

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

5 LONG-TERM RENEWAL CONTRACT BETWEEN THE UNITED STATES  
6 AND  
7 WEST STANISLAUS IRRIGATION DISTRICT  
8 PROVIDING FOR PROJECT WATER SERVICE  
9 FROM DELTA DIVISION

10 THIS CONTRACT, made this \_\_\_\_ day of \_\_\_\_\_, 2001, in pursuance  
11 generally of the Act of June 17, 1902 (32 Stat. 388), and acts amendatory or supplementary thereto,  
12 including, but not limited to, the Acts of August 26, 1937 (50 Stat. 844), as amended and  
13 supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented, July 2, 1956 (70 Stat.  
14 483), June 21, 1963 (77 Stat. 68), October 12, 1982 (96 Stat. 1262), October 27, 1986 (100 Stat.  
15 3050), as amended, and Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706), all collectively  
16 hereinafter referred to as Federal Reclamation law, between THE UNITED STATES OF AMERICA,  
17 hereinafter referred to as the United States, and WEST STANISLAUS IRRIGATION DISTRICT,  
18 hereinafter referred to as the Contractor, a public agency of the State of California, duly organized,  
19 existing, and acting pursuant to the laws thereof, with its principal place of business in California;

20 WITNESSETH, That:

21 EXPLANATORY RECITALS

22 [1<sup>st</sup>] WHEREAS, the United States has constructed and is operating the Central Valley

23 Project, California, for diversion, storage, carriage, distribution and beneficial use, for flood control,  
24 irrigation, municipal, domestic, industrial, fish and wildlife mitigation, protection and restoration,  
25 generation and distribution of electric energy, salinity control, navigation and other beneficial uses, of  
26 waters of the Sacramento River, the American River, the Trinity River, and the San Joaquin River  
27 and their tributaries; and

28 [2<sup>nd</sup>] WHEREAS, the United States constructed Delta Division Facilities, which will be  
29 used in part for the furnishing of water to the Contractor pursuant to the terms of this Contract; and

30 [3<sup>rd</sup>] WHEREAS, the rights to Project Water were acquired by the United States pursuant to  
31 California law for operation of the Project; and

32 [4<sup>th</sup>] WHEREAS, the Contractor and the United States entered into Contract No. 14-06-  
33 200-1072, as amended, which established terms for the delivery to the Contractor of Project Water  
34 from the Delta Division Facilities from June 14, 1953 through February 28, 1994; and

35 [5<sup>th</sup>] WHEREAS, the Contractor and the United States have pursuant to subsection  
36 3404(c)(1) of the Central Valley Project Improvement Act (CVPIA), subsequently entered into  
37 interim renewal contract(s) identified as Contract No(s).14-06-200-1072-IR1, 14-06-200-1072-  
38 IR2,14-06-200-1072-IR3, 14-06-200-1072-IR4, 14-06-200-1072-IR5, and 14-06-200-1072-IR6, the  
39 current of which is hereinafter referred to as the Existing Contract, which provided for the continued  
40 water service to the Contractor from March 1, 1994 through February 28, 2001; and

41 [6<sup>th</sup>] WHEREAS, Section 3404(c) of the CVPIA provides for long-term renewal of interim

42 and existing long-term Project Water service contracts following completion of appropriate  
43 environmental documentation, including a programmatic environmental impact statement (PEIS)  
44 pursuant to the National Environmental Policy Act analyzing the direct and indirect impacts and  
45 benefits of implementing the CVPIA and the potential renewal of all existing contracts for Project  
46 Water; and

47 [7<sup>th</sup>] WHEREAS, the United States has completed the PEIS and all other appropriate  
48 environmental review necessary to provide for long-term renewal of the Existing Contract; and

49 [8<sup>th</sup>] WHEREAS, the Contractor has requested the long-term renewal of the Existing  
50 Contract, pursuant to the terms of the Existing Contract, Federal Reclamation law, and the laws of the  
51 State of California, for water service from the Central Valley Project; and

52 [9<sup>th</sup>] WHEREAS, the United States has determined that the Contractor has fulfilled all of  
53 its obligations under the Existing Contract; and

54 [10<sup>th</sup>] WHEREAS, the Contractor has demonstrated to the satisfaction of the Contracting  
55 Officer that the Contractor has utilized the Project Water supplies available to it for reasonable and  
56 beneficial use and/or has demonstrated projected future demand for water use such that the Contractor  
57 has the capability and expects to utilize fully for reasonable and beneficial use the quantity of Project  
58 Water to be made available to it pursuant to this Contract; and

59 [11<sup>th</sup>] WHEREAS, water obtained from the Central Valley Project has been relied upon by  
60 urban and agricultural areas within California for more than fifty (50) years, and is considered by the

61 Contractor as an essential portion of its water supply; and

62 [12<sup>th</sup>] WHEREAS, the economies of regions within the Central Valley Project, including the  
63 Contractor's, depend upon the continued availability of water, including water service from the  
64 Central Valley Project; and

65 [13<sup>th</sup>] WHEREAS, the Secretary intends through coordination, cooperation, and partnerships  
66 to pursue measures to improve water supply, water quality, and reliability of the Project for all Project  
67 purposes; and

68 [14<sup>th</sup>] WHEREAS, the mutual goals of the United States and the Contractor include: to  
69 provide for reliable Project Water supplies; to control costs of those supplies; to achieve repayment of  
70 the Central Valley Project as required by law; to guard reasonably against Project Water shortages; to  
71 achieve a reasonable balance among competing demands for use of Project Water; and to comply  
72 with all applicable environmental statutes, all consistent with the legal obligations of the United  
73 States relative to the Central Valley Project; and

74 [14.1] WHEREAS, the United States and the Contractor acknowledge that the Base Supply  
75 as defined in this Contract is a more accurate reflection of the amount of water the Contractor may  
76 realistically expect in many water years in light of present constraints and that designation of a Base  
77 Supply does not preclude delivery to the Contractor of the Supplemental Supply of Project Water as  
78 defined herein; and

79 [15<sup>th</sup>] WHEREAS, the parties intend by this Contract to develop a more cooperative

80 relationship in order to achieve their mutual goals; and

81 [16<sup>th</sup>] WHEREAS, the United States and the Contractor are willing to enter into this long-  
82 term renewal contract pursuant to Federal Reclamation law on the terms and conditions set forth  
83 below;

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

86 DEFINITIONS

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

89 (a) “Base Supply” shall mean that quantity of Project Water so designated in  
90 subdivision (a) of Article 3 of this Contract.

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

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

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

98 Total;

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

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

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

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

110 (g.1) "Delta Division Facilities" shall mean those existing and future facilities in and  
111 south of the Sacramento-San Joaquin Rivers Delta, including the Tracy Pumping Plant, used to divert,  
112 store and convey water to those Project Contractors entitled to receive water conveyed through the  
113 Delta-Mendota Canal;

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

117 (i) "Excess Lands" shall mean all lands in excess of the limitations contained in

118 Section 204 of the RRA, other than those lands exempt from acreage limitation under Federal  
119 Reclamation law;

120 (j) "Full Cost Rate" shall mean that water rate described in Sections 205(a)(3) or  
121 202(3) of the RRA, whichever is applicable;

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

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

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

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

131 (o) Omitted;

132 (p) Omitted;

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

136 (r) "Operating Non-Federal Entity" shall mean the San Luis & Delta-Mendota

137 Water Authority, a Non-Federal entity which has the obligation to operate and maintain all or a  
138 portion of the Delta Division Facilities pursuant to an agreement with the United States, and which  
139 may have funding obligations with respect thereto;

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

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

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

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

150 (w) “Recent Historic Average” shall mean the most recent five (5) -year average of  
151 the final forecast of Water Made Available to the Contractor pursuant to this Contract or its preceding  
152 contract(s);

153 (x) “Secretary” shall mean the Secretary of the Interior, a duly appointed  
154 successor, or an authorized representative acting pursuant to any authority of the Secretary and  
155 through any agency of the Department of the Interior;

156 (x.1) "Supplemental Supply" shall mean that quantity of Project Water so designated  
157 in subdivision (a) of Article 3 of this Contract as that portion of the Contract Total that is in addition  
158 to and less reliable than the Base Supply;

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

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

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

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

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

171 TERM OF CONTRACT

172 2. (a) This Contract shall be effective March 1, 2001, through February 28, 2026. In  
173 the event the Contractor wishes to renew the Contract beyond February 28, 2026, the Contractor shall  
174 submit a request for renewal in writing to the Contracting Officer no later than two (2) years prior to

175 the date this Contract expires. The renewal of this Contract insofar as it pertains to the furnishing of  
176 Irrigation Water to the Contractor shall be governed by subdivision (b) of this Article.

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

182 (2) The conditions which must be met for this Contract to be renewed are:  
183 (i) the Contractor has prepared a water conservation plan that has been determined by the Contracting  
184 Officer in accordance with Article 26 of this Contract to meet the conservation and efficiency criteria  
185 for evaluating such plans established under Federal law; (ii) the Contractor is implementing an  
186 effective water conservation and efficiency program based on the Contractor's water conservation  
187 plan as required by Article 26 of this Contract; (iii) the Contractor is operating and maintaining all  
188 water measuring devices and implementing all water measurement methods as approved by the  
189 Contracting Officer pursuant to Article 6 of this Contract; (iv) the Contractor has reasonably and  
190 beneficially used the Project Water supplies made available to it and, based on projected demands, is  
191 reasonably anticipated and expects fully to utilize for reasonable and beneficial use the quantity of  
192 Project Water to be made available to it pursuant to such renewal; (v) the Contractor is complying  
193 with all terms and conditions of this Contract; and (vi) the Contractor has the physical and legal

194 ability to deliver Project Water.

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

204 (c) Omitted.

205 (d) The Contracting Officer anticipates that by December 31, 2024, all authorized  
206 project construction expected to occur will have occurred, and on that basis the Contracting Officer  
207 agrees by that date to allocate all costs that are properly assignable to the Contractor, and agrees  
208 further that, at any time after such allocation is made, and subject to satisfaction of the condition set  
209 out in this subdivision, this Contract shall, at the request of the Contractor, be converted to a contract  
210 under subsection (d) , Section 9 of the Reclamation Project Act of 1939, subject to applicable Federal  
211 law and under stated terms and conditions mutually agreeable to the Contractor and the Contracting  
212 Officer. A condition for such conversion to occur shall be a determination by the Contracting Officer

213 that, account being taken of the amount credited to return by the Contractor as provided for under  
214 Reclamation law, the remaining amount of construction costs assignable for ultimate return by the  
215 Contractor can probably be repaid to the United States within the term of a contract under said  
216 subsection (d). If the remaining amount of costs that are properly assignable to the Contractor cannot  
217 be determined by December 31, 2024, the Contracting Officer shall notify the Contractor, and provide  
218 the reason(s) why such a determination could not be made. Further, the Contracting Officer shall  
219 make such a determination as soon thereafter as possible so as to permit, upon request of the  
220 Contractor and satisfaction of the conditions set out above, conversion to a contract under said  
221 subsection (d). In the event such determination of costs has not been made at a time which allows  
222 conversion of this Contract during the term of this Contract or the Contractor has not requested  
223 conversion of this Contract within such term, the parties shall incorporate in any subsequent renewal  
224 contract as described in subdivision (b) of this Article a provision that carries forth in substantially  
225 identical terms the provisions of this subdivision. In the event the Contracting Officer is able to make  
226 a determination of the remaining amount of costs that are properly assignable to the Contractor before  
227 December 31, 2024, the Contracting Officer shall do so at the earliest time the Contracting Officer  
228 has such ability.

229 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

230 3. (a) During each Year, consistent with all applicable State water rights, permits,  
231 and licenses; Federal law; and subject to the provisions set forth in Articles 11 and 12 of this

**Delta Division**

232 Contract, the Contracting Officer shall make available for delivery to the Contractor 35,000 acre-feet  
233 designated as Base Supply and 15,000 acre-feet designated as Supplemental Supply for a Contract  
234 Total of 50,000 acre-feet for irrigation purposes. To reflect changes in reliability, the quantity of Base  
235 Supply and Supplemental Supply will be reassessed at least every five (5) years and may be adjusted  
236 upon mutual agreement of the parties. The quantity of Water Delivered to the Contractor in  
237 accordance with this subdivision shall be scheduled and paid for pursuant to the provisions of  
238 Articles 4 and 7 of this Contract.

239 (b) Because the capacity of the Central Valley Project to deliver Project Water has  
240 been constrained in recent years and may be constrained in the future due to many factors including  
241 hydrologic conditions and implementation of Federal and State laws, the likelihood of the Contractor  
242 actually receiving the full amount of the Contract Total set out in subdivision (a) of this Article in any  
243 given Year is uncertain. The Contracting Officer's most recent modeling referenced in the PEIS  
244 projected that the full amount of the Contract Total set forth in this Contract will not be available to  
245 the Contractor in many years. During the most recent five (5) years, the Recent Historic Average of  
246 Water Made Available to the Contractor was 42,000 acre-feet. Nothing in this subdivision shall  
247 affect the rights and obligations of the parties under any provision of this Contract.

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

250 (d) The Contractor shall make reasonable and beneficial use of all Project Water or

251 other water furnished pursuant to this Contract. Groundwater recharge programs, groundwater  
252 banking programs, surface water storage programs, and other similar programs utilizing Project  
253 Water or other water furnished pursuant to this Contract conducted within the Contractor's Service  
254 Area which are consistent with applicable State law and result in use consistent with Reclamation law  
255 will be allowed; Provided, That any direct recharge program(s) is (are) described in the Contractor's  
256 Water Conservation Plan submitted pursuant to Article 26 of this Contract; Provided, further, That  
257 such Water Conservation Plan demonstrates sufficient lawful uses exist in the Contractor's Service  
258 Area so that using a long-term average, the quantity of Delivered Water is demonstrated to be  
259 reasonable for such uses and in compliance with Reclamation law. Groundwater recharge programs,  
260 groundwater banking programs, surface water storage programs, and other similar programs utilizing  
261 Project Water or other water furnished pursuant to this Contract conducted outside the Contractor's  
262 Service Area may be permitted upon written approval of the Contracting Officer, which approval will  
263 be based upon environmental documentation, Project Water rights, and Project operational concerns.  
264 The Contracting Officer will address such concerns in regulations, policies, or guidelines.

265 (e) The Contractor shall comply with requirements applicable to the Contractor in  
266 biological opinion(s) prepared as a result of a consultation regarding the execution of this Contract  
267 undertaken pursuant to Section 7 of the Endangered Species Act of 1973, as amended, that are within  
268 the Contractor's legal authority to implement. The Contractor shall comply with the limitations or  
269 requirements imposed by environmental documentation applicable to the Contractor and within its

270 legal authority to implement regarding specific activities. Nothing herein shall be construed to  
271 prevent the Contractor from challenging or seeking judicial relief in a court of competent jurisdiction  
272 with respect to any biological opinion or other environmental documentation referred to in this  
273 Article.

274 (f) Following the declaration of Water Made Available under Article 4 of this  
275 Contact, the Contracting Officer will make a determination whether Project Water, or other water  
276 available to the Project, can be made available to the Contractor in addition to the Contract Total  
277 under this Article 3 during the Year without adversely impacting other Project Contractors. At the  
278 request of the Contractor, the Contracting Officer will consult with the Contractor prior to making  
279 such a determination. If the Contracting Officer determines that Project Water, or other water  
280 available to the Project, can be made available to the Contractor, the Contracting Officer will  
281 announce the availability of such water and shall so notify the Contractor as soon as practical. The  
282 Contracting Officer will thereafter meet with the Contractor and other Project Contractors capable of  
283 taking such water to determine the most equitable and efficient allocation of such water. If the  
284 Contractor requests the delivery of any quantity of such water, the Contracting Officer shall make  
285 such water available to the Contractor in accordance with applicable statutes, regulations, guidelines,  
286 and policies.

287 (g) The Contractor may request permission to reschedule for use during the  
288 subsequent Year some or all of the Water Made Available to the Contractor during the current Year

289 referred to as “carryover.” The Contractor may request permission to use during the current Year a  
290 quantity of Project Water which may be made available by the United States to the Contractor during  
291 the subsequent Year referred to as “preuse.” The Contracting Officer’s written approval may permit  
292 such uses in accordance with applicable statutes, regulations, guidelines, and policies.

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

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

304 (j) The Contracting Officer shall make reasonable efforts to protect the water  
305 rights necessary for the Project and to provide the water available under this Contract. The  
306 Contracting Officer shall not object to participation by the Contractor, in the capacity and to the  
307 extent permitted by law, in administrative proceedings related to the Project Water rights; Provided,

308 however, That the Contracting Officer retains the right to object to the substance of the Contractor's  
309 position in such a proceeding.

310 TIME FOR DELIVERY OF WATER

311 (4) (a) On or about February 20 of each Calendar Year, the Contracting Officer shall  
312 announce the Contracting Officer's expected declaration of the Water Made Available. The  
313 declaration will be updated monthly, and more frequently if necessary, based on then-current  
314 operational and hydrologic conditions and a new declaration with changes, if any, to the Water Made  
315 Available will be made. The Contracting Officer shall provide forecasts of Project operations and the  
316 basis of the estimate, with relevant supporting information, upon the written request of the  
317 Contractor. Concurrently with the declaration of the Water Made Available, the Contracting Officer  
318 shall provide the Contractor with the updated Recent Historic Average. The declaration of Project  
319 operations will be expressed in terms of both Water Made Available and the Recent Historic  
320 Average.

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

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

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

335 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

336 5. (a) Project Water scheduled pursuant to subdivision (b) of Article 4 of this  
337 Contract shall be delivered to the Contractor at a point or points and any additional point or points of  
338 delivery either on Project facilities or another location or locations mutually agreed to in writing by  
339 the Contracting Officer and the Contractor.

340 (b) The Contracting Officer, the Operating Non-Federal Entity, or other  
341 appropriate entity shall make all reasonable efforts to maintain sufficient flows and levels of water in  
342 the Delta-Mendota Canal to deliver Project Water to the Contractor at specific turnouts established  
343 pursuant to subdivision (a) of this Article.

344 (c) The Contractor shall deliver Irrigation Water in accordance with any applicable  
345 land classification provisions of Federal Reclamation law and the associated regulations. The

346 Contractor shall not deliver Project Water to land outside the Contractor's Service Area unless  
347 approved in advance by the Contracting Officer.

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

358 (e) Neither the Contracting Officer nor any Operating Non-Federal Entity shall be  
359 responsible for the control, carriage, handling, use, disposal, or distribution of Project Water  
360 Delivered to the Contractor pursuant to this Contract beyond the delivery points specified in  
361 subdivision (a) of this Article. The Contractor shall indemnify the United States, its officers,  
362 employees, agents, and assigns on account of damage or claim of damage of any nature whatsoever  
363 for which there is legal responsibility, including property damage, personal injury, or death arising out  
364 of or connected with the control, carriage, handling, use, disposal, or distribution of such Project

365 Water beyond such delivery points, except for any damage or claim arising out of: (i) acts or  
366 omissions of the Contracting Officer or any of its officers, employees, agents, or assigns, including  
367 any responsible Operating Non-Federal Entity, with the intent of creating the situation resulting in any  
368 damage or claim; (ii) willful misconduct of the Contracting Officer or any of its officers, employees,  
369 agents, or assigns, including any responsible Operating Non-Federal Entity; (iii) negligence of the  
370 Contracting Officer or any of its officers, employees, agents, or assigns including any responsible  
371 Operating Non-Federal Entity; or (iv) damage or claims resulting from a malfunction of facilities  
372 owned and/or operated by the United States or responsible Operating Non-Federal Entity; Provided,  
373 That the Contractor is not the Operating Non-Federal Entity that owned or operated the  
374 malfunctioning facility(ies) from which the damage claim arose.

375 MEASUREMENT OF WATER WITHIN THE SERVICE AREA

376 6. (a) The Contractor has established a measuring program satisfactory to the  
377 Contracting Officer. The Contractor shall ensure that all surface water delivered for irrigation  
378 purposes within the Contractor's Service Area is measured at each agricultural turnout. The water  
379 measuring devices or water measuring methods of comparable effectiveness must be acceptable to the  
380 Contracting Officer. The Contractor shall be responsible for installing, operating, and maintaining  
381 and repairing all such measuring devices and implementing all such water measuring methods at no  
382 cost to the United States. The Contractor shall use the information obtained from such water  
383 measuring devices or water measuring methods to ensure its proper management of the water, to bill

384 water users for water delivered by the Contractor. Nothing herein contained, however, shall preclude  
385 the Contractor from establishing and collecting any charges, assessments, or other revenues  
386 authorized by California law. The Contractor shall include a summary of all its annual surface water  
387 deliveries in the annual report described in subdivision (c) of Article 26 of this Contract.

388 (b) To the extent the information has not otherwise been provided, upon execution  
389 of this Contract, the Contractor shall provide to the Contracting Officer a written report describing the  
390 measurement devices or water measuring methods being used or to be used to implement subdivision  
391 (a) of this Article and identifying the agricultural turnouts or alternative measurement programs  
392 approved by the Contracting Officer, at which such measurement devices or water measuring  
393 methods are being used, and, if applicable, identifying the locations at which such devices and/or  
394 methods are not yet being used including a time schedule for implementation at such locations. The  
395 Contracting Officer shall advise the Contractor in writing within sixty (60) days as to the adequacy of,  
396 and necessary modifications, if any, of the measuring devices or water measuring methods identified  
397 in the Contractor's report and if the Contracting Officer does not respond in such time, they shall be  
398 deemed adequate. If the Contracting Officer notifies the Contractor that the measuring devices or  
399 methods are inadequate, the parties shall within sixty (60) days following the Contracting Officer's  
400 response, negotiate in good faith the earliest practicable date by which the Contractor shall modify  
401 said measuring devices and/or measuring methods as required by the Contracting Officer to ensure  
402 compliance with subdivision (a) of this Article.

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

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

409 (e) The Contractor shall inform the Contracting Officer and the Operating Non-  
410 Federal Entity on or before the twentieth (20th) calendar day of each month of the quantity of  
411 Irrigation Water taken during the preceding month.

412 RATES AND METHOD OF PAYMENT FOR WATER

413 7. (a) The Contractor shall pay the United States as provided in this Article for all  
414 Delivered Water at Rates, Charges, and the Tiered Pricing Component established in accordance  
415 with: (i) the Secretary's ratesetting policy for Irrigation Water adopted in 1988. Such ratesetting  
416 policy shall be amended, modified, or superseded only through a public notice and comment  
417 procedure; (ii) applicable Reclamation law and associated rules and regulations, or policies; and (iii)  
418 other applicable provisions of this Contract. Payment shall be made by cash transaction, wire, or any  
419 other mechanism as may be agreed to in writing by the Contractor and the Contracting Officer. The  
420 Rates, Charges, and Tiered Pricing Component applicable to the Contractor upon execution of this  
421 Contract are set forth in Exhibit "B", as may be revised annually.

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

424 (1) Prior to July 1 of each Calendar Year, the Contracting Officer shall  
425 provide the Contractor an estimate of the Charges for Project Water that will be applied to the period  
426 October 1, of the current Calendar Year, through September 30, of the following Calendar Year, and  
427 the basis for such estimate. The Contractor shall be allowed not less than two (2) months to review  
428 and comment on such estimates. On or before September 15 of each Calendar Year, the Contracting  
429 Officer shall notify the Contractor in writing of the Charges to be in effect during the period October  
430 1 of the current Calendar Year, through September 30, of the following Calendar Year, and such  
431 notification shall revise Exhibit "B."

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

439 (c) At the time the Contractor submits the initial schedule for the delivery of  
440 Project Water for each Year pursuant to subdivision (b) of Article 4 of this Contract, the Contractor

**Delta Division**

441 shall make an advance payment to the United States equal to the total amount payable pursuant to the  
442 applicable Rate(s) set under subdivision (a) of this Article, for the Project Water scheduled to be  
443 delivered pursuant to this Contract during the first two (2) calendar months of the Year. Before the  
444 end of the first month and before the end of each calendar month thereafter, the Contractor shall make  
445 an advance payment to the United States, at the Rate(s) set under subdivision (a) of this Article, for  
446 the Water Scheduled to be delivered pursuant to this Contract during the second month immediately  
447 following. Adjustments between advance payments for Water Scheduled and payments at Rates due  
448 for Water Delivered shall be made before the end of the following month; Provided, That any revised  
449 schedule submitted by the Contractor pursuant to Article 4 of this Contract which increases the  
450 amount of Water Delivered pursuant to this Contract during any month shall be accompanied with  
451 appropriate advance payment, at the Rates then in effect, to assure that Project Water is not delivered  
452 to the Contractor in advance of such payment. In any month in which the quantity of Water Delivered  
453 to the Contractor pursuant to this Contract equals the quantity of Water Scheduled and paid for by the  
454 Contractor, no additional Project Water shall be delivered to the Contractor unless and until an  
455 advance payment at the Rates then in effect for such additional Project Water is made. Final  
456 adjustment between the advance payments for the Water Scheduled and payments for the quantities  
457 of Water Delivered during each Year pursuant to this Contract shall be made as soon as practicable  
458 but no later than April 30th of the following Year, or sixty (60) days after the delivery of Project  
459 Water carried over under subdivision (f) of Article 3 of this Contract if such water is not delivered by

460 the last day of February.

461 (d) The Contractor shall also make a payment in addition to the Rate(s) in  
462 subdivision (c) of this Article to the United States for Water Delivered, at the Charges and the  
463 appropriate Tiered Pricing Component then in effect, before the end of the month following the  
464 month of delivery; Provided, That the Contractor may be granted an exception from the Tiered  
465 Pricing Component pursuant to subdivision (j)(2) of this Article. The payments shall be consistent  
466 with the quantities of Irrigation Water as shown in the water delivery report for the subject month  
467 prepared by the Operating Non-Federal Entity or, if there is no Operating Non-Federal Entity, by the  
468 Contracting Officer. The water delivery report shall be deemed a bill for the payment of Charges and  
469 the applicable Tiered Pricing Component for Water Delivered. Adjustment for overpayment or  
470 underpayment of Charges shall be made through the adjustment of payments due to the United States  
471 for Charges for the next month. Any amount to be paid for past due payment of Charges and the  
472 Tiered Pricing Component shall be computed pursuant to Article 20 of this Contract.

473 (e) The Contractor shall pay for any Water Delivered under subdivision (d), (f), or  
474 (g) of Article 3 of this Contract as determined by the Contracting Officer pursuant to applicable  
475 statutes, associated regulations, any applicable provisions of guidelines or ratesetting policies;  
476 Provided, That the Rate for Water Delivered under subdivision (d) of Article 3 of this Contract shall  
477 be no more than the otherwise applicable Rate for Irrigation Water under subdivision (a) of this  
478 Article.

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

481 (g) All revenues received by the United States from the Contractor relating to the  
482 delivery of Project Water or the delivery of non-project water through Project facilities shall be  
483 allocated and applied in accordance with Federal Reclamation law and the associated rules or  
484 regulations, and the then current Project ratesetting policy for Irrigation Water.

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

493 (i) The parties acknowledge and agree that the efficient administration of this  
494 Contract is their mutual goal. Recognizing that experience has demonstrated that mechanisms,  
495 policies, and procedures used for establishing Rates, Charges, and Tiered Pricing Components, and/or  
496 for making and allocating payments, other than those set forth in this Article may be in the mutual  
497 best interest of the parties, it is expressly agreed that the parties may enter into agreements to modify

498 the mechanisms, policies, and procedures for any of those purposes while this Contract is in effect  
499 without amending this Contract.

500 (j) (1) Beginning at such time as deliveries of Project Water in a Year exceed  
501 eighty (80%) percent of the Contract Total, then before the end of the month following the month of  
502 delivery the Contractor shall make an additional payment to the United States equal to the applicable  
503 Tiered Pricing Component. The Tiered Pricing Component for the amount of Water Delivered in  
504 excess of eighty (80%) percent of the Contract Total, but less than or equal to ninety (90%) percent of  
505 the Contract Total, shall equal the one-half of the difference between the Rate established under  
506 subdivision (a) of this Article and the Irrigation Full Cost Water Rate. The Tiered Pricing  
507 Component for the amount of Water Delivered which exceeds ninety (90%) percent of the Contract  
508 Total shall equal the difference between (i) the Rate established under subdivision (a) of this Article  
509 and (ii) the Irrigation Full Cost Water Rate.

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

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

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

528 (l) Except as provided in subsections 3405(a)(1)(B) and 3405(f) of the CVPIA,  
529 the Rates for Project Water transferred by the Contractor shall be the Contractor's Rates adjusted  
530 upward or downward to reflect the changed costs of delivery (if any) of the transferred Project Water  
531 to the transferee's point of delivery in accordance with the then applicable CVP Ratesetting Policy. If  
532 the Contractor is receiving lower Rates and Charges because of inability to pay and is transferring  
533 Project Water to another entity whose Rates and Charges are not adjusted due to inability to pay, the  
534 Rates and Charges for transferred Project Water shall be the Contractor's Rates and Charges  
535 unadjusted for ability to pay.

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

538 NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICITS

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

542 SALES, TRANSFERS, OR EXCHANGES OF WATER

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

554 (b) In order to facilitate efficient water management by means of water transfers of

555 the type historically carried out among Project Contractors located within the same geographical area  
556 and to allow the Contractor to participate in an accelerated water transfer program during the term of  
557 this Contract, the Contracting Officer shall prepare, as appropriate, necessary environmental  
558 documentation including, but not limited to, the National Environmental Policy Act and the  
559 Endangered Species Act analyzing annual transfers within such geographical areas and the  
560 Contracting Officer shall determine whether such transfers comply with applicable law. Following  
561 the completion of the environmental documentation, such transfers addressed in such documentation  
562 shall be conducted with advance notice to the Contracting Officer, but shall not require prior written  
563 approval by the Contracting Officer. Such environmental documentation and the Contracting  
564 Officer's compliance determination shall be reviewed every five (5) years and updated, as necessary,  
565 prior to the expiration of the then existing five (5) -year period. All subsequent environmental  
566 documentation shall include an alternative to evaluate not less than the quantity of Project Water  
567 historically transferred within the same geographical area.

568 (c) For a water transfer to qualify under subdivision (b) of this Article, such water  
569 transfer must: (i) be for irrigation purposes for lands irrigated within the previous three (3) years, for  
570 M&I use, groundwater recharge, groundwater banking, or similar groundwater activities, surface  
571 water storage, or fish and wildlife resources; not lead to land conversion; and be delivered to  
572 established cropland, wildlife refuges, groundwater basins or municipal and industrial use; (ii) occur  
573 within a single Year; (iii) occur between a willing seller and a willing buyer; (iv) convey water

574 through existing facilities with no new construction or modifications to facilities and be between  
575 existing Project Contractors and/or the Contractor and the United States, Department of the Interior;  
576 and (v) comply with all applicable Federal, State, and local or tribal laws and requirements imposed  
577 for protection of the environment and Indian Trust Assets, as defined under Federal law.

578 APPLICATION OF PAYMENTS AND ADJUSTMENTS

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

590 (b) All advances for miscellaneous costs incurred for work requested by the  
591 Contractor pursuant to Article 25 of this Contract shall be adjusted to reflect the actual costs when the  
592 work has been completed. If the advances exceed the actual costs incurred, the difference will be

593 refunded to the Contractor. If the actual costs exceed the Contractor's advances, the Contractor will  
594 be billed for the additional costs pursuant to Article 25 of this Contract.

595 TEMPORARY REDUCTIONS--RETURN FLOWS

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

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

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

618 CONSTRAINTS ON THE AVAILABILITY OF WATER

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

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

629 (c) In any Year in which there may occur a Condition of Shortage for any of the  
630 reasons specified in subdivision (b) of this Article, the Contracting Officer shall apportion Irrigation

631 Water among the Contractor and others entitled to receive Irrigation Water from the Delta-Mendota  
632 Canal as follows:

633 (1) A determination shall be made of the total quantity of Irrigation Water  
634 scheduled to be delivered during the respective Year under all contracts then in force for the delivery  
635 of Irrigation Water from the Delta Division Facilities, the quantity so determined being therein  
636 referred to as the contractual commitments for Irrigation Water from such facilities.

637 (2) The total quantity of Irrigation Water scheduled to be delivered to the  
638 Contractor from the Delta Division Facilities during the respective Year under subdivision (a) of  
639 Article 3 of this Contract shall be divided by the contractual commitments for Irrigation Water, the  
640 quotient thus obtained therein referred to as the Contractor's contractual entitlement for Irrigation  
641 Water from such facilities.

642 (3) The supply of Irrigation Water determined by the Contracting Officer to  
643 be available from the Delta Division Facilities shall be multiplied by the Contractor's contractual  
644 entitlement for Irrigation Water and the result shall be the quantity of Irrigation Water required to be  
645 delivered by the Contracting Officer to the Contractor for the respective Year from such facilities.

646 UNAVOIDABLE GROUNDWATER PERCOLATION

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

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

651 RULES AND REGULATIONS

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

656 WATER AND AIR POLLUTION CONTROL

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

660 QUALITY OF WATER

661 16. (a) Project facilities used to deliver Project Water to the Contractor pursuant to  
662 this Contract shall be operated and maintained to enable the United States to deliver Project Water to  
663 the Contractor in accordance with the water quality standards specified in subsection 2(b) of the Act  
664 of August 26, 1937 (50 Stat. 865), as added by Section 101 of the Act of October 27, 1986 (100 Stat.  
665 3050) or other existing Federal laws. The United States is under no obligation to construct or furnish  
666 water treatment facilities to maintain or to improve the quality of Water Delivered to the Contractor  
667 pursuant to this Contract. The United States does not warrant the quality of Water Delivered to the  
668 Contractor pursuant to this Contract.

669 (b) The Operation and Maintenance of Project facilities shall be performed in such  
670 manner as is practicable to maintain the quality of raw water made available through such facilities at

671 the highest level reasonably attainable as determined by the Contracting Officer. The Contractor shall  
672 be responsible for compliance with all State and Federal water quality standards applicable to surface  
673 and subsurface agricultural drainage discharges generated through the use of Federal or Contractor  
674 facilities or Project Water provided by the Contractor within the Contractor's Service Area.

675 WATER ACQUIRED BY THE CONTRACTOR  
676 OTHER THAN FROM THE UNITED STATES

677 17. (a) Water or water rights now owned or hereafter acquired by the Contractor other  
678 than from the United States and Irrigation Water furnished pursuant to the terms of this Contract may  
679 be simultaneously transported through the same distribution facilities of the Contractor subject to the  
680 following: (i) if the facilities utilized for commingling Irrigation Water and non-project water were  
681 constructed without funds made available pursuant to Federal Reclamation law, the provisions of  
682 Federal Reclamation law will be applicable only to the Landholders of lands which receive Irrigation  
683 Water; (ii) the eligibility of land to receive Irrigation Water must be established through the  
684 certification requirements as specified in the Acreage Limitation Rules and Regulations (43 CFR Part  
685 426); (iii) the water requirements of Eligible Lands within the Contractor's Service Area can be  
686 established and the quantity of Irrigation Water to be utilized is less than or equal to the quantity  
687 necessary to irrigate such Eligible Lands; and (iv) if the facilities utilized for commingling Irrigation  
688 Water and non-project water are/were constructed with funds made available pursuant to Federal  
689 Reclamation law, the non-project water will be subject to the acreage limitation provisions of Federal  
690 Reclamation law, unless the Contractor pays to the United States the incremental fee described in 43

691 CFR 426.15. In determining the incremental fee, the Contracting Officer will calculate annually the  
692 cost to the Federal Government, including interest of storing or delivering non-project water, which  
693 for purposes of this Contract shall be determined as follows: The quotient shall be the unpaid  
694 distribution system costs divided by the total irrigable acreage within the Contractor's Service Area.  
695 The incremental fee per acre is the mathematical result of such quotient times the interest rate  
696 determined using Section 202 (3) of the Act of October 12, 1982 (96 Stat. 1263). Such incremental  
697 fee will be charged to each acre of excess or full cost land within the Contractor's Service Area that  
698 receives non-project water through Federally financed or constructed facilities. The incremental fee  
699 calculation methodology will continue during the term of this Contract absent the promulgation of a  
700 contrary Reclamation-wide rule, regulation or policy adopted after the Contractor has been afforded  
701 the opportunity to review and comment on the proposed rule, regulation or policy. If such rule,  
702 regulation or policy is adopted it shall supersede this provision.

703 (b) Water or water rights now owned or hereafter acquired by the Contractor, other  
704 than from the United States or adverse to the Project or its contractors (i.e. non-project water), may be  
705 stored, conveyed and/or diverted through Project facilities, subject to the completion of appropriate  
706 environmental documentation, with the approval of the Contracting Officer and the execution of any  
707 contract determined by the Contracting Officer to be necessary, consistent with the following  
708 provisions:

709 (1) The Contractor may introduce non-project water into Project facilities

710 and deliver said water to lands within the Contractor's Service Area, including Ineligible Lands,  
711 subject to payment to the United States and/or to any applicable Operating Non-Federal Entity of an  
712 appropriate rate as determined by the CVP Ratesetting Policy and the RRA, each as amended,  
713 modified or superceded from time to time. In addition, if electrical power is required to pump non-  
714 project water through the facilities, the Contractor shall be responsible for obtaining the necessary  
715 power and paying the necessary charges therefor.

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

722 (3) Neither the United States nor the Operating Non-Federal Entity shall be  
723 responsible for control, care or distribution of the non-project water before it is introduced into or  
724 after it is delivered from the Project facilities. The Contractor hereby releases and agrees to defend  
725 and indemnify the United States and the Operating Non-Federal Entity, and their respective officers,  
726 agents, and employees, from any claim for damage to persons or property, direct or indirect, resulting  
727 from Contractor's diversion or extraction of non-project water from any source.

728 (4) Diversion of such non-project water into Project facilities shall be

729 consistent with all applicable laws, and if involving groundwater, consistent with any groundwater  
730 management plan for the area from which it was extracted.

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

736 OPINIONS AND DETERMINATIONS

737 18. (a) Where the terms of this Contract provide for actions to be based upon the  
738 opinion or determination of either party to this Contract, said terms shall not be construed as  
739 permitting such action to be predicated upon arbitrary, capricious, or unreasonable opinions or  
740 determinations. Both parties, notwithstanding any other provisions of this Contract, expressly reserve  
741 the right to seek relief from and appropriate adjustment for any such arbitrary, capricious, or  
742 unreasonable opinion or determination. Each opinion or determination by either party shall be  
743 provided in a timely manner. Nothing in subdivision (a) of Article 18 of this Contract is intended to  
744 or shall affect or alter the standard of judicial review applicable under federal law to any opinion or  
745 determination implementing a specific provision of federal law embodied in statute or regulation.

746 (b) The Contracting Officer shall have the right to make determinations necessary  
747 to administer this Contract that are consistent with the provisions of this Contract, the laws of the

748 United States and of the State of California, and the rules and regulations promulgated by the  
749 Secretary of the Interior. Such determinations shall be made in consultation with the Contractor to  
750 the extent reasonably practicable.

751 COORDINATION AND COOPERATION

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

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

767 time basis.

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

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

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

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

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

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

784 (d) Without limiting the contractual obligations of the Contracting Officer  
785 hereunder, nothing in this Contract shall be construed to limit or constrain the Contracting Officer's

786 ability to communicate, coordinate, and cooperate with the Contractor or other interested stakeholders  
787 or to make decisions in a timely fashion as needed to protect health, safety, physical integrity of  
788 structures or facilities, or the Contracting Officer's ability to comply with applicable laws.

789 CHARGES FOR DELINQUENT PAYMENTS

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

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

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

806 EQUAL OPPORTUNITY

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

808 (a) The Contractor will not discriminate against any employee or applicant for  
809 employment because of race, color, religion, sex, or national origin. The Contractor will take  
810 affirmative action to ensure that applicants are employed, and that employees are treated during  
811 employment, without regard to their race, color, religion, sex, or national origin. Such action shall  
812 include, but not be limited to, the following: Employment, upgrading, demotion, or transfer;  
813 recruitment or recruitment advertising; layoff or termination, rates of payment or other forms of  
814 compensation; and selection for training, including apprenticeship. The Contractor agrees to post in

**Delta Division**

R.O. Delta Division 11/17-2000  
Contract No.14-06-200-1072- LTR1

815 conspicuous places, available to employees and applicants for employment, notices to be provided by  
816 the Contracting Officer setting forth the provisions of this nondiscrimination clause.

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

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

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

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

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

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

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

850 GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

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

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

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

863 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

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

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

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

882

PRIVACY ACT COMPLIANCE

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

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

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

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

901 (e) The Contractor shall forward promptly to the System Manager each proposed  
902 denial of access under 43 CFR 2.64; and each request for amendment of records filed under 43 CFR  
903 2.71; notify the requester accordingly of such referral; and provide the System Manager with  
904 information and records necessary to prepare an appropriate response to the requester. These  
905 requirements do not apply to individuals seeking access to their own certification and reporting forms  
906 filed with the Contractor pursuant to 43 CFR 426.18, unless the requester elects to cite the Privacy

907 Act as a basis for the request.

908 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

909 25. In addition to all other payments to be made by the Contractor pursuant to this  
910 Contract, the Contractor shall pay to the United States, within sixty (60) days after receipt of a bill  
911 and detailed statement submitted by the Contracting Officer to the Contractor for such specific items  
912 of direct cost incurred by the United States for work requested by the Contractor associated with this  
913 Contract plus indirect costs in accordance with applicable Bureau of Reclamation policies and  
914 procedures. All such amounts referred to in this Article shall not exceed the amount agreed to in  
915 writing in advance by the Contractor. This Article shall not apply to costs for routine contract  
916 administration.

917 WATER CONSERVATION

918 26. (a) Prior to the delivery of water provided from or conveyed through Federally  
919 constructed or Federally financed facilities pursuant to this Contract, the Contractor shall be  
920 implementing an effective water conservation and efficiency program based on the Contractor's water  
921 conservation plan that has been determined by the Contracting Officer to meet the conservation and  
922 efficiency criteria for evaluating water conservation plans established under Federal law. The water  
923 conservation and efficiency program shall contain definite water conservation objectives, appropriate  
924 economically feasible water conservation measures, and time schedules for meeting those objectives.  
925 Continued Project Water delivery pursuant to this Contract shall be contingent upon the Contractor's

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

934 (b) Omitted.

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

938 (d) At five (5) -year intervals, the Contractor shall revise its water conservation  
939 plan to reflect the then current conservation and efficiency criteria for evaluating water conservation  
940 plans established under Federal law and submit such revised water management plan to the  
941 Contracting Officer for review and evaluation. The Contracting Officer will then determine if the  
942 water conservation plan meets Reclamation's then current conservation and efficiency criteria for  
943 evaluating water conservation plans established under Federal law.

944 (e) If the Contractor is engaged in direct groundwater recharge, such activity shall

945 be described in the Contractor's water conservation plan.

946 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

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

954 OPERATION AND MAINTENANCE BY NON-FEDERAL ENTITY

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

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

964 the terms and conditions of the separate agreement between the United States and the Operating Non-  
965 Federal Entity described in subdivision (a) of this Article, all rates, charges, or assessments of any  
966 kind, including any assessment for reserve funds, which the Operating Non-Federal Entity or such  
967 successor determines, sets, or establishes for the Operation and Maintenance of the portion of the  
968 Project facilities operated and maintained by the Operating Non-Federal Entity or such successor.  
969 Such direct payments to the Operating Non-Federal Entity or such successor shall not relieve the  
970 Contractor of its obligation to pay directly to the United States the Contractor's share of the Project  
971 Rates, Charges, and Tiered Pricing Components except to the extent the Operating Non-Federal  
972 Entity collects payments on behalf of the United States in accordance with the separate agreement  
973 identified in subdivision (a) of this Article.

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

979 (d) In the event the Operation and Maintenance of the Project facilities operated  
980 and maintained by the Operating Non-Federal Entity is re-assumed by the United States during the  
981 term of this Contract, the Contracting Officer shall so notify the Contractor, in writing, and present to  
982 the Contractor a revised Exhibit "B" which shall include the portion of the Rates to be paid by the

983 Contractor for Project Water under this Contract representing the Operation and Maintenance costs of  
984 the portion of such Project facilities which have been re-assumed. The Contractor shall, thereafter, in  
985 the absence of written notification from the Contracting Officer to the contrary, pay the Rates,  
986 Charges, and Tiered Pricing Component(s) specified in the revised Exhibit "B" directly to the United  
987 States in compliance with Article 7 of this Contract.

988 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

989 29. The expenditure or advance of any money or the performance of any obligation of the  
990 United States under this Contract shall be contingent upon appropriation or allotment of funds.  
991 Absence of appropriation or allotment of funds shall not relieve the Contractor from any obligations  
992 under this Contract. No liability shall accrue to the United States in case funds are not appropriated  
993 or allotted.

994 BOOKS, RECORDS, AND REPORTS

995 30. (a) The Contractor shall establish and maintain accounts and other books and  
996 records pertaining to administration of the terms and conditions of this Contract, including: the  
997 Contractor's financial transactions, water supply data, and Project land and right-of-way agreements;  
998 the water users' land-use (crop census), land ownership, land-leasing and water use data; and other  
999 matters that the Contracting Officer may require. Reports thereon shall be furnished to the  
1000 Contracting Officer in such form and on such date or dates as the Contracting Officer may require.  
1001 Subject to applicable Federal laws and regulations, each party to this Contract shall have the right  
1002 during office hours to examine and make copies of the other party's books and records relating to  
1003 matters covered by this Contract.

1004 (b) Notwithstanding the provisions of subdivision (a) of this Article, no books,  
1005 records, or other information shall be requested from the Contractor by the Contracting Officer unless  
1006 such books, records, or information are reasonably related to the administration or performance of  
1007 this Contract. Any such request shall allow the Contractor a reasonable period of time within which

1008 to provide the requested books, records, or information.

1009 (c) At such time as the Contractor provides information to the Contracting Officer

1010 pursuant to subdivision (a) of this Article, a copy of such information shall be provided to the

1011 Operating Non-Federal Entity.

1012 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

1013 31. (a) The provisions of this Contract shall apply to and bind the successors and  
1014 assigns of the parties hereto, but no assignment or transfer of this Contract or any right or interest  
1015 therein shall be valid until approved in writing by the Contracting Officer.

1016 (b) The assignment of any right or interest in this Contract by either party shall not

1017 interfere with the rights or obligations of the other party to this Contract absent the written

1018 concurrence of said other party.

1019 (c) The Contracting Officer shall not unreasonably condition or withhold approval

1020 of any proposed assignment.

1021 SEVERABILITY

1022 32. In the event that a person or entity who is neither (i) a party to a Project contract, nor

1023 (ii) a person or entity that receives Project Water from a party to a Project contract, nor (iii) an

1024 association or other form of organization whose primary function is to represent parties to Project

1025 contracts, brings an action in a court of competent jurisdiction challenging the legality or

1026 enforceability of a provision included in this Contract and said person, entity, association, or

1027 organization obtains a final court decision holding that such provision is legally invalid or

1028 unenforceable and the Contractor has not intervened in that lawsuit in support of the plaintiff(s), the  
1029 parties to this Contract shall use their best efforts to (i) within thirty (30) days of the date of such final  
1030 court decision identify by mutual agreement the provisions in this Contract which must be revised  
1031 and (ii) within three (3) months thereafter promptly agree on the appropriate revision(s). The time  
1032 periods specified above may be extended by mutual agreement of the parties. Pending the completion  
1033 of the actions designated above, to the extent it can do so without violating any applicable provisions  
1034 of law, the United States shall continue to make the quantities of Project Water specified in this  
1035 Contract available to the Contractor pursuant to the provisions of this Contract which were not found  
1036 to be legally invalid or unenforceable in the final court decision.

1037 RESOLUTION OF DISPUTES

1038 33. Should any dispute arise concerning any provisions of this Contract, or the parties'  
1039 rights and obligations thereunder, the parties shall meet and confer in an attempt to resolve the  
1040 dispute. Prior to the Contractor commencing any legal action, or the Contracting Officer referring  
1041 any matter to Department of Justice, the party shall provide to the other party thirty (30) days' written  
1042 notice of the intent to take such action; Provided, That such notice shall not be required where a delay  
1043 in commencing an action would prejudice the interests of the party that intends to file suit. During  
1044 the thirty (30) -day notice period, the Contractor and the Contracting Officer shall meet and confer in  
1045 an attempt to resolve the dispute. Except as specifically provided, nothing herein is intended to waive  
1046 or abridge any right or remedy that the Contractor or the United States may have.

1047

OFFICIALS NOT TO BENEFIT

1048           34.    No Member of or Delegate to Congress, Resident Commissioner, or official of the  
1049 Contractor shall benefit from this Contract other than as a water user or landowner in the same  
1050 manner as other water users or landowners.

1051

CHANGES IN CONTRACTOR'S SERVICE AREA

1052           35.    (a)    While this Contract is in effect, no change may be made in the Contractor's  
1053 Service Area or boundaries, by inclusion or exclusion of lands, dissolution, consolidation, merger, or  
1054 otherwise, except upon the Contracting Officer's written consent.

1055                   (b)    Within thirty (30) days of receipt of a request for such a change, the  
1056 Contracting Officer will notify the Contractor of any additional information required by the  
1057 Contracting Officer for processing said request, and both parties will meet to establish a mutually  
1058 agreeable schedule for timely completion of the process. Such process will analyze whether the  
1059 proposed change is likely to: (i) result in the use of Project Water contrary to the terms of this  
1060 Contract; (ii) impair the ability of the Contractor to pay for Project Water furnished under this  
1061 Contract or to pay for any Federally-constructed facilities for which the Contractor is responsible; and  
1062 (iii) have an impact on any Project Water rights applications, permits, or licenses. In addition, the  
1063 Contracting Officer shall comply with the National Environmental Policy Act and the Endangered  
1064 Species Act. The Contractor will be responsible for all costs incurred by the Contracting Officer in  
1065 this process, and such costs will be paid in accordance with Article 25 of this Contract.

1066

FEDERAL LAWS

1067           36.    By entering into this Contract, the Contractor does not waive its rights to contest the

1068 validity or application in connection with the performance of the terms and conditions of this  
1069 Contract of any Federal law or regulation; Provided, That the Contractor agrees to comply with the  
1070 terms and conditions of this Contract unless and until relief from application of such Federal law or  
1071 regulation to the implementing provision of the Contract is granted by a court of competent  
1072 jurisdiction.

1073 NOTICES

1074 37. Any notice, demand, or request authorized or required by this Contract shall be  
1075 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or delivered  
1076 to the Area Manager, South-Central California Area Office, 1243 N Street, Fresno, CA 97321, and on  
1077 behalf of the United States, when mailed, postage prepaid, or delivered to the Board of Directors of  
1078 the West Stanislaus Irrigation District, P.O. Box 37, Westley, CA 95387. The designation of the  
1079 addressee or the address may be changed by notice given in the same manner as provided in this  
1080 Article for other notices.

1081 CONFIRMATION OF CONTRACT

1082 38. The Contractor, after the execution of this Contract, shall promptly seek to secure a  
1083 decree of a court of competent jurisdiction of the State of California, confirming the execution of this  
1084 Contract. The Contractor shall furnish the United States a certified copy of the final decree, the  
1085 validation proceedings, and all pertinent supporting records of the court approving and confirming  
1086 this Contract, and decreeing and adjudging it to be lawful, valid, and binding on the Contractor.

1087            IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the day and  
1088            year first above written.

THE UNITED STATES OF AMERICA

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

WEST STANISLAUS IRRIGATION DISTRICT

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

Attest:

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

R.O. Draft 11/01-2000  
CVP-Wide Form 11-05

**Delta Division**

R.O. Delta Division 11/17-2000  
Contract No.14-06-200-1072- LTR1

EXHIBIT A

[Map or Description of Service Area]

R.O. Draft 11/01-2000  
CVP-Wide Form 11-05  
**Delta Division**  
R.O. Delta Division 11/17-2000  
Contract No.14-06-200-1072- LTR1

EXHIBIT B  
[Initial Rates and Charges]

(J:\www\cvpia\3404c\exhibits\dmc\weststanislaus.wpd)