

1 **Additions in bold are for DWR**

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

6 LONG-TERM RENEWAL CONTRACT BETWEEN THE UNITED STATES
7 **THE DEPARTMENT OF WATER RESOURCES OF THE STATE OF CALIFORNIA,**
8 AND THE COUNTY OF TULARE
9 PROVIDING FOR PROJECT WATER SERVICE
10 FROM CROSS VALLEY DIVISION

11 THIS CONTRACT, made this ____ day of _____, 2001, in pursuance
12 generally of the Act of June 17, 1902 (32 Stat. 388), and acts amendatory or supplementary thereto,
13 including, but not limited to, the Acts of August 26, 1937 (50 Stat. 844), as amended and
14 supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented, July 2, 1956 (70 Stat.
15 483), June 21, 1963 (77 Stat. 68), October 12, 1982 (96 Stat. 1262), October 27, 1986 (100 Stat.
16 3050), as amended, and Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706), all collectively
17 hereinafter referred to as Federal Reclamation law **and pursuant to the California Central Valley**
18 **Project Act [Part 3, Division 6 (commencing at Section 11100) of the California Water Code]**
19 **and the California Water Resources Development Bond Act [Chapter 8, Part 6, Division 6**
20 **(commencing at Section 12930) of the California Water Code,] and all acts of the California**
21 **legislature amendatory thereto or supplementary thereof** between THE UNITED STATES OF
22 AMERICA, hereinafter referred to as the United States, **THE DEPARTMENT OF WATER**
23 **RESOURCES OF THE STATE OF CALIFORNIA, hereinafter referred to as DWR,** and THE
24 COUNTY OF TULARE, hereinafter referred to as the Contractor, a public agency of the State of

25 California, duly organized, existing, and acting pursuant to the laws thereof, with its principal place
26 of business in California;

27 WITNESSETH, That:

28 EXPLANATORY RECITALS

29 [1st] WHEREAS, the United States has constructed and is operating the Central Valley
30 Project, California, for diversion, storage, carriage, distribution and beneficial use, for flood control,
31 irrigation, municipal, domestic, industrial, fish and wildlife mitigation, protection and restoration,
32 generation and distribution of electric energy, salinity control, navigation and other beneficial uses, of
33 waters of the Sacramento River, the American River, the Trinity River, and the San Joaquin River
34 and their tributaries; and

35 [2nd] WHEREAS, the United States constructed the Central Valley Project, hereinafter
36 collectively referred to as the Project facilities, which will be used in part for the furnishing of water
37 to the Contractor pursuant to the terms of this Contract; and

38 [2.2] WHEREAS, as provided herein, Project Water may be made available to the
39 Contractor from the Sacramento-San Joaquin Delta and/or the Friant Division and delivered to the
40 Contractor through appropriate federal, state and/or local facilities; and

41 [2.3] **WHEREAS, DWR is engaged in the operation of the State Water Resources**
42 **Development System pursuant to the laws of the State of California involving the development,**
43 **transportation, and delivery of water supplies to public agencies throughout the State of**
44 **California; and**

45 [2.4] **WHEREAS, the Cross Valley Canal, connecting the California Aqueduct and the**

46 **Friant-Kern Canal in Kern County, has been constructed by the Contractor and others at no**
47 **cost to either the United States or DWR; and**

48 [2.5] WHEREAS, the Contractor has the right to use the Cross Valley Canal for conveyance
49 of the Project Water furnished hereunder; and

50 [3rd] WHEREAS, the rights to Project Water were acquired by the United States pursuant to
51 California law for operation of the Project; and

52 [4th] WHEREAS, the Contractor and the United States entered into Contract No. 14-06-
53 200-8293A, as amended, which established terms for the delivery to the Contractor of Project Water
54 from the Cross Valley Division from November 10, 1975, through February 29, 1996; and

55 [5th] WHEREAS, the Contractor and the United States have pursuant to subsection
56 3404(c)(1) of the Central Valley Project Improvement Act (CVPIA), subsequently entered into
57 interim renewal contract(s) identified as Contract No(s). 14-06-200-8293A-IR1, IR2, IR3, and IR4,
58 the current of which is hereinafter referred to as the Existing Contract, which provided for the
59 continued water service to the Contractor from December 1, 2000, through February 28, 2001; and

60 [5.2] WHEREAS, the Contractor proposes to enter into subcontracts for the furnishing of
61 water made available to the Contractor under this Contract; and

62 [6th] WHEREAS, Section 3404(c) of the CVPIA provides for long-term renewal of interim
63 and existing long-term Project Water service contracts following completion of appropriate
64 environmental documentation, including a programmatic environmental impact statement (PEIS)
65 pursuant to the National Environmental Policy Act analyzing the direct and indirect impacts and
66 benefits of implementing the CVPIA and the potential renewal of all existing contracts for Project

67 Water; and

68 [7th] WHEREAS, the United States has completed the PEIS and all other appropriate
69 environmental review necessary to provide for long-term renewal of the Existing Contract; and

70 [8th] WHEREAS, the Contractor has requested the long-term renewal of the Existing
71 Contract, pursuant to the terms of the Existing Contract, Federal Reclamation law, and the laws of the
72 State of California, for water service from the Central Valley Project; and

73 [9th] WHEREAS, the United States has determined that the Contractor has fulfilled all of
74 its obligations under the Existing Contract; and

75 [10th] WHEREAS, the Contractor has demonstrated to the satisfaction of the Contracting
76 Officer that the Contractor has utilized the Project Water supplies available to it for reasonable and
77 beneficial use and/or has demonstrated projected future demand for water use such that the Contractor
78 has the capability and expects to utilize fully for reasonable and beneficial use the quantity of Project
79 Water to be made available to it pursuant to this Contract; and

80 [11th] WHEREAS, water obtained from the Central Valley Project has been relied upon by
81 urban and agricultural areas within California for more than fifty (50) years, and is considered by the
82 Contractor as an essential portion of its water supply; and

83 [12th] WHEREAS, the economies of regions within the Central Valley Project, including the
84 Contractor's, depend upon the continued availability of water, including water service from the
85 Central Valley Project; and

86 [13th] WHEREAS, the Secretary intends through coordination, cooperation, and partnerships
87 to pursue measures to improve water supply, water quality, and reliability of the Project for all Project

88 purposes; and

89 [14th] WHEREAS, the mutual goals of the United States and the Contractor include: to
90 provide for reliable Project Water supplies; to control costs of those supplies; to achieve repayment of
91 the Central Valley Project as required by law; to guard reasonably against Project Water shortages; to
92 achieve a reasonable balance among competing demands for use of Project Water; and to comply
93 with all applicable environmental statutes, all consistent with the legal obligations of the United
94 States relative to the Central Valley Project; and

95 [14.1] WHEREAS, the United States and the Contractor acknowledge that the Base Supply
96 as defined in this Contract is a more accurate reflection of the amount of water the Contractor may
97 realistically expect in many water Years in light of present constraints, and that designation of Base
98 Supply does not preclude delivery to the Contractor of the Supplemental Supply of Project Water as
99 defined herein; and

100 [15th] WHEREAS, the parties intend by this Contract to develop a more cooperative
101 relationship in order to achieve their mutual goals; and

102 [15.2] WHEREAS, the United States and the Contractor desire to contract with DWR
103 for conveyance of Project Water through the facilities of the SWP as aforesaid under an
104 arrangement wherein the United States will furnish the necessary power for pumping such
105 water through DWR's Delta Pumping Plant and Dos Amigos Pumping Plant; and

106 [15.3] WHEREAS, DWR is willing to convey such water through State Facilities subject
107 to the availability of transportation capacity and payment of costs as herein provided; and

108 [16th] WHEREAS, the United States, DWR, and the Contractor are willing to enter into this

109 long-term renewal contract pursuant to Federal Reclamation law on the terms and conditions set forth
110 below;

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

113 DEFINITIONS

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

116 (a) "Base Supply" shall mean that quantity of Project Water so designated in
117 subdivision (a) of Article 3 of this Contract;

118 (a1) "Calendar Year" shall mean the period January 1 through December 31, both
119 dates inclusive;

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

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

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

128 (e) "Contract Total" shall mean the total of Base Supply and Supplemental Supply
129 of Project Water to which the Contractor is entitled under subdivision (a) of Article 3 of this

130 Contract;

131 (f) "Contractor's Service Area", or if applicable, "Subcontractor's Service Area"
132 shall mean the area to which the Contractor is permitted to provide Project Water under this Contract
133 as described in Exhibit "A" attached hereto, which may be modified from time to time in accordance
134 with Article 35 of this Contract without amendment of this Contract;

135 (f2) "Cross Valley Canal" shall mean the water conveyance and related works
136 constructed by the Contractor and others to deliver water from the State Facilities, which canal
137 currently is operated by KCWA;

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

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

143 (h2) **"Entitlement Water" shall mean the amount of SWP Water made**
144 **available to a SWP Contractor during the respective year, as shown in Table A of their contract**
145 **with DWR, or as it may be amended;**

146 (i) "Excess Lands" shall mean all lands in excess of the limitations contained in
147 Section 204 of the RRA, other than those lands exempt from acreage limitation under Federal
148 Reclamation law;

149 (j) "Full Cost Rate" shall mean that water rate described in Sections 205(a)(3) or
150 202(3) of the RRA, whichever is applicable;

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

153 (l) "Irrigation Full Cost Water Rate" shall have the same meaning as "full cost" as
154 that term is used in paragraph (3) of Section 202 of the RRA;

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

158 (m2) "KCWA" shall mean the Kern County Water Agency;

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

161 (n2) **"Minimum OMP&R Costs" shall mean those OMP&R costs incurred by**
162 **DWR irrespective of the amount of water delivered to the Contractor;**

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

170 (p) "M&I Full Cost Water Rate" shall mean the annual rate, which, as determined
171 by the Contracting Officer, shall amortize the expenditures for construction allocable to Project M&I

172 facilities in service, including, O&M deficits funded, less payments, over such periods as may be
173 required under Federal Reclamation law with interest accruing from the dates such costs were first
174 incurred plus the applicable rate for the O&M of such Project facilities. Interest rates used in the
175 calculation of the M&I Full Cost Rate shall comply with the Interest Rate methodology contained in
176 Section 202 (3) (B) and (C) of the RRA;

177 (p2) **"OMP&R Costs" shall mean the costs incurred by DWR for operation,**
178 **maintenance, power and replacement of all State Facilities used in conveying Project Water to**
179 **the Contractor;**

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

183 (r) "Operating Non-Federal Entity" shall mean the , a Non-Federal entity which
184 has the obligation to operate and maintain all or a portion of the Project facilities pursuant to an
185 agreement with the United States, and which may have funding obligations with respect thereto;

186 (r2) **"Operations Manual" shall mean the manual setting forth detailed**
187 **operations and management procedures prepared by DWR, the Contracting Officer and the**
188 **Contractor;**

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

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

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

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

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

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

205 (x2) **"State Facilities" shall mean that portion of the SWP (including DWR's**
206 **portion of joint facilities), necessary to convey Project Water from the Sacramento-San Joaquin**
207 **Delta (Delta) to the Cross Valley Canal;**

208 (x3) **"SWP" shall mean the California State Water Project;**

209 (x4) **"SWP Contractor" shall mean any entity contracting with DWR for a**
210 **portion of the minimum project yield of the SWP;**

211 (x5) **"SWP Water" shall mean water made available through SWP operations**
212 **including conservation, purchase, and diversion under water rights of DWR;**

213 (x6) "Supplemental Supply" shall mean that quantity of Project Water so designated

214 in subdivision (a) of Article 3 of this Contract as that portion of the Contract Total that is in addition
215 to and less reliable than the Base Supply;

216 (x7) "Supplemental Supply" shall mean that additional quantity of Project Water so
217 designated in subdivision (a) of Article 3 of this Contract that is in excess of Base Supply and may be
218 delivered to the Contractor in some Years;

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

221 (z2) **"Variable OM&R Costs" shall mean those costs incurred by DWR for**
222 **operation, maintenance and replacement costs of State Facilities which are dependant upon and**
223 **vary with the amount of water delivered; and**

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

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

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

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

234 TERM OF CONTRACT

235 2. (a) This Contract shall be effective March 1, 2001, through February 28, 2026. In
236 the event the Contractor wishes to renew the Contract beyond February 28, 2026, the Contractor shall
237 submit a request for renewal in writing to the Contracting Officer no later than two (2) years prior to
238 the date this Contract expires. The renewal of this Contract insofar as it pertains to the furnishing of
239 Irrigation Water to the Contractor shall be governed by subdivision (b) of this Article, and the
240 renewal of this Contract insofar as it pertains to the furnishing of M&I Water to the Contractor shall
241 be governed by subdivision (c) of this Article.

242 (b) (1) Under terms and conditions of a renewal contract that are mutually
243 agreeable to the parties hereto, and upon a determination by the Contracting Officer that at the time of
244 contract renewal the conditions set forth in subdivision (b)(2) of this Article are met, and subject to
245 Federal and State law, this Contract, insofar as it pertains to the furnishing of Irrigation Water to the
246 Contractor, shall be renewed for a period of twenty-five (25) years.

247 (2) The conditions which must be met for this Contract to be renewed are:
248 (i) the Contractor has prepared a water conservation plan that has been determined by the Contracting
249 Officer in accordance with Article 26 of this Contract to meet the conservation and efficiency criteria
250 for evaluating such plans established under Federal law; (ii) the Contractor is implementing an
251 effective water conservation and efficiency program based on the Contractor's water conservation
252 plan as required by Article 26 of this Contract; (iii) the Contractor is operating and maintaining all
253 water measuring devices and implementing all water measurement methods as approved by the
254 Contracting Officer pursuant to Article 6 of this Contract; (iv) the Contractor has reasonably and
255 beneficially used the Project Water supplies made available to it and, based on projected demands, is

256 reasonably anticipated and expects fully to utilize for reasonable and beneficial use the quantity of
257 Project Water to be made available to it pursuant to such renewal; (v) the Contractor is complying
258 with all terms and conditions of this Contract; and (vi) the Contractor has the physical and legal
259 ability to deliver Project Water.

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

269 (c) This Contract, insofar as it pertains to the furnishing of M&I Water to the
270 Contractor, shall be renewed for a period of twenty five (25) years and thereafter shall be renewed for
271 successive periods of up to forty (40) years each, which periods shall be consistent with the then-
272 existing Reclamation-wide policy, under terms and conditions mutually agreeable to the parties and
273 consistent with Federal and State law. The present Reclamation-wide policy, dated March 20, 2000,
274 provides that the term of such contracts shall be no more than twenty five (25) years each, subject to a
275 variance to allow a longer term in appropriate circumstances. The Contractor shall be afforded the
276 opportunity to comment to the Contracting Officer on the proposed adoption and application of any

277 revised Reclamation-wide policy applicable to the delivery of Project M&I Water that would limit the
278 term of any subsequent renewal contract with the Contractor for the furnishing of M&I Water to less
279 than twenty five (25) years.

280 (d) The Contracting Officer anticipates that by December 31, 2024, all authorized
281 project construction expected to occur will have occurred, and on that basis the Contracting Officer
282 agrees by that date to allocate all costs that are properly assignable to the Contractor, and agrees
283 further that, at any time after such allocation is made, and subject to satisfaction of the condition set
284 out in this subdivision, this Contract shall, at the request of the Contractor, be converted to a contract
285 under subsection (d) , Section 9 of the Reclamation Project Act of 1939, subject to applicable Federal
286 law and under stated terms and conditions mutually agreeable to the Contractor and the Contracting
287 Officer. A condition for such conversion to occur shall be a determination by the Contracting Officer
288 that, account being taken of the amount credited to return by the Contractor as provided for under
289 Reclamation law, the remaining amount of construction costs assignable for ultimate return by the
290 Contractor can probably be repaid to the United States within the term of a contract under said
291 subsection (d). If the remaining amount of costs that are properly assignable to the Contractor cannot
292 be determined by December 31, 2024, the Contracting Officer shall notify the Contractor, and provide
293 the reason(s) why such a determination could not be made. Further, the Contracting Officer shall
294 make such a determination as soon thereafter as possible so as to permit, upon request of the
295 Contractor and satisfaction of the condition set out above, conversion to a contract under said
296 subsection (d). In the event such determination of costs has not been made at a time which allows
297 conversion of this Contract during the term of this Contract or the Contractor has not requested

298 conversion of this Contract within such term, the parties shall incorporate in any subsequent renewal
299 contract as described in subdivision (b) of this Article a provision that carries forth in substantially
300 identical terms the provisions of this subdivision. In the event the Contracting Officer is able to make
301 a determination of the remaining amount of costs that are properly assignable to the Contractor before
302 December 31, 2024, the Contracting Officer shall do so at the earliest time the Contracting Officer
303 has such ability.

304 (e) DWR shall negotiate in good faith with the Contractor and the United States in
305 the process described in this Article: Provided, That no such renewal contract shall obligate DWR to
306 provide conveyance and/or storage beyond February 28, 2035 without further negotiations. The
307 parties acknowledge that operation of State Facilities is not, and shall not be, subject to federal
308 Reclamation law.

309 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

310 3. (a) During each Year, consistent with all applicable State water rights, permits,
311 and licenses; Federal law; and subject to the provisions set forth in Articles 11 and 12 of this
312 Contract, the Contracting Officer shall make available in the Delta for delivery to the Contractor
313 2,100 acre-feet designated Base Supply and 900 acre-feet designated Supplemental Supply water for a
314 Contract Total of 3,000 acre-feet of the Project Water for irrigation and M&I purposes. To reflect
315 changes in reliability, the quantity of Base Supply and Supplemental Supply will be reassessed at
316 least every five (5) years and may be adjusted upon mutual agreement of the parties. Cross Valley
317 Division Contractors shall have a primary priority to pumping capacity made available by the SWP
318 for CVP purposes up to the allocation made for CVP irrigation contractors south of the Delta.

319 Allocations of water supply to Cross Valley Division Contractors and any additional pumping
320 capacity made available by SWP for Cross Valley Division Contractors purposes shall be addressed
321 in the Operations Manual. The quantity of Water Delivered to the Contractor in accordance with this
322 subdivision shall be scheduled, conveyed, and paid for pursuant to the provisions of this Contract,
323 **attached exhibits and the Operations Manual (including any subsequent modifications thereto).**

324 (b) Because the capacity of the Central Valley Project to deliver Project Water has
325 been constrained in recent years and may be constrained in the future due to many factors including
326 hydrologic conditions and implementation of Federal and State laws, the likelihood of the Contractor
327 actually receiving the full amount of the Contract Total set out in subdivision (a) of this Article in any
328 given Year is uncertain. The Contracting Officer's most recent modeling referenced in the PEIS
329 projected that the full amount of the Contract Total set forth in this Contract will not be available to
330 the Contractor in many years. During the most recent five (5) years, the Recent Historic Average of
331 Water Made Available to the Contractor was 2,220 acre-feet. Nothing in this subdivision shall affect
332 the rights and obligations of the parties under any provision of this Contract.

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

335 (d) The Contractor, or if applicable, Subcontractor shall make reasonable and
336 beneficial use of all Project Water or other water furnished pursuant to this Contract. Groundwater
337 recharge programs, groundwater banking programs, surface water storage programs, and other similar
338 programs utilizing Project Water or other water furnished pursuant to this Contract conducted within
339 the Contractor's Service Area, or if applicable, Subcontractor's Service Area which are consistent

340 with applicable State law and result in use consistent with Reclamation law will be allowed;
341 Provided, That any direct recharge program(s) is (are) described in the Contractor's or
342 Subcontractor's Water Conservation Plan submitted pursuant to Article 26 of this Contract; Provided,
343 further, That such Water Conservation Plan demonstrates sufficient lawful uses exist in the
344 Contractor's Service Area, or if applicable, Subcontractor's Service Area so that using a long-term
345 average, the quantity of Delivered Water is demonstrated to be reasonable for such uses and in
346 compliance with Reclamation law. Groundwater recharge programs, groundwater banking programs,
347 surface water storage programs, and other similar programs utilizing Project Water or other water
348 furnished pursuant to this Contract conducted outside the Contractor's Service Area, or if applicable,
349 Subcontractor's Service Area may be permitted upon written approval of the Contracting Officer,
350 which approval will be based upon environmental documentation, Project Water rights, and Project
351 operational concerns. The Contracting Officer will address such concerns in regulations, policies, or
352 guidelines.

353 (e) The Contractor shall comply with requirements applicable to the Contractor in
354 biological opinion(s) prepared as a result of a consultation regarding the execution of this Contract
355 undertaken pursuant to Section 7 of the Endangered Species Act of 1973, as amended, that are within
356 the Contractor's legal authority to implement. The Contractor shall comply with the limitations or
357 requirements imposed by environmental documentation applicable to the Contractor and within its
358 legal authority to implement regarding specific activities, including conversion of Irrigation Water to
359 M&I Water. Nothing herein shall be construed to prevent the Contractor from challenging or seeking
360 judicial relief in a court of competent jurisdiction with respect to any biological opinion or other

361 environmental documentation referred to in this Article.

362 (f) Following the declaration of Water Made Available under Article 4 of this
363 Contact, the Contracting Officer will make a determination whether Project Water, or other water
364 available to the Project, can be made available to the Contractor in addition to the Contract Total
365 under Article 3 of this Contract during the Year without adversely impacting other Project
366 Contractors. At the request of the Contractor, the Contracting Officer will consult with the
367 Contractor prior to making such a determination. If the Contracting Officer determines that Project
368 Water, or other water available to the Project, can be made available to the Contractor, the
369 Contracting Officer will announce the availability of such water and shall so notify the Contractor as
370 soon as practical. The Contracting Officer will thereafter meet with the Contractor and other Project
371 Contractors capable of taking such water to determine the most equitable and efficient allocation of
372 such water. If the Contractor requests the delivery of any quantity of such water, the Contracting
373 Officer shall make such water available to the Contractor in accordance with applicable statutes,
374 regulations, guidelines, and policies. If the Contracting Officer determines that there is an unusually
375 large water supply not otherwise storable for Project purposes or infrequent and otherwise unmanaged
376 flood flows of short duration from the Friant Division, then Friant Division Project Water may be
377 made available to the Contractor as Section 215 Water if the Contractor enters into a temporary
378 contract, not to exceed one (1) year, with the United States for the delivery of such water or, as
379 otherwise provided for in Federal Reclamation law and associated regulations: Provided, That such
380 water shall be first made available to the original twenty-eight (28) long-term Friant Division
381 contractors. Water in addition to the quantities provided for in this contract made available to the

382 Contractor by the Contracting Officer shall be scheduled, conveyed and/or stored by DWR only to the
383 extent that DWR has provided separate approval to do so.

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

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

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

401 (j) The Contracting Officer shall make reasonable efforts to protect the water
402 rights necessary for the Project and to provide the water available under this Contract. The

403 Contracting Officer shall not object to participation by the Contractor, in the capacity and to the
404 extent permitted by law, in administrative proceedings related to the Project Water rights; Provided,
405 however, That the Contracting Officer retains the right to object to the substance of the Contractor's
406 position in such a proceeding.

407 **(k) Conveyance and/or storage of Project Water by DWR shall be subject to**
408 **capacity available in State Facilities in excess of capacity determined by DWR to be needed for**
409 **all SWP operations or any services to long-term SWP Contractors. Conveyance and/or storage**
410 **for the Contractor may be curtailed prior or subsequent to approval of the Contractor's**
411 **schedule under Article 4 of this Contract, in the event it interferes with the delivery of water to**
412 **SWP Contractors or other SWP operations necessary to meet long-term obligations of the**
413 **SWP, including delivery of water to SWP storage or reregulation of stored water for delivery to**
414 **SWP Contractors.**

415 **(l) If in any Year after DWR and the Contracting Officer have approved a**
416 **schedule or any revision thereof submitted in accordance within subdivision (a) and (b) of**
417 **Article 4 of this Contract, and if the Contracting Officer and/or DWR are unable to make**
418 **water available in the quantities and at the times requested in the schedule and the Contractor**
419 **does not elect to receive and does not receive such water at other times during such Year, then**
420 **the Contractor shall be entitled to an adjustments for overpayment as provided in subdivision**
421 **(c) of Article 7, Subdivision (d) of Article 8.1, and Article 10 of this Contract.**

422 TIME FOR DELIVERY OF WATER

423 (4) (a) On or about February 20 of each Calendar Year, the Contracting Officer shall

424 announce the Contracting Officer's expected declaration of the Water Made Available. The
425 declaration will be updated monthly, and more frequently if necessary, based on then-current
426 operational and hydrologic conditions and a new declaration with changes, if any, to the Water Made
427 Available will be made. The Contracting Officer shall provide forecasts of Project operations and the
428 basis of the estimate, with relevant supporting information, upon the written request of the
429 Contractor. Concurrently with the declaration of the Water Made Available, the Contracting Officer
430 shall provide the Contractor with the updated Recent Historic Average. The declaration of Project
431 operations will be expressed in terms of both Water Made Available and the Recent Historic
432 Average.

433 (b) On or before each March 1 and at such other times as necessary, the
434 Contractor, **after approval of KCWA on behalf of the Contractor, shall submit to DWR and the**
435 Contracting Officer a written schedule, satisfactory to the Contracting Officer **and consistent with**
436 **the criteria specified in the Operations Manual. The written schedule shall** show the monthly
437 quantities of Project Water to be delivered by the United States to the Contractor pursuant to this
438 Contract for the Year commencing on such March 1. The Contracting Officer shall use all reasonable
439 means to deliver Project Water according to the approved schedule for the Year commencing on such
440 March 1.

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

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

450 (e) **Scheduling and delivery of Project Water to the Contractor shall be in**
451 **accordance with detailed procedures set forth in the Operations Manual as it may be amended**
452 **from time to time.**

453 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

454 5. (a) Project Water scheduled pursuant to subdivision (b) of Article 4 of this
455 Contract shall be delivered to the Contractor at a point or points of delivery either on Project **and/or**
456 **State** facilities or another location or locations mutually agreed to in writing by the Contracting
457 Officer, **DWR**, and the Contractor. **The parties acknowledge that Project Water to be furnished**
458 **to the Contractor pursuant to this Contract shall be conveyed by DWR and delivered to the**
459 **Contractor by direct delivery via the Cross Valley Canal and/or by exchange arrangements**
460 **involving Arvin-Edison Water Storage District or others. The parties further acknowledge**
461 **that such exchange arrangements are not transfers subject to Section 3405(a) of CVPIA.**
462 **Notwithstanding Article 9 of this Contract, such exchange arrangements, other than the**
463 **previously approved exchange arrangements with Arvin-Edison Water Storage District, shall**
464 **be submitted to the Contracting Officer for approval in accordance with the same criteria**
465 **historically applied by the Contracting Officer or with the then existing Project-wide criteria.**

466 **DWR shall have no obligation to make such exchange arrangements or be responsible for water**
467 **transported in facilities that are not a part of the SWP.**

468 (b) Omitted.

469 (b2) **When Project Water is made available by the Contracting Officer at**
470 **Clifton Court Forebay, DWR shall provide to the Contractor, subject to the availability of**
471 **capacity as determined by DWR, conveyance from the Delta and storage in DWR's share of**
472 **storage at San Luis Reservoir, if necessary, of such Project Water consistent with the following**
473 **provisions and the Operations Manual;**

474 (1) **The Contracting Officer shall deliver or cause to be delivered into**
475 **the DWR's Clifton Court Forebay, Project Water in such quantities and of such quality as shall**
476 **be sufficient to perform the Contracting Officer's and DWR's obligation to furnish water to the**
477 **Contractor as set forth in this contract. Such deliveries into Clifton Court Forebay shall be**
478 **made at such times and rates of flow as the Contracting Officer and DWR shall agree.**

479 (2) **DWR, in accordance with an approved Project Water delivery**
480 **schedule, shall convey the amount of water delivered into DWR's Clifton Court Forebay by the**
481 **Contracting Officer directly: (i) to the Cross Valley Canal turnout in Reach 12E of the**
482 **California Aqueduct or to other points of diversion mutually agreed to in writing by DWR and**
483 **the Contractor, or (ii) to DWR or federal share of storage in San Luis Reservoir for later**
484 **release and delivery to the Contractor or (iii) to replace water delivered to the Contractor from**
485 **DWR's share of San Luis Reservoir prior to DWR receiving Project Water from the**
486 **Contracting Officer, to the extent DWR determines that capacity (and water in the event of an**

487 exchange) is available for such conveyance, storage, or exchange (if any). Such deliveries of
488 Project Water shall be required to be made in a manner which will not increase the cost of or
489 adversely affect SWP operations and the quantity or quality of water deliveries to SWP
490 Contractors.

491 (3) If DWR delivers water to the Contractor from DWR's share of
492 storage in San Luis Reservoir prior to the Contracting Officer providing Project Water at
493 DWR's Clifton Court Forebay, the United States shall return a like amount of water to DWR
494 pursuant to the procedures set forth in the Operations Manual.

495 (4) The total amount of Project Water delivered at Clifton Court
496 Forebay to DWR by the Contracting Officer shall include water to compensate DWR for water
497 conveyance and storage losses incurred in the delivery of Project Water to the Contractor. The
498 amount of such conveyance and storage losses will be determined pursuant to procedures set
499 forth in the Operations Manual.

500 (5) Project Water received by DWR at Clifton Court Forebay for
501 conveyance and/or storage for delivery to the Contractor will be commingled with waters of
502 DWR which are pumped through facilities of the California Aqueduct and with other waters of
503 both the United States and DWR in the joint use facilities of the San Luis Unit.

504 (6) Priorities for use of DWR's share of storage at San Luis Reservoir
505 for storage of Project Water shall be subject to all DWR obligations to the SWP operations and
506 SWP Contractors and to the criteria specified in the Operations Manual.

507 (7) Subject to the necessary arrangements, the Contracting Officer

508 **shall transmit or cause to be transmitted, by exchange or otherwise, such quantities of power as**
509 **shall be required by DWR to pump through its Delta Pumping Plant and its share of Dos**
510 **Amigos Pumping Plant, the quantities of Project Water transported into Clifton Court**
511 **Forebay pursuant to (1) of this subdivision.**

512 **(8) DWR shall furnish the Contracting Officer with such information**
513 **as the Contracting Officer and DWR agree is needed regarding the timing and quantities of**
514 **power required by DWR to pump Project Water. Such information shall be exchanged**
515 **between the Contracting Officer and DWR in accordance with provisions set forth in the**
516 **Operations Manual.**

517 **(9) The Contracting Officer and DWR may, under terms and**
518 **conditions satisfactory to both, and in accordance with applicable law, exchange water and/or**
519 **power necessary for delivery of Project Water to the Contractor under terms of this contract.**
520 **Such exchange shall be in accordance with the provisions set forth in the Operations Manual.**

521 (b3) To the extent that Friant Division Project Water exceeds Friant Division
522 Contract demand and other Project purposes, as determined by the Contracting Officer, and if the
523 Contractor so requests, the Contracting Officer, subject to subdivision (d) of Article 3 of this
524 Contract, shall make Project Water provided for in subdivision (a) of Article 3 of this Contract
525 available from such Friant Division supplies.

526 (b4) Project Water may be provided by the Contracting Officer to the Contractor, at
527 the Contractor's request, through federal Delta diversion and conveyance facilities and/or stored in the
528 federal share of storage at San Luis Reservoir for reregulation for later delivery to the Contractor to

529 the extent such diversion, conveyance and/or storage does not diminish the ability of the Project to
530 deliver Project Water to users in the Delta Division, San Luis Unit and San Felipe Division service
531 areas or to meet other legal obligations of the Project.

532 (c) The Contractor, or if applicable, Subcontractor shall deliver Irrigation Water in
533 accordance with any applicable land classification provisions of Federal Reclamation law and the
534 associated regulations. The Contractor, or if applicable, Subcontractor shall not deliver Project Water
535 to land outside the Contractor's Service Area, or if applicable, Subcontractor's Service Area unless
536 approved in advance by the Contracting Officer.

537 (d) All Water Delivered to the Contractor pursuant to this Contract shall be
538 measured and recorded with equipment furnished, installed, operated, and maintained by the United
539 States, **DWR**, the Operating Non-Federal Entity or other appropriate entity as designated by the
540 Contracting Officer (hereafter "other appropriate entity") at the point or points of delivery established
541 pursuant to subdivision (a) of this Article. Upon the request of either party to this Contract, the
542 Contracting Officer **or DWR** shall investigate, or cause to be investigated by the responsible
543 Operating Non-Federal Entity, the accuracy of such measurements and shall take any necessary steps
544 to adjust any errors appearing therein. For any period of time when accurate measurements have not
545 been made, the Contracting Officer shall consult with the Contractor and the responsible Operating
546 Non-Federal Entity prior to making a final determination of the quantity delivered for that period of
547 time.

548 (e) Neither the Contracting Officer, **nor DWR**, nor any Operating Non-Federal
549 Entity shall be responsible for the control, carriage, handling, use, disposal, or distribution of Project

550 Water Delivered to the Contractor pursuant to this Contract beyond the delivery points specified in
551 subdivision (a) of this Article. The Contractor shall indemnify the United States, **DWR, and their**
552 officers, employees, agents, and assigns on account of damage or claim of damage of any nature
553 whatsoever for which there is legal responsibility, including property damage, personal injury, or
554 death arising out of or connected with the control, carriage, handling, use, disposal, or distribution of
555 such Project Water beyond such delivery points, except for any damage or claim arising out of: (i)
556 acts or omissions of the Contracting Officer, **DWR**, or any of **their** officers, employees, agents, or
557 assigns, including any responsible Operating Non-Federal Entity, with the intent of creating the
558 situation resulting in any damage or claim; (ii) willful misconduct of the Contracting Officer, **DWR**,
559 or any of **their** officers, employees, agents, or assigns, including any responsible Operating Non-
560 Federal Entity; (iii) negligence of the Contracting Officer, **DWR**, or any of **their** officers, employees,
561 agents, or assigns including any responsible Operating Non-Federal Entity; or (iv) damage or claims
562 resulting from a malfunction of facilities owned and/or operated by the United States, **DWR**, or
563 responsible Operating Non-Federal Entity; Provided, That the Contractor is not the Operating Non-
564 Federal Entity that owned or operated the malfunctioning facility(ies) from which the damage claim
565 arose. **In the event any such claim or liability, referenced in this Article or otherwise arising**
566 **from this Agreement, is made against DWR, its officers or its employees, the Contractor agrees**
567 **to defend, indemnify and hold each of them harmless from such claim to the extent such claim**
568 **does not arise from an error or omission of DWR related to the control, carriage, handling, use,**
569 **disposal, or distribution of Project Water made available to the Contractor by the Contracting**
570 **Officer.**

571 MEASUREMENT OF WATER WITHIN THE SERVICE AREA

572 6. (a) The Contractor has established a measurement program satisfactory to the
573 Contracting Officer, all surface water delivered for irrigation purposes within the Contractor’s Service
574 Area, or if applicable, Subcontractor’s Service Area is measured at each agricultural turnout and such
575 water delivered for municipal and industrial purposes is measured at each municipal and industrial
576 service connection. The water measuring devices or water measuring methods of comparable
577 effectiveness must be acceptable to the Contracting Officer. The Contractor shall be responsible for
578 installing, operating, and maintaining and repairing all such measuring devices and implementing all
579 such water measuring methods at no cost to the United States. The Contractor shall use the
580 information obtained from such water measuring devices or water measuring methods to ensure its
581 proper management of the water, to bill water users for water delivered by the Contractor; and, if
582 applicable, to record water delivered for municipal and industrial purposes by customer class as
583 defined in the Contractor’s water conservation plan provided for in Article 26 of this Contract.
584 Nothing herein contained, however, shall preclude the Contractor from establishing and collecting
585 any charges, assessments, or other revenues authorized by California law. The Contractor shall
586 include a summary of all its annual surface water deliveries in the annual report described in
587 subdivision (c) of Article 26.

588 (b) To the extent the information has not otherwise been provided, upon execution
589 of this Contract, the Contractor shall provide to the Contracting Officer a written report describing the
590 measurement devices or water measuring methods being used or to be used to implement subdivision
591 (a) of this Article and identifying the agricultural turnouts and the municipal and industrial service

592 connections or alternative measurement programs approved by the Contracting Officer, at which such
593 measurement devices or water measuring methods are being used, and, if applicable, identifying the
594 locations at which such devices and/or methods are not yet being used including a time schedule for
595 implementation at such locations. The Contracting Officer shall advise the Contractor in writing
596 within sixty (60) days as to the adequacy of, and necessary modifications, if any, of the measuring
597 devices or water measuring methods identified in the Contractor's report and if the Contracting
598 Officer does not respond in such time, they shall be deemed adequate. If the Contracting Officer
599 notifies the Contractor that the measuring devices or methods are inadequate, the parties shall within
600 sixty (60) days following the Contracting Officer's response, negotiate in good faith the earliest
601 practicable date by which the Contractor shall modify said measuring devices and/or measuring
602 methods as required by the Contracting Officer to ensure compliance with subdivision (a) of this
603 Article.

604 (c) All new surface water delivery systems installed within the Contractor's
605 Service Area, or if applicable, Subcontractor's Service Area after the effective date of this Contract
606 shall also comply with the measurement provisions described in subdivision (a) of this Article.

607 (d) The Contractor shall inform the Contracting Officer and the State of California
608 in writing by April 30 of each Year of the monthly volume of surface water delivered within the
609 Contractor's Service Area, or if applicable, Subcontractor's Service Area during the previous Year.

610 (e) The Contractor shall inform the Contracting Officer, **DWR**, and the Operating
611 Non-Federal Entity on or before the twentieth (20th) calendar day of each month of the quantity of
612 Irrigation and M&I Water taken during the preceding month.

613 RATES AND METHOD OF PAYMENT FOR WATER TO THE UNITED STATES

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

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

626 (1) Prior to July 1 of each Calendar Year, the Contracting Officer shall
627 provide the Contractor an estimate of the Charges for Project Water that will be applied to the period
628 October 1, of the current Calendar Year, through September 30, of the following Calendar Year, and
629 the basis for such estimate. The Contractor shall be allowed not less than two (2) months to review
630 and comment on such estimates. On or before September 15 of each Calendar Year, the Contracting
631 Officer shall notify the Contractor in writing of the Charges to be in effect during the period October
632 1 of the current Calendar Year, through September 30, of the following Calendar Year, and such
633 notification shall revise Exhibit "B."

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

641 (c) At the time the Contractor submits the initial schedule for the delivery of
642 Project Water for each Year pursuant to subdivision (b) of Article 4 of this Contract, the Contractor
643 shall make an advance payment to the United States equal to the total amount payable pursuant to the
644 applicable Rate(s) set under subdivision (a) of this Article, for the Project Water scheduled to be
645 delivered pursuant to this Contract during the first two (2) calendar months of the Year. Before the
646 end of the first month and before the end of each calendar month thereafter, the Contractor shall make
647 an advance payment to the United States, at the Rate(s) set under subdivision (a) of this Article, for
648 the Water Scheduled to be delivered pursuant to this Contract during the second month immediately
649 following. Adjustments between advance payments for Water Scheduled and payments at Rates due
650 for Water Delivered shall be made within thirty (30) Days following written confirmation of the
651 quantity of Delivered Water furnished; Provided, That any revised schedule submitted by the
652 Contractor pursuant to Article 4 of this Contract which increases the amount of Water Delivered
653 pursuant to this Contract during any month shall be accompanied with appropriate advance payment,
654 at the Rates then in effect, to assure that Project Water is not delivered to the Contractor in advance of

655 such payment. In any month in which the quantity of Water Delivered to the Contractor pursuant to
656 this Contract equals the quantity of Water Scheduled and paid for by the Contractor, no additional
657 Project Water shall be delivered to the Contractor unless and until an advance payment at the Rates
658 then in effect for such additional Project Water is made. Final adjustment between the advance
659 payments for the Water Scheduled and payments for the quantities of Water Delivered during each
660 Year pursuant to this Contract shall be made as soon as practicable but no later than April 30th of the
661 following Year, or sixty (60) days after the delivery of Project Water carried over under subdivision
662 (f) of Article 3 of this Contract if such water is not delivered by the last day of February.

663 (d) The Contractor shall also make a payment in addition to the Rate(s) in
664 subdivision (c) of this Article to the United States for Water Delivered, at the Charges and the
665 appropriate Tiered Pricing Component then in effect, before the end of the month following the
666 month of delivery; Provided, That the Contractor may be granted an exception from the Tiered
667 Pricing Component pursuant to subdivision (j)(2) of this Article. The payments shall be consistent
668 with the quantities of Irrigation Water and M&I Water Delivered as shown in the water delivery
669 report for the subject month prepared by the Operating Non-Federal Entity or, if there is no Operating
670 Non-Federal Entity, by the Contracting Officer. The water delivery report shall be deemed a bill for
671 the payment of Charges and the applicable Tiered Pricing Component for Water Delivered.
672 Adjustment for overpayment or underpayment of Charges shall be made through the adjustment of
673 payments due to the United States for Charges for the next month. Any amount to be paid for past
674 due payment of Charges and the Tiered Pricing Component shall be computed pursuant to Article 20
675 of this Contract.

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

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

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

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

696 (i) The parties acknowledge and agree that the efficient administration of this

697 Contract is their mutual goal. Recognizing that experience has demonstrated that mechanisms,
698 policies, and procedures used for establishing Rates, Charges, and Tiered Pricing Components, and/or
699 for making and allocating payments, other than those set forth in this Article may be in the mutual
700 best interest of the parties, it is expressly agreed that the parties may enter into agreements to modify
701 the mechanisms, policies, and procedures for any of those purposes while this Contract is in effect
702 without amending this Contract.

703 (j) (1) Beginning at such time as deliveries of Project Water in a Year exceed
704 eighty (80%) percent of the Contract Total, then before the end of the month following the month of
705 delivery the Contractor shall make an additional payment to the United States equal to the applicable
706 Tiered Pricing Component. The Tiered Pricing Component for the amount of Water Delivered in
707 excess of eighty (80%) percent of the Contract Total, but less than or equal to ninety (90%) percent of
708 the Contract Total, shall equal the one-half of the difference between the Rate established under
709 subdivision (a) of this Article and the Irrigation Full Cost Water Rate or M&I Full Cost Water Rate,
710 whichever is applicable. The Tiered Pricing Component for the amount of Water Delivered which
711 exceeds ninety (90%) percent of the Contract Total shall equal the difference between (i) the Rate
712 established under subdivision (a) of this Article and (ii) the Irrigation Full Cost Water Rate or M&I
713 Full Cost Water Rate, whichever is applicable.

714 (2) Subject to the Contracting Officer's written approval, the Contractor
715 may request and receive an exemption from such Tiered Pricing Components for Project Water
716 delivered to produce a crop which the Contracting Officer determines will provide significant and
717 quantifiable habitat values for waterfowl in fields where the water is used and the crops are produced;

718 Provided, That the exemption from the Tiered Pricing Components for Irrigation Water shall apply
719 only if such habitat values can be assured consistent with the purposes of CVPIA through binding
720 agreements executed with or approved by the Contracting Officer prior to use of such water.

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

724 (k) For the term of this Contract, Rates under the respective ratesetting policies
725 will be established to recover only reimbursable Operation and Maintenance (including any deficits)
726 and capital costs of the Project, as those terms are used in the then-current Project ratesetting policies,
727 and interest, where appropriate, except in instances where a minimum Rate is applicable in
728 accordance with the relevant Project ratesetting policy. Changes of significance in practices which
729 implement the Contracting Officer's ratesetting policies will not be implemented until the
730 Contracting Officer has provided the Contractor an opportunity to discuss the nature, need, and
731 impact of the proposed change.

732 (l) Except as provided in subsections 3405(a)(1)(B) and 3405(f) of the CVPIA,
733 the Rates for Project Water transferred by the Contractor shall be the Contractor's Rates adjusted
734 upward or downward to reflect the changed costs of delivery (if any) of the transferred Project Water
735 to the transferee's point of delivery in accordance with the then applicable CVP Ratesetting Policy. If
736 the Contractor is receiving lower Rates and Charges because of inability to pay and is transferring
737 Project Water to another entity whose Rates and Charges are not adjusted due to inability to pay, the
738 Rates and Charges for transferred Project Water shall be the Contractor's Rates and Charges

739 unadjusted for ability to pay.

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

742 (n) The Contractor and the Contracting Officer concur that, as of the effective date
743 of this Contract, the Contractor has no non-interest bearing operation and maintenance deficits and
744 shall have no further liability therefor.

745 **RATES AND METHOD OF PAYMENT FOR CONVEYANCE**
746 **AND OTHER SERVICES BY DWR**

747 **8. (a) To the extent Project Water is conveyed through State Facilities, payment**
748 **of the costs of conveyance of water through the State Facilities shall be made by the Contractor**
749 **directly to DWR. The charges and interest rates applicable upon execution of this interim**
750 **renewal contract are set forth in Exhibit "C" of this Contract. DWR shall invoice the**
751 **Contractor monthly for all conveyance charges owing for the previous month. Payment by the**
752 **Contractor to DWR shall be due thirty (30) days after the date of the invoice. Any payment not**
753 **received within thirty (30) days after the date of the invoice shall be considered delinquent.**
754 **Delinquent charges shall be calculated in accordance with Exhibit "C" of this contract:**
755 **Provided, That no interest shall be charged to or be paid by the Contractor unless such**
756 **delinquency continues for more than thirty (30) days in total.**

757 (b) DWR shall notify the Contractor of revision to the charges as follows:
758 Prior to October 1, of each Calendar Year, DWR shall notify the Contractor in writing of the
759 charges to be in effect during the following Calendar Year, and such notification shall revise
760 "C" of this Contract At the same time DWR shall provide to the Contractor a copy of the then

761 most recent version of Appendix B of DWR Bulletin 132, which is the basis for calculating the
762 charges to the Contractor to be in effect during that Calendar Year.

763 (c) DWR shall determine the charge per acre-foot for conveyance of water
764 through the SWP each Calendar Year to revise Exhibit "C" of this Contract as follows:

765 (1) When DWR provides conveyance directly from the Delta or from
766 the federal share of storage at San Luis Reservoir, the unit conveyance charge shall equal the
767 sum of the following, as determined by DWR: (i) The equivalent unit transportation capital and
768 Minimum OMP&R Costs for Reaches 1 through 12E, excluding Reach 3A, of the California
769 Aqueduct; (ii) The portion of the Delta Water Rate for Reaches 1, 2A, 2B and 3 of the
770 California Aqueduct; (iii) The replacement component of the transportation Variable OM&R
771 Costs for the Harvey O. Banks Delta Pumping Plant and DWR's share of the Dos Amigos
772 Pumping Plant; (iv) A charge to offset direct fish losses associated with pumping at the Banks
773 Pumping Plant, pursuant to the December 30, 1986, agreement between the California
774 Department of Fish and Game and DWR; and (v) The incremental costs, if any, caused by the
775 conveyance and delivery of Project Water to the Contractor which, unless included in the
776 increased charges to the Contractor, would result in increased charges to the SWP Contractors
777 or increased costs to DWR.

778 (2) When DWR provides conveyance from the States' share of storage
779 in San Luis Reservoir, the unit charge shall equal the sum of the following as determined by
780 DWR: (i) The San Luis Facilities portion of the Delta Water Rate; (ii) The net unit energy cost
781 to replace water in San Luis Reservoir; and (iii) The sum of all unit charges provided under

782 **subdivision (c)(1) of this Article.**

783 **(d) Should DWR deliver Project Water to San Luis Reservoir on behalf of the**
784 **Contractor and it is later determined by DWR that capacity to store such Project Water in**
785 **DWR's share of San Luis Reservoir is no longer available because of need for such storage to**
786 **meet SWP operations and obligations to SWP Contractors and the Contractor cannot take**
787 **delivery of such Project Water, DWR shall relieve the Contractor of its obligations to pay DWR**
788 **for all such Project Water so transported, stored, and no longer available to the Contractor.**
789 **DWR shall reimburse the Contractor for payments which have previously been made to DWR**
790 **for any such conveyed and stored supply, less the administrative charge described in**
791 **subdivision (f) of this Article.**

792 **(e) If the Contractor is unable, fails or refuses to accept delivery of Project**
793 **Water made available by DWR in accordance with this Contract, such inability, failure or**
794 **refusal shall not relieve the Contractor of its obligation to pay DWR all associated costs.**

795 **(f) The Contractor shall pay DWR a monthly administrative charge specified**
796 **in Exhibit "C" of this Contract for each month in which DWR conveys Project Water to the**
797 **Contractor and for each month in which DWR invoices the Contractor for delinquent charges.**

798 SALES, TRANSFERS, OR EXCHANGES OF WATER

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

803 Contract may take place without the prior written approval of the Contracting Officer, except as
804 provided for in subdivision (b) of this Article, and no such sales, transfers, or exchanges shall be
805 approved absent compliance with appropriate environmental documentation including but not limited
806 to the National Environmental Policy Act and the Endangered Species Act. Such environmental
807 documentation should include, as appropriate, an analysis of groundwater impacts and economic and
808 social effects, including environmental justice, of the proposed water transfers on both the transferor
809 and transferee. **No sale, transfer or exchange of the right to Project Water under this Contract
810 may take place without the prior written approval of the Contracting Officer and of DWR, if
811 SWP Facilities are used to convey such water.**

812 (b) In order to facilitate efficient water management by means of water transfers of
813 the type historically carried out among Project Contractors located within the same geographical area
814 and to allow the Contractor to participate in an accelerated water transfer program during the term of
815 this Contract, the Contracting Officer shall prepare, as appropriate, necessary environmental
816 documentation including, but not limited to, the National Environmental Policy Act and the
817 Endangered Species Act analyzing annual transfers within such geographical areas and the
818 Contracting Officer shall determine whether such transfers comply with applicable law. Following
819 the completion of the environmental documentation, such transfers addressed in such documentation
820 shall be conducted with advance notice to the Contracting Officer, but shall not require prior written
821 approval by the Contracting Officer. Such environmental documentation and the Contracting
822 Officer's compliance determination shall be reviewed every five (5) years and updated, as necessary,
823 prior to the expiration of the then existing five (5) -year period. All subsequent environmental

824 documentation shall include an alternative to evaluate not less than the quantity of Project Water
825 historically transferred within the same geographical area.

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

836 APPLICATION OF PAYMENTS AND ADJUSTMENTS

837 10. (a) The amount of any overpayment by the Contractor of the Contractor's O&M,
838 Capital, and deficit (if any) obligations for the Year shall be applied first to any current liabilities of
839 the Contractor arising out of this Contract then due and payable. Overpayments of more than One
840 Thousand Dollars (\$1,000) shall be refunded at the Contractor's request. In lieu of a refund, any
841 amount of such overpayment at the option of the Contractor, may be credited against amounts to
842 become due to the United States **or DWR** by the Contractor. With respect to overpayment, such
843 refund or adjustment shall constitute the sole remedy of the Contractor or anyone having or claiming
844 to have the right to the use of any of the Project Water supply provided for herein. All credits and

845 refunds of overpayments shall be made within thirty (30) days of the Contracting Officer obtaining
846 direction as to how to credit or refund such overpayment in response to the notice to the Contractor
847 that it has finalized the accounts for the Year in which the overpayment was made.

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

853 (c) **In the event that the Contractor contests the accuracy of any statement**
854 **submitted to it by DWR pursuant to this Contract it shall give DWR notice thereof at least ten**
855 **(10) days prior to the day upon which payment of the stated amount is due. To the extent that**
856 **DWR finds that the Contractor's contentions regarding the statement are correct, it shall revise**
857 **the statement accordingly, and the Contractor shall make payment of the revised amounts on**
858 **or before the due date. To the extent that DWR does not find the Contractor's contentions to**
859 **be correct, or where time is not available for review of such contentions for correctness prior to**
860 **due date, the Contractor shall make payment of the stated amounts on or before the due date,**
861 **but may make the contested part of such payment under protest and seek to recover the**
862 **amount thereof from DWR.**

863 (d) **If in any year, by reason of errors in computation or other causes, there is**
864 **an overpayment or underpayment to DWR by the Contractor of its charges provided for**
865 **herein, the amount of such overpayment or underpayment shall be credited or debited, as the**

866 **case may be, to the Contractor's account for the next succeeding Year and DWR shall notify**
867 **the Contractor thereof in writing.**

868 TEMPORARY REDUCTIONS--RETURN FLOWS

869 11. (a) Subject to: (i) the authorized purposes and priorities of the Project **and State**
870 **Facilities** and the requirements of Federal law and (ii) the obligations of the United States **and DWR**
871 under existing contracts, or renewals thereof, providing for water deliveries from the Project **and**
872 **State Facilities**, the Contracting Officer **and DWR** shall make all reasonable efforts to optimize
873 Project Water deliveries to the Contractor as provided in this Contract.

874 (b) The Contracting Officer, **DWR**, or Operating Non-Federal Entity may
875 temporarily discontinue or reduce the quantity of Water Delivered to the Contractor as herein
876 provided for the purposes of investigation, inspection, maintenance, repair, or replacement of any of
877 the Project **or State Facilities** or any part thereof necessary for the delivery of Project Water to the
878 Contractor, but so far as feasible the Contracting Officer, **DWR**, or Operating Non-Federal Entity will
879 give the Contractor due notice in advance of such temporary discontinuance or reduction, except in
880 case of emergency, in which case no notice need be given; Provided, That the United States **and**
881 **DWR** shall use its best efforts to avoid any discontinuance or reduction in such service. Upon
882 resumption of service after such reduction or discontinuance, and if requested by the Contractor, the
883 United States **and DWR** will, if possible, deliver the quantity of Project Water which would have
884 been delivered hereunder in the absence of such discontinuance or reduction.

885 (c) The United States reserves the right to all seepage and return flow water
886 derived from Water Delivered to the Contractor hereunder which escapes or is discharged beyond the

887 Contractor's Service Area, or if applicable, Subcontractor's Service Area; Provided, That this shall
888 not be construed as claiming for the United States any right as seepage or return flow being put to
889 reasonable and beneficial use pursuant to this Contract within the Contractor's Service Area, or if
890 applicable, Subcontractor's Service Area by the Contractor or those claiming by, through, or under
891 the Contractor. For purposes of this subdivision (c), groundwater recharge, groundwater banking and
892 all similar groundwater activities will be deemed to be underground storage.

893 CONSTRAINTS ON THE AVAILABILITY OF WATER

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

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

904 (c) **DWR shall make all reasonable efforts consistent with sound fiscal**
905 **policies, and proper operating procedures to maintain the necessary facilities and to deliver**
906 **Project Water to the Contractor in accordance with the provisions of this contract in such a**
907 **manner and at such times as such Project Water is scheduled by the Contractor; Provided,**

908 **That such Project Water has been furnished to DWR by the Contracting Officer; And**
909 **Provided, further, That in no event shall any liability accrue against DWR or any of its officers,**
910 **agents or employees for damage, direct or indirect for failure to deliver Project Water to the**
911 **Contractor on account of errors in operation, drought, or any other cause beyond the control of**
912 **DWR. Inasmuch as DWR is providing only conveyance and storage services under this**
913 **agreement, it bears no responsibility for the availability of Project Water for such conveyance.**

914 **(d) If any of the parties to this Contract are precluded in whole or in part**
915 **from delivering, conveying or receiving Project Water as a result of uncontrollable forces, all**
916 **parties shall be relieved from the obligation to the extent they are reasonably unable to**
917 **complete the obligation due to the uncontrollable force. Uncontrollable force shall include, but**
918 **is not limited to, earthquakes, fires, tornados, floods and other natural disasters. Each party**
919 **shall be responsible for payment of any costs incurred on its behalf by the other party(ies)**
920 **before the occurrence of the uncontrollable force.**

921 **UNAVOIDABLE GROUNDWATER PERCOLATION**

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

926 **RULES AND REGULATIONS**

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

931 WATER AND AIR POLLUTION CONTROL

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

935 QUALITY OF WATER

936 16. (a) Project **and State Facilities** used to deliver Project Water to the Contractor
937 pursuant to this Contract shall be operated and maintained to enable the United States **and DWR** to
938 deliver Project Water to the Contractor in accordance with the water quality standards specified in
939 subsection 2(b) of the Act of August 26, 1937 (50 Stat. 865), as added by Section 101 of the Act of
940 October 27, 1986 (100 Stat. 3050) or other existing Federal laws. The United States **and DWR** is
941 under no obligation to construct or furnish water treatment facilities to maintain or to improve the
942 quality of Water Delivered to the Contractor pursuant to this Contract. The United States **and DWR**
943 does not warrant the quality of Water Delivered to the Contractor pursuant to this Contract.

944 (b) The Operation and Maintenance of Project facilities shall be performed in such
945 manner as is practicable to maintain the quality of raw water made available through such facilities at
946 the highest level reasonably attainable as determined by the Contracting Officer. The Contractor shall
947 be responsible for compliance with all State and Federal water quality standards applicable to surface
948 and subsurface agricultural drainage discharges generated through the use of Federal or Contractor
949 facilities or Project Water provided by the Contractor within the Contractor's Service Area, or if
950 applicable, Subcontractor's Service Area.

951 WATER ACQUIRED BY THE CONTRACTOR
952 OTHER THAN FROM THE UNITED STATES

974 determinations. Both parties, notwithstanding any other provisions of this Contract, expressly reserve
975 the right to seek relief from and appropriate adjustment for any such arbitrary, capricious, or
976 unreasonable opinion or determination. Each opinion or determination by either party shall be
977 provided in a timely manner. Nothing in subdivision (a) of Article 18 of this Contract is intended to
978 or shall affect or alter the standard of judicial review applicable under federal law to any opinion or
979 determination implementing a specific provision of federal law embodied in statute or regulation.

980 (b) The Contracting Officer **and DWR** shall have the right to make determinations
981 necessary to administer this Contract that are consistent with the provisions of this Contract, the laws
982 of the United States and of the State of California, and the rules and regulations promulgated by the
983 Secretary of the Interior **and DWR**. Such determinations shall be made in consultation with the
984 Contractor to the extent reasonably practicable.

985 COORDINATION AND COOPERATION

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

995 (b) Within one-hundred twenty (120) days following the effective date of this
996 Contract, the Contractor, other affected Project Contractors, and the Contracting Officer shall arrange
997 to meet with interested Project Contractors to develop a mutually agreeable, written Project-wide
998 process, which may be amended as necessary separate and apart from this Contract. The goal of this
999 process shall be to provide, to the extent practicable, the means of mutual communication and
1000 interaction regarding significant decisions concerning Project operation and management on a real-
1001 time basis.

1002 (c) In light of the factors referred to in subdivision (b) of Article 3 of this Contract,
1003 it is the intent of the Secretary to improve water supply reliability. To carry out this intent:

1004 (1) The Contracting Officer will, at the request of the Contractor, assist in
1005 the development of integrated resource management plans for the Contractor. Further, the
1006 Contracting Officer will, as appropriate, seek authorizations for implementation of partnerships to
1007 improve water supply, water quality, and reliability.

1008 (2) The Secretary will, as appropriate, pursue program and project
1009 implementation and authorization in coordination with Project Contractors to improve the water
1010 supply, water quality, and reliability of the Project for all Project purposes.

1011 (3) The Secretary will coordinate with Project Contractors and the State of
1012 California to seek improved water resource management.

1013 (4) The Secretary will coordinate actions of agencies within the
1014 Department of the Interior that may impact the availability of water for Project purposes.

1015 (5) The Contracting Officer shall periodically, but not less than annually,

1016 hold division level meetings to discuss Project operations, division level water management activities,
1017 and other issues as appropriate.

1018 (d) Without limiting the contractual obligations of the Contracting Officer
1019 hereunder, nothing in this Contract shall be construed to limit or constrain the Contracting Officer's
1020 ability to communicate, coordinate, and cooperate with the Contractor or other interested stakeholders
1021 or to make decisions in a timely fashion as needed to protect health, safety, physical integrity of
1022 structures or facilities, or the Contracting Officer's ability to comply with applicable laws.

1023 CHARGES FOR DELINQUENT PAYMENTS

1024 20. (a) The Contractor shall be subject to interest, administrative and penalty charges
1025 on delinquent installments or payments. When a payment is not received by the due date, the
1026 Contractor shall pay an interest charge for each day the payment is delinquent beyond the due date.
1027 When a payment becomes sixty (60) days delinquent, the Contractor shall pay an administrative
1028 charge to cover additional costs of billing and processing the delinquent payment. When a payment is
1029 delinquent ninety (90) days or more, the Contractor shall pay an additional penalty charge of six (6%)
1030 percent per year for each day the payment is delinquent beyond the due date. Further, the Contractor
1031 shall pay any fees incurred for debt collection services associated with a delinquent payment.

1032 (b) The interest charge rate shall be the greater of the rate prescribed quarterly in
1033 the Federal Register by the Department of the Treasury for application to overdue payments, or the
1034 interest rate of one-half of one (0.5%) percent per month prescribed by Section 6 of the Reclamation
1035 Project Act of 1939 (Public Law 76-260). The interest charge rate shall be determined as of the due
1036 date and remain fixed for the duration of the delinquent period.

1037 (c) When a partial payment on a delinquent account is received, the amount
1038 received shall be applied, first to the penalty, second to the administrative charges, third to the
1039 accrued interest, and finally to the overdue payment.

1040 EQUAL OPPORTUNITY

1041 21. During the performance of this Contract, the Contractor agrees as follows:

1042 (a) The Contractor will not discriminate against any employee or applicant for
1043 employment because of race, color, religion, sex, or national origin. The Contractor will take
1044 affirmative action to ensure that applicants are employed, and that employees are treated during

1045 employment, without regard to their race, color, religion, sex, or national origin. Such action shall
1046 include, but not be limited to, the following: Employment, upgrading, demotion, or transfer;
1047 recruitment or recruitment advertising; layoff or termination, rates of payment or other forms of
1048 compensation; and selection for training, including apprenticeship. The Contractor agrees to post in
1049 conspicuous places, available to employees and applicants for employment, notices to be provided by
1050 the Contracting Officer setting forth the provisions of this nondiscrimination clause.

1051 (b) The Contractor will, in all solicitations or advertisements for employees placed
1052 by or on behalf of the Contractor, state that all qualified applicants will receive consideration for
1053 employment without discrimination because of race, color, religion, sex, or national origin.

1054 (c) The Contractor will send to each labor union or representative of workers with
1055 which it has a collective bargaining agreement or other contract or understanding, a notice, to be
1056 provided by the Contracting Officer, advising the said labor union or workers' representative of the
1057 Contractor's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and
1058 shall post copies of the notice in conspicuous places available to employees and applicants for
1059 employment.

1060 (d) The Contractor will comply with all provisions of Executive Order
1061 No. 11246 of September 24, 1965, as amended, and of the rules, regulations, and relevant orders of
1062 the Secretary of Labor.

1063 (e) The Contractor will furnish all information and reports required by said
1064 amended Executive Order and by the rules, regulations, and orders of the Secretary of Labor, or
1065 pursuant thereto, and will permit access to its books, records, and accounts by the Contracting Officer
1066 and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules,
1067 regulations, and orders.

1068 (f) In the event of the Contractor's noncompliance with the nondiscrimination
1069 clauses of this Contract or with any of the said rules, regulations, or orders, this Contract may be
1070 canceled, terminated, or suspended, in whole or in part, and the Contractor may be declared ineligible
1071 for further Government contracts in accordance with procedures authorized in said amended
1072 Executive Order, and such other sanctions may be imposed and remedies invoked as provided in said
1073 Executive Order, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided
1074 by law.

1075 (g) The Contractor will include the provisions of paragraphs (a) through (g) in
1076 every subcontract or purchase order unless exempted by the rules, regulations, or orders of the
1077 Secretary of Labor issued pursuant to Section 204 of said amended Executive Order, so that such
1078 provisions will be binding upon each subcontractor or vendor. The Contractor will take such action
1079 with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a
1080 means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That

1081 in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor
1082 or vendor as a result of such direction, the Contractor may request the United States to enter into such
1083 litigation to protect the interests of the United States.

1084 GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

1085 22. (a) The obligation of the Contractor to pay the United States **and DWR** as
1086 provided in this Contract is a general obligation of the Contractor notwithstanding the manner in
1087 which the obligation may be distributed among the Contractor's water users and notwithstanding the
1088 default of individual water users in their obligations to the Contractor.

1089 (b) The payment of charges becoming due hereunder is a condition precedent to
1090 receiving benefits under this Contract. The United States **and DWR** shall not make water available
1091 to the Contractor through **CVP or SWP** facilities during any period in which the Contractor may be
1092 in arrears in the advance payment of water rates due the United States. The Contractor shall not
1093 furnish water made available pursuant to this Contract for lands or parties which are in arrears in the
1094 advance payment of water rates levied or established by the Contractor.

1095 (c) With respect to subdivision (b) of this Article, the Contractor shall have no
1096 obligation to require advance payment for water rates which it levies.

1097 (d) **If in any year the Contractor fails or is unable to raise sufficient funds by**
1098 **other means, the governing body of the Contractor shall levy upon all property within the**
1099 **Contractor's boundary not exempt from taxation, a special assessment sufficient to provide for**
1100 **all payments due the United States and DWR under this Contract.**

1101 (e) **Assessments levied by the governing body of the Contractor pursuant to**
1102 **subdivision (b) of this Article shall be enforced and collected by all officers of the Contractor**
1103 **charged with the duty of enforcing and collecting assessments levied by the Contractor.**

1104 (f) **All money collected by way of special assessments under this Article for**
1105 **payments due DWR shall be kept in a separate fund by the treasurer or other officer of the**
1106 **Contractor charged with the safekeeping and disbursement of funds of the Contractor, and,**

1107 **upon the written demand of DWR, the treasurer or other officer shall pay over to DWR all**
1108 **money in his possession or control then due DWR under this contract, which money shall be**
1109 **applied by DWR to the satisfaction of the amount due under this Contract.**

1110 **(g) In the event of failure, neglect, or refusal of any officer of the Contractor**
1111 **to levy any assessment necessary to provide payment by the Contractor under this Contract, to**
1112 **enforce or to collect the assessment, or to pay over to the United States or DWR any money**
1113 **then due collected on the assessment, either or both DWR and the United States may take such**
1114 **action in a court of competent jurisdiction as they deem necessary to compel the performance in**
1115 **their proper sequence of all such duties. Action taken pursuant hereto shall not deprive DWR**
1116 **or United States or limit any remedy provided by this Contract or by law for the recovery of**
1117 **money due or which may become due under this Contract.**

1118 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

1119 23. (a) The Contractor, or if applicable, Subcontractor shall comply with Title VI of
1120 the Civil Rights Act of 1964 (42 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (P.L.
1121 93-112, as amended), the Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.) and any other
1122 applicable civil rights laws, as well as with their respective implementing regulations and guidelines
1123 imposed by the U.S. Department of the Interior and/or Bureau of Reclamation.

1124 (b) These statutes require that no person in the United States shall, on the grounds
1125 of race, color, national origin, handicap, or age, be excluded from participation in, be denied the
1126 benefits of, or be otherwise subjected to discrimination under any program or activity receiving
1127 financial assistance from the Bureau of Reclamation. By executing this Contract, the Contractor
1128 agrees to immediately take any measures necessary to implement this obligation, including permitting
1129 officials of the United States to inspect premises, programs, and documents.

1130 (c) The Contractor makes this agreement in consideration of and for the purpose of
1131 obtaining any and all Federal grants, loans, contracts, property discounts, or other Federal financial
1132 assistance extended after the date hereof to the Contractor by the Bureau of Reclamation, including
1133 installment payments after such date on account of arrangements for Federal financial assistance
1134 which were approved before such date. The Contractor recognizes and agrees that such Federal

1135 assistance will be extended in reliance on the representations and agreements made in this Article,
1136 and that the United States reserves the right to seek judicial enforcement thereof.

1137 PRIVACY ACT COMPLIANCE

1138 24. (a) The Contractor, or if applicable, Subcontractor shall comply with the Privacy
1139 Act of 1974 (5 U.S.C. 552a) (the Act) and the Department of the Interior rules and regulations under
1140 the Act (43 CFR 2.45 et seq.) in maintaining Landholder acreage certification and reporting records,
1141 required to be submitted to the Contractor, or if applicable, Subcontractor for compliance with
1142 Sections 206 and 228 of the Reclamation Reform Act of 1982 (96 Stat. 1266), and pursuant to 43
1143 CFR 426.18.

1144 (b) With respect to the application and administration of the criminal penalty
1145 provisions of the Act (5 U.S.C. 552a(i)), the Contractor, or if applicable, Subcontractor and their
1146 employees responsible for maintaining the certification and reporting records referenced in (a) above
1147 are considered to be employees of the Department of the Interior. See 5 U.S.C. 552a(m).

1148 (c) The Contracting Officer or a designated representative shall provide the
1149 Contractor, or if applicable, Subcontractor with current copies of the Interior Department Privacy Act
1150 regulations and the Bureau of Reclamation Federal Register Privacy Act System of Records Notice
1151 (Acreage Limitation--Interior, Reclamation-31) which govern the maintenance, safeguarding, and
1152 disclosure of information contained in the Landholder's certification and reporting records.

1153 (d) The Contracting Officer shall designate a full-time employee of the Bureau of
1154 Reclamation to be the System Manager who shall be responsible for making decisions on denials
1155 pursuant to 43 CFR 2.61 and 2.64 amendment requests pursuant to 43 CFR 2.72. The Contractor, or
1156 if applicable, Subcontractor is authorized to grant requests by individuals for access to their own
1157 records.

1158 (e) The Contractor, or if applicable, Subcontractor shall forward promptly to the
1159 System Manager each proposed denial of access under 43 CFR 2.64; and each request for amendment
1160 of records filed under 43 CFR 2.71; notify the requester accordingly of such referral; and provide the
1161 System Manager with information and records necessary to prepare an appropriate response to the
1162 requester. These requirements do not apply to individuals seeking access to their own certification
1163 and reporting forms filed with the Contractor, or if applicable, Subcontractor pursuant to 43 CFR
1164 426.18, unless the requester elects to cite the Privacy Act as a basis for the request.

1165 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

1166 25. In addition to all other payments to be made by the Contractor pursuant to this
1167 Contract, the Contractor shall pay to the United States, within sixty (60) days after receipt of a bill

1168 and detailed statement submitted by the Contracting Officer to the Contractor for such specific items
1169 of direct cost incurred by the United States for work requested by the Contractor associated with this
1170 Contract plus indirect costs in accordance with applicable Bureau of Reclamation policies and
1171 procedures. All such amounts referred to in this Article shall not exceed the amount agreed to in
1172 writing in advance by the Contractor. This Article shall not apply to costs for routine contract
1173 administration.

1174 WATER CONSERVATION

1175 26. (a) Prior to the delivery of water provided from or conveyed through Federally
1176 constructed or Federally financed facilities pursuant to this Contract, the Contractor, or if applicable,
1177 Subcontractor shall be implementing an effective water conservation and efficiency program based on
1178 the Contractor's, or if applicable, Subcontractor's water conservation plan that has been determined
1179 by the Contracting Officer to meet the conservation and efficiency criteria for evaluating water
1180 conservation plans established under Federal law. The water conservation and efficiency program
1181 shall contain definite water conservation objectives, appropriate economically feasible water
1182 conservation measures, and time schedules for meeting those objectives. Continued Project Water
1183 delivery pursuant to this Contract shall be contingent upon the Contractor's, or if applicable,
1184 Subcontractor's continued implementation of such water conservation program. In the event the
1185 Contractor's, or if applicable, Subcontractor's water conservation plan or any revised water
1186 conservation plan completed pursuant to subdivision (d) of Article 26 of this Contract have not yet
1187 been determined by the Contracting Officer to meet such criteria, due to circumstances which the
1188 Contracting Officer determines are beyond the control of the Contractor, or if applicable,

1189 Subcontractor, water deliveries shall be made under this Contract so long as the Contractor, or if
1190 applicable, Subcontractor diligently works with the Contracting Officer to obtain such determination
1191 at the earliest practicable date, and thereafter the Contractor, or if applicable, Subcontractor
1192 immediately begins implementing its water conservation and efficiency program in accordance with
1193 the time schedules therein.

1194 (b) Should the amount of M&I Water delivered pursuant to subdivision (a) of
1195 Article 3 of this Contract equal or exceed two thousand (2,000) acre-feet per Year, the Contractor, or
1196 if applicable, Subcontractor shall implement the Best Management Practices identified by the time
1197 frames issued by the California Urban Water Conservation Council for such M&I Water unless any
1198 such practice is determined by the Contracting Officer to be inappropriate for the Contractor, or if
1199 applicable, Subcontractor.

1200 (c) The Contractor, or if applicable, Subcontractor shall submit to the Contracting
1201 Officer a report on the status of its implementation of the water conservation plan on the reporting
1202 dates specified in the then existing conservation and efficiency criteria established under Federal law.

1203 (d) At five (5) -year intervals, the Contractor, or if applicable, Subcontractor shall
1204 revise its water conservation plan to reflect the then current conservation and efficiency criteria for
1205 evaluating water conservation plans established under Federal law and submit such revised water
1206 management plan to the Contracting Officer for review and evaluation. The Contracting Officer will
1207 then determine if the water conservation plan meets Reclamation's then current conservation and
1208 efficiency criteria for evaluating water conservation plans established under Federal law.

1209 (e) If the Contractor, or if applicable, Subcontractor is engaged in direct

1210 groundwater recharge, such activity shall be described in the Contractor's, or if applicable,
1211 Subcontractor's water conservation plan.

1212 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

1213 27. Except as specifically provided in Article 17 of this Contract, the provisions of this
1214 Contract shall not be applicable to or affect non-project water or water rights now owned or hereafter
1215 acquired by the Contractor, or if applicable, Subcontractor or any user of such water within the
1216 Contractor's Service Area, or if applicable, Subcontractor's Service Area. Any such water shall not
1217 be considered Project Water under this Contract. In addition, this Contract shall not be construed as
1218 limiting or curtailing any rights which the Contractor, or if applicable, Subcontractor or any water
1219 user within the Contractor's Service Area, or if applicable, Subcontractor's Service Area acquires or
1220 has available under any other contract pursuant to Federal Reclamation law.

1221 OPERATION AND MAINTENANCE BY NON-FEDERAL ENTITY

1222 28. (a) The Operation and Maintenance of a portion of the Project facilities which
1223 serve the Contractor, and responsibility for funding a portion of the costs of such Operation and
1224 Maintenance, have been transferred to the Operating Non-Federal Entity by separate agreement
1225 between the United States and the Operating Non-Federal Entity. That separate agreement shall not
1226 interfere with or affect the rights or obligations of the Contractor or the United States hereunder.

1227 (b) The Contracting Officer has previously notified the Contractor in writing that
1228 the Operation and Maintenance of a portion of the Project facilities which serve the Contractor has
1229 been transferred to the Operating Non-Federal Entity, and therefore, the Contractor shall pay directly
1230 to the Operating Non-Federal Entity, or to any successor approved by the Contracting Officer under

1231 the terms and conditions of the separate agreement between the United States and the Operating Non-
1232 Federal Entity described in subdivision (a) of this Article, all rates, charges, or assessments of any
1233 kind, including any assessment for reserve funds, which the Operating Non-Federal Entity or such
1234 successor determines, sets, or establishes for the Operation and Maintenance of the portion of the
1235 Project facilities operated and maintained by the Operating Non-Federal Entity or such successor.
1236 Such direct payments to the Operating Non-Federal Entity or such successor shall not relieve the
1237 Contractor of its obligation to pay directly to the United States the Contractor's share of the Project
1238 Rates, Charges, and Tiered Pricing Components except to the extent the Operating Non-Federal
1239 Entity collects payments on behalf of the United States in accordance with the separate agreement
1240 identified in subdivision (a) of this Article.

1241 (c) For so long as the Operation and Maintenance of any portion of the Project
1242 facilities serving the Contractor is performed by the Operating Non-Federal Entity, or any successor
1243 thereto, the Contracting Officer shall adjust those components of the Rates for Water Delivered under
1244 this Contract representing the cost associated with the activity being performed by the Operating Non-
1245 Federal Entity or its successor.

1246 (d) In the event the Operation and Maintenance of the Project facilities operated
1247 and maintained by the Operating Non-Federal Entity is re-assumed by the United States during the
1248 term of this Contract, the Contracting Officer shall so notify the Contractor, in writing, and present to
1249 the Contractor a revised Exhibit "B" which shall include the portion of the Rates to be paid by the
1250 Contractor for Project Water under this Contract representing the Operation and Maintenance costs of
1251 the portion of such Project facilities which have been re-assumed. The Contractor shall, thereafter, in

1252 the absence of written notification from the Contracting Officer to the contrary, pay the Rates,
1253 Charges, and Tiered Pricing Component(s) specified in the revised Exhibit "B" directly to the United
1254 States in compliance with Article 7 of this Contract.

1255 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

1256 29. The expenditure or advance of any money or the performance of any obligation of the
1257 United States under this Contract shall be contingent upon appropriation or allotment of funds.
1258 Absence of appropriation or allotment of funds shall not relieve the Contractor from any obligations
1259 under this Contract. No liability shall accrue to the United States in case funds are not appropriated
1260 or allotted.

1261 BOOKS, RECORDS, AND REPORTS

1262 30. (a) The Contractor shall establish and maintain accounts and other books and
1263 records pertaining to administration of the terms and conditions of this Contract, including: the
1264 Contractor's financial transactions, water supply data, and Project land and right-of-way agreements;
1265 the water users' land-use (crop census), land ownership, land-leasing and water use data; and other
1266 matters that the Contracting Officer may require. Reports thereon shall be furnished to the
1267 Contracting Officer in such form and on such date or dates as the Contracting Officer may require.
1268 Subject to applicable Federal laws and regulations, each party to this Contract shall have the right
1269 during office hours to examine and make copies of the other party's books and records relating to
1270 matters covered by this Contract.

1271 (b) Notwithstanding the provisions of subdivision (a) of this Article, no books,
1272 records, or other information shall be requested from the Contractor by the Contracting Officer unless
1273 such books, records, or information are reasonably related to the administration or performance of
1274 this Contract. Any such request shall allow the Contractor a reasonable period of time within which
1275 to provide the requested books, records, or information.

1276 (c) At such time as the Contractor provides information to the Contracting Officer
1277 pursuant to subdivision (a) of this Article, a copy of such information shall be provided to the
1278 Operating Non-Federal Entity.

1279 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

1280 31. (a) The provisions of this Contract shall apply to and bind the successors and
1281 assigns of the parties hereto, but no assignment or transfer of this Contract or any right or interest
1282 therein shall be valid until approved in writing by the Contracting Officer.

1283 (b) The assignment of any right or interest in this Contract by a party shall not
1284 interfere with the rights or obligations of the other parties to this Contract absent the written
1285 concurrence of said other parties.

1286 (c) The Contracting Officer shall not unreasonably condition or withhold approval
1287 of any proposed assignment.

1288 (d) **No assignment or transfer of any rights to use State Facilities authorized**
1289 **by this Contract shall be valid without advance written approval by DWR.**

1290 SEVERABILITY

1291 32. In the event that a person or entity who is neither (i) a party to a Project contract, nor
1292 (ii) a person or entity that receives Project Water from a party to a Project contract, nor (iii) an
1293 association or other form of organization whose primary function is to represent parties to Project
1294 contracts, brings an action in a court of competent jurisdiction challenging the legality or
1295 enforceability of a provision included in this Contract and said person, entity, association, or
1296 organization obtains a final court decision holding that such provision is legally invalid or
1297 unenforceable and the Contractor has not intervened in that lawsuit in support of the plaintiff(s), the
1298 parties to this Contract shall use their best efforts to (i) within thirty (30) days of the date of such final
1299 court decision identify by mutual agreement the provisions in this Contract which must be revised
1300 and (ii) within three (3) months thereafter promptly agree on the appropriate revision(s). The time

1301 periods specified above may be extended by mutual agreement of the parties. Pending the completion
1302 of the actions designated above, to the extent it can do so without violating any applicable provisions
1303 of law, the United States shall continue to make the quantities of Project Water specified in this
1304 Contract available to the Contractor pursuant to the provisions of this Contract which were not found
1305 to be legally invalid or unenforceable in the final court decision.

1306 RESOLUTION OF DISPUTES

1307 33. Should any dispute arise concerning any provisions of this Contract, or the parties'
1308 rights and obligations thereunder, the parties shall meet and confer in an attempt to resolve the
1309 dispute. Prior to the Contractor, or if applicable, Subcontractor commencing any legal action, or the
1310 Contracting Officer referring any matter to Department of Justice, the party shall provide to the other
1311 party thirty (30) days' written notice of the intent to take such action; Provided, That such notice shall
1312 not be required where a delay in commencing an action would prejudice the interests of the party that
1313 intends to file suit. During the thirty (30) -day notice period, the Contractor, or if applicable,
1314 Subcontractor and the Contracting Officer shall meet and confer in an attempt to resolve the dispute.
1315 Except as specifically provided, nothing herein is intended to waive or abridge any right or remedy
1316 that the Contractor, or if applicable, Subcontractor or the United States may have.

1317 OFFICIALS NOT TO BENEFIT

1318 34. No Member of or Delegate to Congress, Resident Commissioner, or official of the
1319 Contractor, or if applicable, Subcontractor shall benefit from this Contract other than as a water user
1320 or landowner in the same manner as other water users or landowners.

1321 CHANGES IN CONTRACTOR'S OR SUBCONTRACTOR'S SERVICE AREA

1322 35. (a) While this Contract is in effect, no change may be made in the Contractor's
1323 Service Area, or if applicable, Subcontractor's Service Area or boundaries, by inclusion or exclusion

1324 of lands, dissolution, consolidation, merger, or otherwise, except upon the Contracting Officer's
1325 written consent.

1326 (b) Within thirty (30) days of receipt of a request for such a change, the
1327 Contracting Officer will notify the Contractor, or if applicable, Subcontractor of any additional
1328 information required by the Contracting Officer for processing said request, and both parties will
1329 meet to establish a mutually agreeable schedule for timely completion of the process. Such process
1330 will analyze whether the proposed change is likely to: (i) result in the use of Project Water contrary to
1331 the terms of this Contract; (ii) impair the ability of the Contractor, or if applicable, Subcontractor to
1332 pay for Project Water furnished under this Contract or to pay for any Federally-constructed facilities
1333 for which the Contractor, or if applicable, Subcontractor is responsible; and (iii) have an impact on
1334 any Project Water rights applications, permits, or licenses. In addition, the Contracting Officer shall
1335 comply with the National Environmental Policy Act and the Endangered Species Act. The
1336 Contractor, or if applicable, Subcontractor will be responsible for all costs incurred by the
1337 Contracting Officer in this process, and such costs will be paid in accordance with Article 25 of this
1338 Contract.

1339 FEDERAL LAWS

1340 36. By entering into this Contract, the Contractor does not waive its rights to contest the
1341 validity or application in connection with the performance of the terms and conditions of this
1342 Contract of any Federal law or regulation; Provided, That the Contractor agrees to comply with the
1343 terms and conditions of this Contract unless and until relief from application of such Federal law or
1344 regulation to the implementing provision of the Contract is granted by a court of competent
1345 jurisdiction.

1346

NOTICES

1347 37. Any notice, demand, or request authorized or required by this Contract shall be
1348 deemed to have been given; mailed, postage prepaid; or delivered to the Area Manager, South-Central
1349 California Area Office, 1243 "N" Street, Fresno, California 93721; **to the Chief, State Projects**
1350 **Analysis Office, Department of Water Resources, P.O. Box 942836, Sacramento, California**
1351 **94236-0001**; and to the Board of Supervisors of the County of Tulare, PO Box 911, Visalia,
1352 California 93279. The designation of the addressee or the address may be changed by notice given in
1353 the same manner as provided in this Article for other notices.

1354

CONFIRMATION OF CONTRACT

1355 38. The Contractor, after the execution of this Contract, shall promptly seek to secure a
1356 decree of a court of competent jurisdiction of the State of California, confirming the execution of this
1357 Contract. The Contractor shall furnish the United States a certified copy of the final decree, the
1358 validation proceedings, and all pertinent supporting records of the court approving and confirming
1359 this Contract, and decreeing and adjudging it to be lawful, valid, and binding on the Contractor.

1360

SUBCONTRACTS--SALE OF WATER

1361 39. The Contractor may enter into subcontracts with third parties for the wholesale
1362 distribution to such third parties of Project Water furnished pursuant to this contract within the
1363 Contractor's boundaries. Each such subcontract shall be subject to the obligations and limitations
1364 imposed, and to the rights granted, by this Contract and shall so provide. The terms and conditions of
1365 each subcontract, not previously approved, shall be approved by the Contracting Officer prior to the
1366 execution of such subcontract. Approval shall be limited to approval of the Subcontractor's service
1367 area and a determination that the subcontract is consistent with the provisions of this Contract.
1368 Nothing contained herein or in any subcontract shall be deemed in any way to release the Contractor
1369 from its primary liability to the United States hereunder with respect to each and all of the obligations
1370 undertaken by the Contractor in this Contract.

1371

IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the day and

1372 year first above written.

THE UNITED STATES OF AMERICA

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

Approved as to Legal Form and
Sufficiency:

THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF CALIFORNIA

By: _____
Chief Counsel,
Department of Water Resources

By: _____
Director,
Department of Water Resources

(SEAL)

THE COUNTY OF TULARE

By: _____
Chairman, Board of Supervisors

Attest:

By: _____
County Clerk

By: _____
County Counsel

Contract No.14-06-200-8293A-LTR1

EXHIBIT A

[Map or Description of Service Area]

Contract No.14-06-200-8293A-LTR1

EXHIBIT B
[Initial Rates and Charges]

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