

APPENDIX B

EXISTING

INTERIM RENEWAL CONTRACT SAMPLE

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Irrigation and M&I
R.O. Draft 05/27-1994
Rev. R.O. 06/21-1994
Rev. R.O. 07/11-1994
Rev. R.O. 07/19-1994
Rev. R.O. 08/09-1994
Rev. R.O. 08/15-1994
Rev. R.O. 08/19-1994
Rev. R.O. 02/17-1995
Rev. R.O. 08/13-1997
Rev. R.O. 09/29-1999
Rev. R.O. 09/30-1999
Rev. R.O. 11/03-1999
Rev. R.O. 08/25-2000
Rev. R.O. 09/14-2000
Rev. R.O. 12/08-2000
R.O. 01/30-2001

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

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INTERIM RENEWAL CONTRACT BETWEEN THE UNITED STATES
AND

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PROVIDING FOR PROJECT WATER SERVICE

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THIS CONTRACT, made this ___ day of _____ 2001, in

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pursuance generally of the Act of June 17, 1902 (32 Stat. 388), and acts amendatory or

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supplementary thereto, including, but not limited to, the acts of August 26, 1937 (50 Stat. 844),

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as amended and supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented,

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July 2, 1956 (70 Stat. 483), June 21, 1963 (77 Stat. 68), October 12, 1982 (96 Stat. 1261), as

1 amended and Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706), all collectively
2 hereinafter referred to as the Federal Reclamation law, between THE UNITED STATES OF
3 AMERICA, hereinafter referred to as the United States, and _____,
4 hereinafter referred to as the Contractor, a public agency of the State of California, duly
5 organized, existing, and acting pursuant to the laws thereof, with its principal place of business in
6 _____, California;

7 WITNESSETH, That:

8 EXPLANATORY RECITALS

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

15 [DIVISIONAL ISSUE] WHEREAS, the United States constructed
16 _____, hereinafter collectively referred to as the _____ facilities, which
17 will be used in part for the furnishing of water to the Contractor pursuant to the terms of this
18 interim renewal contract; and

19 [DISTRICT ISSUE] WHEREAS, the Contractor and the United States entered
20 into Contract No. _____ as amended, which provided the Contractor, Central Valley

1 Project water from the _____ from _____ to
2 _____ and

3 WHEREAS, the Contractor and the United States entered into interim renewal
4 contract(s) identified as Contract No(s). _____, the latter of which is
5 hereinafter referred to as the Existing Interim Renewal Contract, which provided Project Water
6 to the Contractor from _____ through _____; and

7 WHEREAS, the Contractor has requested a subsequent interim renewal contract
8 pursuant to the Existing Interim Renewal Contract, Federal Reclamation law and the laws of the
9 State of California, for water service from the Central Valley Project; and

10 WHEREAS, the United States and the Contractor believe that either further
11 negotiations on a long-term renewal contract for the Contractor would be beneficial and mutually
12 commit to continue to negotiate to seek to reach agreement or the Contractor's proposed long-
13 term renewal contract's required environmental review necessary to execute a long-term renewal
14 contract has not been completed, and the Contractor has requested a subsequent interim renewal
15 contract pursuant to Article 2 (b)(1) of the existing Interim Renewal Contract; and

16 WHEREAS, the United States has determined that the Contractor has to date
17 fulfilled all of its obligations under the Existing Interim Renewal Contract; and

18 WHEREAS, The Contracting Officer has determined that the Contractor has the
19 capability to fully utilize for reasonable and beneficial use, or shown projected future reasonable
20 and beneficial use for, the quantity of Project Water to be made available to it pursuant to this
21 interim renewal contract; and

1 [DISTRICT ISSUE] WHEREAS, rights of renewal of Contract No.
2 _____ and to convert said contract to a contract as provided by subsection (d),
3 Section 9 of the Act of August 4, 1939 (53 Stat. 1187), are set forth in said contract; and

4 WHEREAS, Section 3404 of the CVPIA, precludes long-term renewal of water
5 service contracts until the completion of appropriate environmental documentation, including a
6 programmatic environmental impact statement ("PEIS") pursuant to the National Environmental
7 Policy Act analyzing the direct and indirect impacts and benefits of implementing the CVPIA
8 and the potential renewal of all existing contracts for Project Water; and

9 WHEREAS, in order to continue water service provided under Project water
10 service contracts that expire prior to the completion of the PEIS, the United States intends to
11 execute interim renewal contracts for a period not to exceed three (3) Years in length, and for
12 successive interim periods of not more than two (2) Years in length, until appropriate
13 environmental documentation, including the PEIS, is finally completed, at which time the
14 Secretary shall, pursuant to Federal Reclamation law, upon request of the Contractor, enter into a
15 long-term renewal contract for a period of twenty-five (25) Years; and may thereafter renew such
16 long-term renewal contracts for successive periods not to exceed twenty-five (25) Years each;
17 and

18 WHEREAS, the Secretary intends to assure uninterrupted water service and
19 continuity of contract through the process set forth in Article 2 hereof; and

1 WHEREAS, the United States is willing to renew the Existing Interim Renewal
2 Contract pursuant to Section 3404(c)(1) of the CVPIA on the terms and conditions set forth
3 below;

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

6 DEFINITIONS

7 1. When used herein unless otherwise distinctly expressed, or manifestly
8 incompatible with the intent hereof, the term:

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

11 (b) "Charges" shall mean the payments in addition to the Rates determined
12 annually by the Contracting Officer, required by the Federal Reclamation law, including
13 Section 3407 of the CVPIA;

14 (c) [District Issue] "Contractor's Service Area/boundaries" shall mean the
15 area to which the Contractor is permitted to provide Project Water under this interim
16 renewal contract;

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

19 (e) "Delivered Water" shall mean Project Water made available to
20 the Contractor and diverted at the point(s) of delivery approved by the Contracting
21 Officer;

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

4 (g) "Excess Lands" shall mean all lands defined as excess in
5 Section 204 of the RRA, other than those lands exempt from acreage limitation under
6 Federal Reclamation law;

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

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

11 (j) "Irrigation Water" shall mean Project Water which is used primarily
12 in the production of agricultural crops or livestock, including domestic use
13 incidental thereto, and watering of livestock;

14 (k) "Landholder" shall mean an individual or entity attributed with the total
15 irrigable acreage of one or more tracts of land situated in one or more districts owned
16 and/or operated under a lease which is served with Irrigation Water pursuant to a contract
17 with the United States;

18 (l) "M&I Water" shall mean water made available from the Project other than
19 Irrigation Water. M&I Water shall include water used for purposes such as the watering
20 of landscaping or pasture for animals (e.g., horses) which are kept for personal enjoyment
21 or water delivered to landholding operated in units of less than _____ acres unless the

1 Contractor establishes to the satisfaction of the Contracting Officer that the use of water
2 delivered to any such landholding is a use described in subdivision (j) of this Article;

3 (m) "O&M" shall mean normal and reasonable care, control, operation, repair,
4 replacement, and maintenance of Project facilities;

5 (n) "Operating Non-Federal Entity" shall mean a Non-Federal entity which
6 has the obligation to operate and maintain all or a portion of the [Division] facilities
7 pursuant to an agreement with the United States;

8 (o) "Project" shall mean the Central Valley Project owned by the
9 United States and operated by the Department of the Interior, Bureau of Reclamation;

10 (p) "Project Water" shall mean all water that is developed, diverted, stored, or
11 delivered by the United States in accordance with the statutes authorizing the Project and
12 in accordance with the terms and conditions of applicable water rights permits and
13 licenses acquired by and/or issued to the United States pursuant to California law;

14 (q) "Rates" shall mean the payments determined annually by the Contracting
15 Officer in accordance with the then current applicable water ratesetting policies for the
16 Project;

17 (r) "Secretary" or "Contracting Officer" shall mean the Secretary of the
18 United States Department of the Interior or his duly authorized representative;

19 (s) "Year" shall mean the period from and including March 1 of
20 each Calendar Year through the last day of February of the following Calendar Year;

21 TERM OF CONTRACT - RIGHT TO USE OF WATER

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2. (a) This interim renewal contract shall be effective from March 1, 2001 and shall remain in effect through February 28, 2002, and thereafter will be renewed as described in this article. Except as provided in subdivision (b) of this Article, until completion of all appropriate environmental review, and provided that the Contractor has complied with all the terms and conditions of the interim renewal contract in effect for the period immediately preceding the requested successive interim renewal contract, this interim renewal contract will be renewed, upon request of the Contractor, for successive interim periods each of which shall be no more than two (2) Years in length. Also, except as provided in subdivision (b) of this Article, in order to promote orderly and cost effective contract administration, the terms and conditions in subsequent interim renewal contracts shall be identical to the terms and conditions in the interim renewal contract immediately preceding the subsequent interim renewal contract: Provided, however, That each party preserves the right to propose modification(s) in any interim renewal contract other than those described in subdivision (b) of this Article, in which case the parties shall negotiate in good faith appropriate modification(s) to be included in any successive interim renewal contracts. Said modification(s) of each successive interim renewal contract shall be agreed upon within a reasonable time prior to the expiration of the then existing interim renewal contract. Nothing in this Article shall in any way alter the obligation that, upon final completion of the PEIS and any necessary supplemental environmental documentation, the Secretary shall, pursuant to Federal Reclamation law, upon request of the Contractor, enter into a long-term renewal contract for a period of twenty-five (25) Years and may thereafter renew such long-term renewal contracts for successive periods not to exceed twenty-five (25) Years each. The Contractor asserts that Contract No. _____ and existing law go beyond the preceding

1 sentence to give it enforceable rights to successive long-term renewal contracts. The Contracting
2 Officer disagrees with that assertion. The parties agree that this interim renewal contract
3 preserves the rights and positions of the parties and that the omission of language in this interim
4 renewal contract setting out the rights asserted by the Contractor to successive renewals is not
5 intended to be, nor shall it be interpreted as, a waiver of any such rights to the extent any such
6 rights are later determined to exist by a court of competent jurisdiction or by mutual agreement
7 of the parties. If a court of competent jurisdiction or the parties by mutual agreement determine
8 that incorporation of such language in this interim renewal contract is necessary to preserve such
9 rights, this interim renewal contract shall be construed as incorporating such language as though
10 fully set forth herein as of the effective date hereof.

11 (b) The parties anticipate that they will engage in good faith negotiations
12 intended to permit the execution of a twenty-five (25) Year long-term renewal contract
13 contemplated by Section 3404 (c) of the CVPIA, hereinafter referred to as a "long-term renewal
14 contract", by the end of the term hereof. The parties recognize the possibility that this schedule
15 may not be met. Accordingly:

16 (1) In the event (i) the Contractor and Contracting Officer have
17 reached agreement on the terms of the Contractor's long-term renewal contract or (ii) the
18 Contractor and Contracting Officer have not completed the negotiations on the Contractor's
19 long-term renewal contract, believe that further negotiations on that contract would be beneficial,
20 and mutually commit to continue to negotiate to seek to reach agreement, but (iii) all
21 environmental documentation required to allow execution of the Contractor's long-term renewal

1 contract by both parties has not been completed in time to allow execution of the Contractor's
2 long-term renewal contract by November 30, 2001, then (iv) the parties will expeditiously
3 complete the environmental documentation required of each of them in order to execute the
4 Contractor's long-term renewal contract at the earliest practicable date. In addition, the
5 Contractor's then current interim renewal contract will be renewed without change upon the
6 request of either party through the agreed-upon effective date of the Contractor's long-term
7 renewal contract or, in the absence of agreement on the terms of the Contractor's long-term
8 renewal contract, through the succeeding February 28.

9 (2) Provided that this interim renewal contract is not subject to
10 renewal under the terms described in subdivision (1) of this Article, if a party determines that the
11 parties have reached an impasse which they have been unable to resolve and which precludes
12 agreement on the long-term renewal contract, that party may notify the other that it has
13 concluded that there is no reasonable likelihood of reaching agreement on the terms of a
14 long-term renewal contract prior to November 1, 2001. In the event of such notice, the parties
15 will immediately agree to a schedule and process for negotiating the terms (other than any terms
16 that would impair continuity of water supply or continuity of contract) of and executing an
17 interim renewal contract; provided that neither party will propose for inclusion in the interim
18 renewal contract any provision not previously included in an existing interim renewal contract
19 which it had previously proposed for inclusion in the long-term renewal contract and which was
20 the subject of an impasse in the long-term renewal contract negotiations. The schedule will
21 provide for completion of the negotiations of the terms of that contract by February 1, 2002, and

1 for execution of the contract on or about February 15, 2002. The parties each acknowledge the
2 right of either party to seek judicial relief in connection with any impasse reached in connection
3 with negotiation of the long-term renewal contract and/or an interim renewal contract that would
4 become effective on or after February 28, 2002.

5 (c) The parties acknowledge that the Contractor asserts that it is entitled as a
6 matter of law to an interim renewal contract of longer duration than twelve (12) months, and that
7 the Contracting Officer asserts that it is under no obligation to provide the Contractor with an
8 interim renewal contract of any particular duration. Accordingly, the parties further
9 acknowledge that (i) the foregoing process represents a mutual accommodation to facilitate their
10 joint desire to proceed with the development of a long-term renewal contract in an expeditious
11 and orderly manner, (ii) they each preserve their respective rights and positions relative to the
12 entitlement of the Contractor to subsequent interim renewal contracts should they become
13 necessary, and the terms thereof, and (iii) their agreement to the process and interim renewal
14 contract terms described above is in no way intended to be, nor will it be interpreted as, a waiver
15 of any such rights or positions, all of which are and will be expressly preserved.

16 (d) [DISTRICT ISSUE] The omission of language in this interim renewal
17 contract providing for conversion of this interim renewal contract or any subsequent renewals
18 thereof to a repayment contract, pursuant to the Act of July 2, 1956 (70 Stat. 483), shall not
19 prejudice the Contractor's right to assert a right to have such language included in subsequent
20 renewals of this interim renewal contract or to exercise such conversion, all as provided by law,

1 or to negotiate the language regarding such conversion to be included in subsequent renewal
2 contracts.

3 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

4 3. (a) Subject to the provisions set forth in Articles 11 and 12 hereof, and
5 consistent with applicable State water rights, permits and licenses, the Contractor is entitled to,
6 and the Contracting Officer shall be obligated to make available to the Contractor up to _____
7 acre-feet of Project Water for irrigation and/or municipal and industrial purposes during the term
8 of this interim renewal contract. The quantity of Project Water delivered to the Contractor in
9 accordance with this Article 3(a) in any Year shall be scheduled and paid for pursuant to the
10 provisions of Articles 4 and 7 hereof, and shall not exceed the quantity of Project Water the
11 Contractor intends to put to reasonable beneficial use within the Contractor's Service
12 Area/boundaries or sold, transferred, or exchanged pursuant to Article 9 during the term of this
13 interim renewal contract.

14 (b) The Contractor shall utilize the Project Water made available to it pursuant
15 to this interim renewal contract in accordance with all applicable requirements of any Biological
16 Opinion addressing the execution of this interim renewal contract developed pursuant to Section
17 7 of the Endangered Species Act of 1973 as amended, and in accordance with environmental
18 documentation as may be required for specific activities, including conversion of Irrigation
19 Water to M&I Water.

20 (c) The Contractor shall make reasonable and beneficial use of Project Water
21 or other water furnished pursuant to this interim renewal contract. [Divisional Issue] In addition,

1 use of Project Water in a ground-water recharge program shall be permitted under this contract to
2 the extent that it is carried out in accordance with California law; Provided, however, that such
3 ground-water recharge program cannot be undertaken unless and until the Contractor submits a
4 ground-water management plan pursuant to California law that demonstrates that such ground-
5 water recharge program will result in a reasonable and beneficial use of such water.

6 (d) If the Contracting Officer determines that Project Water, or other water
7 available to the Project, can be made available to the Contractor in addition to the quantity of
8 Project Water made available to the Contractor pursuant to subdivision (a) of this Article, the
9 Contracting Officer shall so notify the Contractor. If the Contractor requests the delivery of any
10 quantity of such water, the Contracting Officer shall make such water available to the Contractor
11 in accordance with applicable statutes, regulations, guidelines, and policies.

12 (e) [DIVISIONAL ISSUE] If the Contractor requests permission to
13 reschedule for use during the subsequent Year some or all of the Project Water made available to
14 the Contractor during the current Year or to use, during the current Year, that quantity of Project
15 Water the United States has agreed to make available to the Contractor during the subsequent
16 Year, the Contracting Officer may permit such uses in accordance with applicable statutes,
17 regulations, guidelines, and policies.

18 (f) The Contractor's right pursuant to Federal Reclamation law and applicable
19 State law to the beneficial use of water furnished pursuant to this interim renewal contract, any
20 subsequent interim renewal contract and, as described in Article 2(a), any long-term renewal
21 contract, shall not be disturbed so long as the Contractor shall fulfill all of its obligations under

1 this interim renewal contract and any such renewal thereof. Nothing in the preceding sentence
2 shall affect the Contracting Officer's ability to impose shortages under subdivision (b) of Article
3 12 of this interim renewal contract and the applicable provisions of any such renewal thereof.

4 (g) Notwithstanding subdivisions (j) and (l) of Article 1, Project Water
5 furnished to the Contractor pursuant to this interim renewal contract may be delivered for
6 purposes other than those described in subdivisions (j) and (l) of Article 1 upon written approval
7 by the Contracting Officer in accordance with the terms and conditions of such approval.

8 TIME FOR DELIVERY OF WATER

9 4. (a) On or about February 15, of each Calendar Year, the Contracting Officer
10 shall declare the amount of Project Water estimated to be made available to the Contractor
11 pursuant to this interim renewal contract for the upcoming Year. The declaration will be updated
12 monthly, as necessary, based on current hydrologic conditions. The Contracting Officer shall
13 make available the forecast of Project operations, with relevant supporting information, upon the
14 written request of the Contractor or its representatives. Upon written request of the Contractor,
15 the Contracting Officer shall provide the basis of the estimate which shall include, but not be
16 limited to, a monthly pumping forecast for the O'Neill Pumping Plant, the projected carryover of
17 Project reservoirs, projected CVPLA impacts, projected Endangered Species Act, and all other
18 regulatory impacts.

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

1 to the Contractor during the upcoming Year pursuant to this interim renewal contract, and,
2 consistent with subdivision (a) of Article 3 herein.

3 (c) Subject to the conditions set forth in subdivision (a) of Article 3, the
4 United States shall deliver Project Water to the Contractor in accordance with the initial schedule
5 submitted by the Contractor pursuant to subdivision (b) of this Article, or any revision(s) thereto
6 submitted within a reasonable time prior to the date(s) on which the requested change(s) is/are to
7 be implemented.

8 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

9 5. (a) The Project Water to be furnished to the Contractor pursuant to this
10 interim renewal contract shall be made available to the Contractor at _____ and
11 any additional point or points of delivery either on Project facilities or another location or
12 locations mutually agreed to in writing by the Contracting Officer and the Contractor.

13 (b) [DISTRICT ISSUE] The Contracting Officer shall make all reasonable
14 efforts to maintain sufficient flows and levels of water in the _____ Canal to
15 furnish Project Water to the Contractor at the turnout(s) established as a delivery point(s)
16 pursuant to (a) of this Article.

17 (c) Irrigation Water furnished to the Contractor pursuant to this interim
18 renewal contract shall be delivered by the Contractor in accordance with any applicable land
19 classification provisions of Federal Reclamation law and the associated regulations. Project
20 Water shall not be delivered to land outside the Contractor's Service Area/boundaries unless
21 approved in advance by the Contracting Officer.

1 (d) All Project Water delivered to the Contractor pursuant to this interim
2 renewal contract shall be measured and recorded with equipment furnished, installed, operated,
3 and maintained by the United States or the responsible Operating Non-Federal Entity at the point
4 or points of delivery established pursuant to subdivision (a) of this Article. Upon the request of
5 either party to this interim renewal contract, the Contracting Officer shall investigate the
6 accuracy of such measurements and shall take any necessary steps to adjust any errors appearing
7 therein. The Contractor shall advise the Contracting Officer on or before the 10th calendar day
8 of each month of the quantity of M&I Water taken during the preceding month.

9 (e) Neither the United States nor any Operating Non-Federal Entity shall be
10 responsible for the control, carriage, handling, use, disposal, or distribution of Project Water
11 made available to the Contractor pursuant to this interim renewal contract beyond the delivery
12 points specified in subdivision (a) of this Article. The Contractor shall indemnify the United
13 States its officers, employees, agents, and assigns on account of damage or claim of damage of
14 any nature whatsoever for which there is legal responsibility, including property damage,
15 personal injury, or death arising out of or connected with the control, carriage, handling, use,
16 disposal, or distribution of such Project Water beyond such delivery points, except for any
17 damage or claim arising out of (i) acts performed by the United States or any of its officers,
18 employees, agents, or assigns, including any responsible Operating Non-Federal Entity, with the
19 intent of creating the situation resulting in any damage or claim, (ii) willful misconduct of the
20 United States or any of its officers, employees, agents, or assigns, including any responsible

1 Operating Non-Federal Entity, or (iii) negligence of the United States or any of its officers,
2 employees, agents, or assigns including any responsible Operating Non-Federal Entity.

3 MEASUREMENT OF WATER WITHIN THE DISTRICT

4 6. (a) [Contract Unique Issue] The Contractor shall ensure that, unless the
5 Contractor has established an alternative measurement program satisfactory to the Contracting
6 Officer, all surface water delivered for irrigation purposes within the Contractor's Service
7 Area/boundaries is measured at each agricultural turnout and such water delivered for municipal
8 and industrial purposes is measured at each municipal and industrial service connection. All
9 water measuring devices or water measuring methods of comparable effectiveness must be
10 acceptable to the Contracting Officer. The Contractor shall be responsible for installing,
11 operating, and maintaining and repairing all such measuring devices and implementing all such
12 water measuring methods at no cost to the United States. The Contractor shall use the
13 information obtained from such water measuring devices or water measuring methods to ensure
14 proper management of the water; to bill water users for water delivered by the Contractor; and, if
15 applicable, to record water delivered for municipal and industrial purposes by customer class as
16 defined in its water conservation plan. Nothing herein contained, however, shall preclude the
17 Contractor from establishing and collecting any charges, assessments, or other revenues
18 authorized by California law. The Contractor shall include a summary of its annual surface
19 water deliveries in the annual report described in subdivision (d) of Article 25.

20 (b) [Contract Unique Issue] To the extent the information has not otherwise
21 been provided, upon execution of this interim renewal contract, the Contractor shall provide to

1 the Contracting Officer a written report describing the measurement devices or water measuring
2 methods used or to be used to implement subdivision (a) of this Article and identifying the
3 agricultural turnouts and the municipal and industrial service connections or alternative
4 measurement programs approved by the Contracting Officer, at which such measurement devices
5 or water measuring methods are being used, and, if applicable, identifying the locations at which
6 such devices and/or methods are not yet being used including a time schedule for implementation
7 at such locations. The Contracting Officer shall advise the Contractor in writing within ninety
8 (90) days as to the adequacy of, and necessary modifications, if any, of the measuring devices or
9 water measuring methods identified in the Contractor's report and if the Contracting Officer does
10 not respond in such time, they shall be deemed adequate. Within six (6) months following the
11 Contracting Officer's response, the parties shall negotiate in good faith the earliest practicable
12 date by which the Contractor shall modify said measuring devices and/or measuring methods as
13 required by the Contracting Officer to ensure compliance with subdivision (a) of this Article.

14 (c) All new surface water delivery systems installed within the Contractor's
15 Service Area/boundaries after the effective date of this interim renewal contract shall also
16 comply with the measurement provisions described in subdivision (a) of this Article.

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

20 RATES AND METHOD OF PAYMENT FOR WATER

1 7. (a) The Contractor shall pay the United States in monthly payments as
2 provided in this Article for the quantities of Delivered Water furnished to the Contractor pursuant
3 to this interim renewal contract. Such payments shall consist of the applicable Rates and
4 Charges determined annually in accordance with applicable Federal law and associated
5 regulations. The Rates and Charges applicable upon execution of this interim renewal contract
6 are set forth in Exhibit "A."

7 (b) The Contracting Officer shall notify the Contractor of the Rates and
8 Charges as follows:

9 (1) Prior to July 1, of each Calendar Year, the Contracting Officer
10 shall provide the Contractor the preliminary calculation of the Charges that will be applied for
11 the period October 1 of the current Calendar Year, through September 30, of the following
12 Calendar Year, and identify the statutes, regulations and guidelines used as the basis for such
13 calculations. On or before September 15 of each Calendar Year, the Contracting Officer shall
14 notify the Contractor in writing of the Charges to be in effect during the period October 1 of the
15 current Calendar Year, through September 30 of the following Calendar Year, and such
16 notification shall revise Exhibit "A."

17 (2) Prior to October 1 of each Calendar Year, the Contracting Officer
18 shall make available to the Contractor an estimate of the Rates of payment for the following Year
19 and the computations and cost allocations upon which those Rates are based. The Contractor
20 shall be allowed not less than two months to review and comment on such computations and cost
21 allocations. By December 31 of each Calendar Year, the Contracting Officer shall provide the

1 Contractor with the final Rates to be in effect for the upcoming Year, and such notification shall
2 revise Exhibit "A."

3 (c) At the time the Contractor submits the initial schedule for the delivery of
4 Project Water for each Year pursuant to subdivision (b) of Article 4 of this interim renewal
5 contract, the Contractor shall pay the United States the total amount payable pursuant to the
6 applicable Rate(s) for all Project Water scheduled to be delivered pursuant to this interim
7 renewal contract during the first two (2) calendar months of the Year. Before the end of the first
8 month or part thereof of the Year, and before the end of each calendar month thereafter, the
9 Contractor shall pay pursuant to the applicable Rate(s) for all Project Water scheduled to be
10 delivered pursuant to this interim renewal contract during the second month immediately
11 following. Adjustments between the payments for the scheduled amount of Project Water and
12 the appropriate payments for quantities of Delivered Water furnished pursuant to this interim
13 renewal contract each month shall be made before the end of the following month: Provided,
14 That any revised schedule submitted by the Contractor pursuant to Article 4 which increases the
15 amount of Project Water to be delivered pursuant to this interim renewal contract during any
16 month shall be accompanied with appropriate payment for Rates to assure that Project Water is
17 not furnished to the Contractor in advance of such payment. In any month in which the quantity
18 of Delivered Water furnished to the Contractor pursuant to this interim renewal contract equals
19 the quantity of Project Water scheduled and paid for by the Contractor, no additional Project
20 Water shall be made available to the Contractor unless and until payment of Rates for such
21 additional Project Water is made. Final adjustment between the payments of Rates for the

1 Project Water scheduled and the quantities of Delivered Water furnished during each Year
2 pursuant to its contract shall be made as soon as possible but no later than April 30th of the
3 following Year.

4 (d) The Contractor shall pay all Charges owing for Delivered Water before the
5 end of the month following the month of delivery. Such amounts shall be consistent with the
6 quantities of Irrigation Water and M&I Water shown in the United States' water delivery report
7 for the subject month. The water delivery report shall be regarded by the Contractor as a bill for
8 the payment of appropriate Charges. Any monthly adjustment for overpayment or underpayment
9 of Charges shall be accomplished through the adjustment of Charges due to the United States in
10 the next month. By March 31, of each Year, the Contractor shall make any additional payment
11 of Charges it is obligated to make for Delivered Water furnished to the Contractor pursuant to its
12 contract for the previous Year. The amount to be paid for past due payment of Charges shall be
13 computed pursuant to Article 19 of this interim renewal contract.

14 (e) The Contractor shall pay for any Project Water provided under subdivision
15 (d) or (e) of Article 3 as determined by the Contracting Officer pursuant to applicable statutes,
16 regulations, guidelines, and policies.

17 (f) Payments to be made by the Contractor to the United States under this
18 interim renewal contract may be paid from any revenues available to the Contractor.

19 (g) Revenues received by the United States pursuant to this interim renewal
20 contract shall be allocated and applied in accordance with Federal Reclamation law, including
21 but not limited to, subsection 3 of Section 1 of the Act of July 2, 1956 (70 Stat. 483), and

1 subsection (f) of Section 3405, subsection (c)(1) of Section 3406 and subsection (d)(2)(A) of
2 Section 3407 of the CVPIA, and the associated regulations, including but not limited to, the
3 Project Irrigation Water ratesetting policy and the Project M&I ratesetting policy promulgated
4 pursuant to the Administrative Procedures Act.

5 (h) At the Contractor's request, the Contracting Officer shall provide to the
6 Contractor an accounting of all of the expenses allocated and the disposition of all revenues
7 received pursuant to this interim renewal contract in sufficient detail to allow the Contractor to
8 determine that the allocation of expenses and disposition of all revenues received was
9 accomplished in conformance with Federal Reclamation law and the associated regulations. The
10 Contracting Officer and the Contractor shall enter into good faith negotiations to resolve any
11 discrepancies or disputes arising out of said accounting of the Contractor's review thereof.

12 (i) The parties acknowledge and agree that the efficient administration of this
13 interim renewal contract is their mutual goal. Recognizing that experience has demonstrated that
14 mechanisms, policies, and procedures used for establishing Rates and Charges, and/or for
15 making and allocating payments, other than those set forth in this Article would be in the mutual
16 best interest of the parties, it is expressly agreed that the parties may enter into agreements for
17 alternative mechanisms, policies, and procedures for any of those purposes while this interim
18 renewal contract is in effect without amending this contract.

19 NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICITS

20 8. [Contract Unique Issue] The Contractor and the Contracting Officer have entered
21 into a written agreement specifying a mutually acceptable mechanism through which the

1 Contractor will retired its outstanding non-interest bearing operation and maintenance deficits.
2 [Alternative Language] The Contractor and the Contracting Officer concur that at the time of
3 execution of this interim renewal contract, the Contractor has no non-interest bearing operation
4 and maintenance deficits and shall have no further liability therefor.

5 TRANSFERS OR EXCHANGES OF WATER

6 9. The right to Project Water provided for in this interim renewal contract may be
7 sold, transferred, or exchanged to others for beneficial uses within the State of California if such
8 sale, transfer or exchange is authorized by applicable Federal laws, State laws, and applicable
9 guidelines or regulations then in effect. The right to sell, transfer, or exchange Project Water
10 shall include, and the Contracting Officer shall apply this Article in a manner that does not
11 impede or restrict, lawful short-term sales, transfers, or exchanges of the type the Contractor
12 historically carried out with approval of the Contracting Officer under Contract No.
13 _____ . No sale, transfer, or exchange of the right to Project Water under this
14 interim renewal contract may take place without the prior written approval of the Contracting
15 Officer.

16 APPLICATION OF PAYMENTS AND ADJUSTMENTS

17 10. (a) The amount of any overpayment by the Contractor shall be applied first to
18 any accrued indebtedness arising out of this interim renewal contract then due and payable by the
19 Contractor. Any amount of such overpayment then remaining shall, at the option of the
20 Contractor, be refunded to the Contractor or credited upon amounts to become due to the United
21 States from the Contractor under the provisions hereof in the following months. With respect to

1 overpayment, such adjustment shall constitute the sole remedy of the Contractor or anyone
2 having or claiming to have the right to the use of any of the water supply provided for herein.

3 (b) All advances for miscellaneous costs incurred for work requested by the
4 Contractor pursuant to Article 24 shall be adjusted to reflect the actual costs when the work has
5 been completed. If the advances exceed the actual costs incurred, the difference will be refunded
6 to the Contractor. If the actual costs exceed the Contractor's advances, the Contractor will be
7 billed for the additional costs pursuant to Article 24.

8 TEMPORARY REDUCTIONS--RETURN FLOWS

9 11. (a) Subject to: (i) the authorized purposes and priorities of the Project; and (ii)
10 the obligations of the United States under existing contracts, or renewals thereof, providing for
11 water deliveries from the Project, the Contracting Officer shall make all reasonable efforts to
12 optimize Project Water deliveries to the Contractor as provided in the contract.

13 (b) The United States may temporarily discontinue or reduce the quantity of
14 Project Water to be delivered to the Contractor as herein provided for the purposes of
15 investigation, inspection, maintenance, repair, or replacement of any of the Project facilities or
16 any part thereof necessary for the delivery of Project Water to the Contractor, but so far as
17 feasible the Contracting Officer will give the Contractor due notice in advance of such temporary
18 discontinuance or reduction, except in case of emergency, in which case no notice need be given:
19 Provided, That the United States shall use its best efforts to avoid any discontinuance or
20 reduction in such service. Upon resumption of service after such reduction or discontinuance,
21 and if requested by the Contractor, the United States will, if possible, deliver the quantity of

1 Project Water, which would have been delivered hereunder in the absence of such discontinuance
2 or reduction: Provided further, That with respect to any quantity of Project Water not delivered
3 after a discontinuance or reduction the Contractor shall be relieved of its scheduling and payment
4 obligations for such quantity of Project Water.

5 (c) The United States reserves the right to all seepage and return flow water
6 derived from water delivered to the Contractor hereunder which escapes or is discharged beyond
7 the Contractor's Service Area/boundaries: Provided, That this shall not be construed as claiming
8 for the United States any right to seepage or return flow being put to reasonable and beneficial
9 use pursuant to this interim renewal contract within the Contractor's Service Area/boundaries by
10 the Contractor or those claiming by, through, or under the Contractor.

11 WATER SHORTAGE AND APPORTIONMENT

12 12. (a) In its operation of the Project, the Contracting Officer will use all
13 reasonable means to guard against a condition of shortage in the quantity of water to be made
14 available to the Contractor pursuant to this contract. Insofar as determined by the Contracting
15 Officer to be practicable, the Contracting Officer will, in the event a shortage appears probable,
16 notify the Contractor of such determinations as soon as possible.

17 (b) If there is a reduction in the total water supply available to the Contractor
18 during any Year because of errors in physical operations of the Project, drought, other physical
19 causes beyond the control of the Contracting Officer or actions taken by the Contracting Officer
20 to meet legal obligations, no liability shall accrue against the United States or any of its officers,
21 agents, or employees for any damage, direct or indirect, arising therefrom, so long as actions

1 based upon the opinions or determinations of the Contracting Officer are consistent with the
2 standards in Article 18.

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

9 (d) [Divisional Issue].

10 UNAVOIDABLE GROUND-WATER PERCOLATION

11 13. The Contractor shall not be deemed to have furnished Irrigation Water to Excess
12 Lands or Ineligible Lands within the meaning of this interim renewal contract if such lands are
13 irrigated with ground water that reaches the underground strata as an unavoidable result of the
14 furnishing of Irrigation Water by the Contractor to Eligible Lands.

15 COMPLIANCE WITH FEDERAL RECLAMATION LAW

16 14. This interim renewal contract shall be implemented in accordance with all
17 applicable provisions of Federal Reclamation law, as amended and supplemented.

18 WATER AND AIR POLLUTION CONTROL

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

1 QUALITY OF WATER

2 16. (a) Project facilities used to make available and deliver Project Water to the
3 Contractor pursuant to this interim renewal contract shall be operated and maintained to enable
4 the United States to make available and deliver Project Water to the Contractor in accordance
5 with the water quality standards specified in subsection 2(b) of the Act of August 26, 1937 (50
6 Stat. 865), as added by Section 101 of the Act of October 27, 1986 (100 Stat. 3050), or other
7 existing Federal laws. The United States is under no obligation to construct or furnish water
8 treatment facilities to maintain or to better the quality of Project Water furnished to the
9 Contractor pursuant to this contract. The United States does not warrant the quality of Project
10 Water made available and delivered to the Contractor pursuant to this contract.

11 (b) The operation and maintenance of Project facilities shall be performed in
12 such manner as is practicable to maintain the quality of raw water made available through such
13 facilities at the highest level reasonably attainable as determined by the Contracting Officer. The
14 Contractor shall be responsible for compliance with all State and Federal water quality standards
15 applicable to surface and subsurface agricultural drainage discharges generated through the use
16 of Federal or Contractor facilities or Project Water provided by the Contractor within the
17 Contractor's Service Area/boundaries. This Article shall not affect or alter any legal obligations
18 of the Secretary to provide drainage services.

19 WATER ACQUIRED BY THE CONTRACTOR OTHER THAN
20 FROM THE UNITED STATES

1 17. Water or water rights now owned or hereafter acquired by the Contractor other
2 than from the United States and Irrigation Water furnished pursuant to the terms of this interim
3 renewal contract may be simultaneously transported through the same distribution facilities of
4 the Contractor subject to the following: (i) if the facilities utilized for commingling Irrigation
5 Water and non-Project water were constructed without funds made available pursuant to Federal
6 Reclamation law, the provisions of Federal Reclamation law will be applicable only to the
7 Landholders of lands which receive Irrigation Water; (ii) the eligibility of land to receive
8 Irrigation Water must be established through the certification requirements as specified in the
9 Acreage Limitation Rules and Regulations (43 CFR Part 426); (iii) the water requirements of
10 Eligible Lands within the Contractor's Service Area/boundaries can be established and the
11 quantity of Irrigation Water to be utilized is less than or equal to the quantity necessary to irrigate
12 such Eligible Lands; and (iv) if the facilities utilized for commingling Irrigation Water and non-
13 Project water are constructed with funds made available pursuant to Federal Reclamation law,
14 the non-Project water will be subject to Federal Reclamation law, until such funds have been
15 repaid.

16 OPINIONS AND DETERMINATIONS

17 18. (a) Where the terms of this interim renewal contract provide for actions to be
18 based upon the opinion or determination of either party to this contract, said terms shall not be
19 construed as permitting such action to be predicated upon arbitrary, capricious, or unreasonable
20 opinions or determinations. Both parties, notwithstanding any other provisions of this contract,
21 expressly reserve the right to seek relief from and appropriate adjustment, including monetary

1 damages, for any such arbitrary, capricious, or unreasonable opinion or determination. Each
2 opinion or determination by either party shall be provided in a timely manner.

3 (b) The Contracting Officer shall have the right to make determinations
4 necessary to administer this interim renewal contract that are consistent with the expressed and
5 implied provisions of this contract, the laws of the United States and the State of California, and
6 the rules and regulations promulgated by the Secretary of the Interior. Such determinations shall
7 be made in consultation with the Contractor to the extent reasonably practicable.

8 CHARGES FOR DELINQUENT PAYMENTS

9 19. (a) The Contractor shall be subject to interest, administrative, and penalty
10 charges on delinquent installments or payments. When a payment is not received by the due
11 date, the Contractor shall pay an interest charge for each day the payment is delinquent beyond
12 the due date. When a payment becomes 60 days delinquent, the Contractor shall pay an
13 administrative charge to cover additional costs of billing and processing the delinquent payment.
14 When a payment is delinquent 90 days or more, the Contractor shall pay an additional penalty
15 charge of 6 percent per year for each day the payment is delinquent beyond the due date.
16 Further, the Contractor shall pay any fees incurred for debt collection services associated with a
17 delinquent payment.

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

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

26 EQUAL OPPORTUNITY

27 20. During the performance of this contract, the Contractor agrees as follows:

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

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

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

21 (4) The Contractor will comply with all provisions of Executive Order
22 No. 11246 of September 24, 1965, as amended, and of the rules, regulations, and
23 relevant orders of the Secretary of Labor.

24 (5) The Contractor will furnish all information and reports required by said
25 amended Executive Order and by the rules, regulations, and orders of the Secretary of
26 Labor, or pursuant thereto, and will permit access to its books, records, and accounts by
27 the Contracting Officer and the Secretary of Labor for purposes of investigation to
28 ascertain compliance with such rules, regulations, and orders.

29 (6) In the event of the Contractor's noncompliance with the nondiscrimination
30 clauses of this contract or with any of the said rules, regulations, or orders, this contract
31 may be canceled, terminated, or suspended, in whole or in part, and the Contractor may
32 be declared ineligible for further Government contracts in accordance with procedures
33 authorized in said amended Executive Order, and such other sanctions may be imposed
34 and remedies invoked as provided in said Executive Order, or by rule, regulation, or order
35 of the Secretary of Labor, or as otherwise provided by law.

1 (7) The Contractor will include the provisions of paragraphs (1) through (7) in
2 every subcontract or purchase order unless exempted by the rules, regulations, or orders
3 of the Secretary of Labor issued pursuant to Section 204 of said amended Executive
4 Order, so that such provisions will be binding upon each subcontractor or vendor. The
5 Contractor will take such action with respect to any subcontract or purchase order as may
6 be directed by the Secretary of Labor as a means of enforcing such provisions, including
7 sanctions for noncompliance: Provided, however, That in the event the Contractor
8 becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a
9 result of such direction, the Contractor may request the United States to enter into such
10 litigation to protect the interests of the United States.

11 GENERAL OBLIGATION--BENEFITS
12 CONDITIONED UPON PAYMENT

13 21. (a) The obligation of the Contractor to pay the United States as provided in
14 this contract is a general obligation of the Contractor notwithstanding the manner in which the
15 obligation may be distributed among the Contractor's water users and notwithstanding the default
16 of individual water users in their obligations to the Contractor.

17 (b) The payment of charges becoming due hereunder is a condition precedent
18 to receiving benefits under this contract. The United States shall not make water available to the
19 Contractor through project facilities during any period in which the Contractor may be in arrears
20 in the advance payment of water rates due the United States. The Contractor shall not furnish
21 water made available pursuant to this contract for lands or parties which are in arrears in the
22 advance payment of water rates levied or established by the Contractor.

23 COMPLIANCE WITH CIVIL RIGHTS LAWS
24 AND REGULATIONS

25 22. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964
26 (42 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (P.L. 93-112, as amended), the
27 Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.) and any other applicable civil rights
28 laws, as well as with their respective implementing regulations and guidelines imposed by the
29 U.S. Department of the Interior and/or Bureau of Reclamation.

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

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

9 PRIVACY ACT COMPLIANCE

10 23. (a) The Contractor shall comply with the Privacy Act of 1974 (5 U.S.C. 552a)
11 (the Act) and the Department of the Interior rules and regulations under the Act (43 CFR 2.45 et
12 seq.) in maintaining landholder acreage certification and reporting records, required to be
13 submitted to the Contractor for compliance with Sections 206 and 228 of the Reclamation
14 Reform Act of 1982 (96 Stat. 1266), and pursuant to 43 CFR 426.10.

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

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

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

28 (e) The Contractor shall forward promptly to the System Manager each
29 proposed denial of access under 43 CFR 2.64; and each request for amendment of records filed
30 under 43 CFR 2.71; notify the requester accordingly of such referral; and provide the System
31 Manager with information and records necessary to prepare an appropriate response to the
32 requester. These requirements do not apply to individuals seeking access to their own
33 certification and reporting forms filed with the Contractor pursuant to 43 CFR 426.10, unless the
34 requester elects to cite the Privacy Act as a basis for the request.

35 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

1 (c) As part of the water conservation program, the Contractor shall develop
2 and be implementing a tiered block water pricing program that promotes conservation and the
3 efficient management of Project Water during the term of this contract. Such pricing program
4 for Project Water shall take into account all relevant circumstances, including without limitation,
5 water shortages imposed under this interim renewal contract and the availability and cost of the
6 Contractor's and individual water user's non-Project alternative sources of supply, including
7 ground water and other non-Project water supplies, so that the Contractor's pricing structure
8 provides incentives for conservation and the efficient management of overall water supply
9 available to water users served by the Contractor. Provided, That no such tiered block water
10 pricing program need be implemented by the Contractor if the Contracting Officer determines,
11 based on information provided by the Contractor, that (i) such a pricing structure will not result
12 in significant conservation of water available for use within the Contractor's service area,
13 including ground water or (ii) other pricing program, conservation or management measures are
14 more appropriate and/or will result in comparable or better conservation of the water supplies
15 available within the Contractor's boundaries. Provided further, If the Contractor fails to, or elects
16 not to, comply with this subdivision of Article 25, then any subsequent interim renewal contract
17 shall contain a tiered pricing contractual provision pursuant to subsection (d) of Section 3405 of
18 the CVPLA.

19 (d) The Contractor shall submit to the Contracting Officer by
20 December 31, of each Calendar Year, an annual report on the status of its implementation of the
21 water conservation program.

22 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

1 26. Except as specifically provided in Article 17 of this contract, the provisions of this
2 interim renewal contract shall not be applicable to or affect water or water rights now owned or
3 hereafter acquired by the Contractor or any user of such water within the Contractor's Service
4 Area/boundaries from other than the United States by the Contractor. Any such water shall not
5 be considered Project Water under this contract. In addition, this interim renewal contract shall
6 not be construed as limiting or curtailing any rights which the Contractor or any water user
7 within the Contractor's Service Area/boundaries acquires or has available under any other
8 contract pursuant to the Federal Reclamation law.

9 OPERATION AND MAINTENANCE BY NON-FEDERAL ENTITY

10 27.. [DIVISIONAL ISSUE] (a) The responsibility for performing and, in some cases
11 funding the operation and/or maintenance (O&M) of all or any portion or portions of the
12 [division] facilities may be transferred to an Operating-Non-Federal Entity by one or more
13 separate agreements between the United States and the Operating Non-Federal Entity. Any such
14 agreements shall require the Operating Non-Federal Entity to perform the O&M in compliance
15 with the provisions of this Contract and shall not interfere with the rights and obligations of the
16 Contractor or the United States hereunder.

17 (b) If so notified in writing by the Contracting Officer, the Contractor shall
18 pay directly to such Operating Non-Federal Entity in accordance with such notice, (1) that
19 portion of the Rate (s) to be paid the United States pursuant to this Contract which the
20 Contracting Officer determines is the Contractor's appropriate share of the costs of the O&M of
21 the [division] facilities transferred to the Operating Non-Federal Entity for O&M; and (2) all
22 appropriate additional amounts charged or assessed by the Operating Non-Federal Entity for the
23 O&M of the [division] facilities. Such direct payments to such Operating Non-Federal Entity

1 shall not relieve the Contractor of its obligation to pay directly to the United States its allocated
2 share of the remaining costs for the O&M of the Project.

3 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

4 28. The expenditure or advance of any money or the performance of any obligation of
5 the United States under this contract shall be contingent upon appropriation or allotment of
6 funds. Absence of appropriation or allotment of funds shall not relieve the Contractor from any
7 obligations under this contract. No liability shall accrue to the United States in case funds are
8 not appropriated or allotted.

9 BOOKS, RECORDS, AND REPORTS

10 29. The Contractor shall establish and maintain accounts and other books and records
11 pertaining to administration of the terms and conditions of this contract, including: the
12 Contractor's financial transactions, water supply data, and Project land and right-of-way
13 agreements; the water users' land-use (crop census), landownership, land-leasing and water use
14 data; and other matters that the Contracting Officer may require. Reports thereon shall be
15 furnished to the Contracting Officer in such form and on such date or dates as the Contracting
16 Officer may require. Subject to applicable Federal laws and regulations, each party to this
17 contract shall have the right during office hours to examine and make copies of the other party's
18 books and records relating to matters covered by this contract.

19 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

20 30. (a) The provisions of this contract shall apply to and bind the successors and
21 assigns of the parties hereto, but no assignment or transfer of this contract or any right or interest
22 therein shall be valid until approved in writing by the Contracting Officer.

23 (b) The assignment of any right or interest in this interim renewal contract by
24 either party shall not interfere with the rights or obligations of the other party to this interim
25 renewal contract absent the written concurrence of said other party.

26 SEVERABILITY

27 31. In the event that a person or entity who is neither (i) a party to a Project interim
28 renewal contract, nor (ii) a person or entity that receives Project Water from a party to a Project
29 interim renewal contract, nor (iii) an association or other form of organization whose primary
30 function is to represent parties to Project interim renewal contracts, brings an action in a court of

1 competent jurisdiction challenging the legality or enforceability of a provision included in this
2 interim renewal contract and said person, entity, association, or organization obtains a final court
3 decision holding that such provision is legally invalid or unenforceable and the Contractor has
4 not intervened in that lawsuit in support of the plaintiff(s), the parties to this interim renewal
5 contract shall use their best efforts to (i) within thirty (30) days of the date of such final court
6 decision identify by mutual agreement the provisions in this interim renewal contract which must
7 be revised, and (ii) within three (3) months thereafter promptly agree on the appropriate
8 revision(s). The time periods specified above may be extended by mutual agreement of the
9 parties. Pending the completion of the actions designated above, to the extent it can do so
10 without violating any applicable provisions of law, the United States shall continue to make the
11 quantities of Project Water specified in this interim renewal contract available to the Contractor
12 pursuant to the provisions of this interim renewal contract, which were not found to be legally
13 invalid or unenforceable in the final court decision.

14 OFFICIALS NOT TO BENEFIT

15 32. No Member of or Delegate to Congress, Resident Commissioner, or official of the
16 Contractor shall benefit from this contract other than as a water user or landowner in the same
17 manner as other water users or landowners.

18 CHANGES IN CONTRACTOR'S BOUNDARIES

19 33. While this contract is in effect, no change may be made in the Contractor's
20 boundaries, by inclusion or exclusion of lands, dissolution, consolidation, merger or otherwise,
21 except upon the Contracting Officer's written consent.

22 NOTICES

23 34. Any notice, demand, or request authorized or required by this contract shall be
24 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or
25 delivered to the Area Manager _____, and on
26 behalf of the United States, when mailed, postage prepaid, or delivered to the Board of Directors
27 of the _____. The designation of the addressee or the address may
28 be changed by notice given in the same manner as provided in this Article for other notices.

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IN WITNESS WHEREOF, the parties hereto have executed this interim renewal contract as of the day and year first above written.

THE UNITED STATES OF AMERICA

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

(SEAL)

NAME OF DISTRICT/ENTITY

By: _____
President

Attest:

Secretary

APPENDIX B(2)

EXISTING

INTERIM RENEWAL CONTRACT SAMPLE

used for six contractors in the Delta-Mendota Canal Unit
(Coelho Family Trust, Fresno Slough WD, James ID, RD 1606,
Tranquillity ID, and Tranquillity PUD)

Contract No. _____

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

INTERIM RENEWAL CONTRACT BETWEEN THE UNITED STATES
AND
NAME OF ENTITY/DISTRICT
PROVIDING FOR PROJECT WATER SERVICE

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

WITNESSETH, That:

EXPLANATORY RECITALS

WHEREAS, the United States and the Contractor entered into an interim renewal
contract identified as Contract No. _____-IR1, from _____ (insert beginning date,
e.g., December 23, 2003) through February 29, 2004, hereinafter referred to as the Existing

29 Interim Renewal Contract, which provided for the continued water service to the Contractor
30 following expiration of Contract No _____ (insert original contract number);

31 WHEREAS, the United States and the Contractor have made significant progress in
32 their negotiations of a long-term renewal contract, believe that further negotiations on the long-term
33 renewal contract would be beneficial, and mutually commit to continue to negotiate to seek to reach
34 agreement, but anticipate that the environmental documentation necessary for execution of any long-
35 term renewal contract will be delayed at least an additional 7 months, and may be delayed further for
36 reasons beyond the control of the parties; and

37 WHEREAS, the Contractor has requested a subsequent interim renewal contract
38 pursuant to Subdivision (b) of Article 2 of the Existing Interim Renewal Contract; and

39 WHEREAS, the United States has determined that the Contractor has to date fulfilled
40 all of its obligations under the Existing Interim Renewal Contract; and

41 WHEREAS, the United States is willing to renew the Existing Interim Renewal
42 Contract pursuant to the terms and conditions set forth below;

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

45 INCORPORATION AND REVISION OF EXISTING INTERIM RENEWAL CONTRACT

46 1. The terms and conditions of the Existing Interim Renewal Contract are hereby
47 incorporated by reference into this Contract with the same force and effect as if they were included
48 in full text with the exception of Article 2 thereof, which is revised as follows:

49 (a) The first sentence in Subdivision (a) of Article 2 of the Existing
50 Interim Renewal Contract is modified as follows: "This interim renewal contract shall be effective
51 from March 1, 2004, and shall remain in effect through February 28, 2006, and thereafter will be
52 renewed as described in Subdivision (a) of Article 2 of the Existing Interim Renewal Contract

53 if a long-term renewal contract has not been executed with an effective commencement date of
54 March 1, 2006; Provided, that if a long-term renewal contract has been executed with an effective
55 commencement date of March 1, 2005, this interim renewal contract shall expire on February 28,
56 2005.”

57 (b) Subdivision (b) of Article 2 of the Existing Interim Renewal Contract is
58 amended by deleting the date “February 15, 2004,” and replacing same with the date
59 “February 15, 2006.”

60 (c) Subdivision (c) of Article 2 of the Existing Interim Renewal Contract is
61 amended by deleting the dates “February 1, 2004,” “February 15, 2004,” and “February 29, 2004,”
62 and replacing same with the dates “February 1, 2006,” “February 15, 2006,” and “February 28,
63 2006,” respectively.

64 IN WITNESS WHEREOF, the parties hereto have executed this interim renewal
65 contract as of the day and year first above written.

66 THE UNITED STATES OF AMERICA

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

70 (SEAL) NAME OF ENTITY/DISTRICT

71 By: _____
72 President

73 Attest:

74 _____
75 Secretary

76 (I:\Interim Renewal Contracts - Drafts, charts, etc.\12 Month IRC 2004 (3-1-04 - 2-28-05).doc)