area Office, 16349
1161 Shasta Dam Boulevard, Shasta Lake, California 96019, and on behalf of the United States, when
1162 mailed, postage prepaid, or delivered to the Board of Directors of the Mountain Gate Community
1163 Services District, 14508 Wonderland Boulevard, Redding, California 96003. The designation of
1164 the addressee or the address may be changed by notice given in the same manner as provided in
1165 this Article for other notices.

1166 CONFIRMATION OF CONTRACT

1167 38. The Contractor, after the execution of this Contract, shall promptly seek to secure
1168 a decree of a court of competent jurisdiction of the State of California, confirming the execution
1169 of this Contract. The Contractor shall furnish the United States a certified copy of the final
1170 decree, the validation proceedings, and all pertinent supporting records of the court approving
1171 and confirming this Contract, and decreeing and adjudging it to be lawful, valid, and binding on
1172 the Contractor.

1173 IN WITNESS WHEREOF, the parties hereto have executed this Contract as of
1174 the day and year first above written.

1175 THE UNITED STATES OF AMERICA

1176 By: _____
1177 Regional Director, Mid-Pacific Region
1178 Bureau of Reclamation

1179 MOUNTAIN GATE
1180 COMMUNITY SERVICES DISTRICT

1181 By: _____
1182 President of the Board of Directors

1183 Attest:

1184 By: _____
1185 Secretary of the Board of Directors

Mountain Gate Draft 6/27-2003
Shasta/Trinity Division Draft 6/16-2003
CVP-Wide Draft 5/23-2003
Contract No. 14-06-200-6998- LTR1

EXHIBIT A

[Map or Description of Service Area]

EXHIBIT B

2003 Water Rates and Charges for
Mountain Gate Community Services District – Shasta Lake

M&I COST OF SERVICE RATES:

Capital Rate:	\$ 5.35
O&M Rates:	
Water Marketing	3.68
Storage	5.78
Deficit Rate:	0.43
CFO/PRF Adjustment Rate 1/	<u>2.39</u>
TOTAL	<u>\$17.63</u>

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

Restoration Payments (3407(d)(2)(A))	<u>\$15.38</u>
--------------------------------------	----------------

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).