APPENDIX A

Table A-1 Summary of Current and Draft Water Service Contract Provisions

(9 pages)

11/2004 Draft Long Term Renewal Contract Between United States and CCWD

(60 pages)

Table A-1. Summary of Contract Provisions for the CCWD Proposed Long Term Water Service Contract, Contra Costa County, California (from North State Resources, Inc., May 2004)

Provision	Existing Amendatory Contract (1994 – 2010)	Federal Action Proposed Long-Term Water Service Contract Renewal	Effects Analysis
Explanatory Recitals			
	Assumes the U.S. is operating the CVP for beneficial uses.	Same as Existing Contract.	**No effect; explanatory recitals are not operative provisions.**
	Assumes the CCWD is developing a Los Vaqueros Project to assist the CCWD in providing high quality water to its customers and to increase water supply reliability.	Same as Existing Contract. Language modified to indicate Los Vaqueros Project has been constructed.	**No effect; explanatory recitals are not operative provisions.**
Explanatory Recitals			
	Assumes CCWD and the U.S. must agree on how the Los Vaqueros Project will be utilized with CVP water and facilities.	Same as Existing Contract.	**No effect; explanatory recitals are not operative provisions.**
	No similar recital.	Assumes the rights to CVP water were acquired by the U.S.	**No effect; explanatory recitals are not operative provisions.**
	No similar recital.	Assumes the Amendatory Contract exists.	**No effect; explanatory recitals are not operative provisions.**
	No similar recital.	Assumes that the CCWD is required to operate and maintain the Contra Costa Canal System and Contra Loma Dam and reservoir.	**No effect; explanatory recitals are not operative provisions.**
	No similar recital.	Assumes the U.S. and CCWD have a binding agreement (No. I75r-3401-BA) and supplemental agreement (No. I75r-3401-SA) that set out terms for renewing the existing contract before it expires, and to complete necessary environmental documentation and negotiation of a renewal contract.	**No effect; explanatory recitals are not operative provisions.**
	No similar recital.	Provides for long-term renewal of the Existing Contract following completion of appropriate environmental documentation, including PEIS for CVPIA implementation and all CVP long-term contracts renewal. Also recognizes partial assignment of the contract to a 3rd party or acquisition of CVP water through assignments, if covered under this contract.	**No effect; explanatory recitals are not operative provisions.**
	No similar recital.	Assumes PEIS and other environmental review is complete.	**No effect; explanatory recitals are not operative provisions.**
	No similar recital.	Assumes CCWD requested the renewal of the Existing Contract, pursuant to existing laws and contract terms.	**No effect; explanatory recitals are not operative provisions.**

Table A-1. Summary of Contract Provisions for the CCWD Proposed Long Term Water Service Contract, Contra Costa County, California (from North State Resources, Inc., May 2004)

Provision	Existing Amendatory Contract (1994 – 2010)	Federal Action Proposed Long-Term Water Service Contract Renewal	Effects Analysis
	No similar recital.	Assumes CCWD has fulfilled all of its obligations under the Existing Contract; and the CCWD has utilized CVP water for reasonable and beneficial use.	**No effect; explanatory recitals are not operative provisions.**
	No similar recital.	Assumes CVP water is an essential portion of the CCWD water supply; and that the CCWD service area depends on the continued availability of CVP water.	**No effect; explanatory recitals are not operative provisions.**
	No similar recital.	Assumes the Secretary intends to pursue ways to improve water supply, quality, and reliability.	**No effect; explanatory recitals are not operative provisions.**
Explanatory Recitals			
	No similar recital.	Assumes mutual goals of U.S. and CCWD relating to water reliability, costs, repayment, shortage prevention, and balance among demands; and that a cooperative relationship among parties will be developed to achieve goals.	**No effect; explanatory recitals are not operative provisions.**
	Assumes annual adjustment in Rates to be paid for CVP water by CCWD.	No similar recital.	**No effect; explanatory recitals are not operative provisions.**
Definitions			
"Calendar Year"	No similar definition.	The period January 1 through December 31.	**No effect; see operative provisions.**
"Charges"	Payments in addition to the Rates determined by the Contracting Officer each year.	Rewording of definition of Charges to include both Rates and Tiered Pricing Increments.	**No effect; see operative provisions.**
"Condition of Shortage"	No similar definition.	Project condition such that in any Year, the Contracting Officer is unable to deliver sufficient water to meet the Contract Total.	**No effect; see operative provisions.**
"Contra Costa Canal System"	Contra Costa Canal, including the intake channel from Rock Slough, Clayton and Ygnacio Relift Canals and pumping plants, the Martinez Reservoir and Pumping Plants 1, 2, 3, and 4.	Same as Existing Contract but also adds "and such facilities as may be authorized by Congress from time to time for rehabilitation or replacement thereof."	**No effect; see operative provisions.**
"Contra Loma Dam and Reservoir"	The Dam, pumping plant, and reservoir constructed as an addition to the Contra Costa Canal System.	Same as Existing Contract.	**No effect; see operative provisions.**
"Contract Total"	No similar definition.	Maximum amount of water to which the CCWD is entitled.	**No effect; see operative provisions.**

Table A-1. Summary of Contract Provisions for the CCWD Proposed Long Term Water Service Contract, Contra Costa County, California (from North State Resources, Inc., May 2004)

Provision	Existing Amendatory Contract (1994 – 2010)	Federal Action Proposed Long-Term Water Service Contract Renewal	Effects Analysis
"CVP water" (Existing Contract) or "Project Water" (Proposed Contract)	Water appropriated by the U.S. for the operation of the CVP, in addition to and not including the Los Vaqueros water rights water.	All water developed, diverted, stored, or delivered by the Secretary in accordance with the statutes authorizing the Project and with the terms and conditions of water rights and California Law.	**No effect; see operative provisions.**
"CVP" (Existing Contract) or "Project" (Proposed Contract)	Central Valley Project, California, of the Bureau of Reclamation.	The Central Valley Project owned by the U.S. and managed by the Department of the Interior, Bureau of Reclamation.	**No effect; see operative provisions.**
"CVPIA"	No similar definition.	Central Valley Project Improvement Act, Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706).	**No effect; see operative provisions.**
"District Service Area"	The area to which CCWD provides continuing service.	The area to which the Contractor is permitted to provide Project Water under the Contract.	**No effect; see operative provisions.**
Definitions			
"Full Cost Rate"	No similar definition.	Annual rate, as determined by the Contracting Officer, that shall include expenditures for construction allocable to Project irrigation or M&I functions, of facilities in service, less payments; defines how interest will be calculated on costs outstanding; Full Cost Rate includes actual operation, maintenance, and replacement costs.	**__Financial Effect** **_☒_Administrative Effect** **_☒_No Effect/__ Effect on Listed Species** **Minor administrative change only.**
"Lateral Distribution System"	The water conveyance system constructed by the U.S., consisting of pipelines extending service to CCWD water users from the Contra Costal Canal at Milepost 5.3, 6.2, 7.1, 7.3, 9.1, 14.0, 25.6, 36.6, and Y-2-6.	Same as Existing Contract.	**No effect; see operative provisions.**
"Los Vaqueros water rights water"	Water appropriated pursuant to State Water Rights Application #20245.	Same as Existing Contract.	**No effect; see operative provisions.**
"Los Vaqueros"	The Los Vaqueros Project, consisting of a storage reservoir and associated facilities to be constructed by CCWD on property owned by the CCWD, to store and convey Los Vaqueros water rights water and CVP water, as well as additional water that CCWD may acquire.	Substantially the same as Existing Contract. Language has been added to indicate Los Vaqueros has been constructed.	**No effect; see operative provisions.**

Table A-1. Summary of Contract Provisions for the CCWD Proposed Long Term Water Service Contract, Contra Costa County, California (from North State Resources, Inc., May 2004)

Provision	Existing Amendatory Contract (1994 – 2010)	Federal Action Proposed Long-Term Water Service Contract Renewal	Effects Analysis
"M&I Full Cost Water Rate"	No Similar Definition.	Full Cost Rate applicable to the delivery of M&I water.	**No effect; see operative provisions.**
"M&I Supplemental Charge"	A charge in addition to the cost of service rate, to be applied to the repayment of the CCWD's allocated share of CVP capital costs by the Contracting Officer.	Same as Existing Contract.	**No effect; see operative provisions.**
Definitions			
"New Facilities"	Short Cut Pipeline located between Contra Costa Canal Milepost 25.70 and Milepost 47.77 and the Pump Units in Pumping Plant 1, 2, 3, and 4 of the Contra Costa Canal System. "Short Cut Pipeline" is the Contra Costa Canal intake, pipeline, pipeline appurtenances, Martinez Reservoir inlet; and "Pump Units" are the pump, motor, motor controls, wiring, structural supports and discharge control apparatus for pumping 100 cubic feet per second (cfs) of water.	Same as Existing Contract.	**No effect; see operative provisions.**
"O&M"	Normal and reasonable care, control, operation, repair, replacement, and maintenance.	Same as Existing Contract.	**No effect; see operative provisions.**
"Project Contractors"	No similar definition.	All parties who have water service contracts for Project Water with the U.S., pursuant to Reclamation law.	**No effect; see operative provisions.**
"Project Works"	The following facilities, as described above: Contra Costa Canal System, Contra Loma Dam and Reservoir, New Facilities, and Lateral Distribution System.	Same as Existing Contract.	**No effect; see operative provisions.**
"Rates"	Payments determined annually by the Contracting Officer in accordance with the then current ratesetting policies for the CVP.	Same as Existing Contract.	**No effect; see operative provisions.**
"Recent Historic Average"	No similar definition.	Most recent 5-year average of the final forecast of Water Made Available to the CCWD pursuant to this or preceding contracts.	**No effect; see operative provisions.**

Table A-1. Summary of Contract Provisions for the CCWD Proposed Long Term Water Service Contract, Contra Costa County, California (from North State Resources, Inc., May 2004)

Provision	Existing Amendatory Contract (1994 – 2010)	Federal Action Proposed Long-Term Water Service Contract Renewal	Effects Analysis
"Secretary" or "Contracting Officer"	The Secretary of the Interior or a duly authorized representative.	Same as Existing Contract, but also adds "or a duly appointed successor".	**__Financial Effect** **__Administrative Effect** **_☒_No Effect/__ Effect on Listed Species** **No substantive change.**
Definitions			
"Tiered Pricing Component"	No similar definition.	Incremental amount to be paid for each AF of Water Delivered as described under "Full Cost Rate."	**_☒_Financial Effect** **_☒_Administrative Effect** **__No Effect/_☒_ Effect on Listed Species** **Changes in pricing could result in indirect effects to listed species as a result of subsequent changes in land use.**
"Water Delivered" or "Delivered Water"	No similar definition.	Project Water diverted for use by CCWD at points of delivery approved by the Contracting Officer.	**No effect; see operative provisions.**
"water for irrigation use," or "irrigation water"	Water made available from the CVP that is used primarily in the production of agricultural crops or livestock, including domestic use incidental thereto, and the watering of livestock.	No similar definition.	**No effect. Irrigation water use is not being eliminated, only the type of water is changing.**
"water for M&I use," or "M&I Water"	Water made available from the CVP other than irrigation water. Includes water used for domestic uses/purposes such as watering of landscaping or pasture for animals (e.g., horses) kept for personal use. Assumes use of water delivered to land in units less than or equal to 2 acres to be M&I use, unless CCWD convinces the Contracting Officer that use is for irrigation.	Substantially same as Existing Contract, with the following exception: Assumes use of water delivered to land in units less than or equal to 5 acres to be M&I use.	**_☒_Financial Effect** **_☒_Administrative Effect** **__No Effect/_☒_ Effect on Listed Species** **Eliminating irrigation water to parcels from 2 to 5 acres in size could result in indirect effects to listed species as a result of subsequent changes in land use if irrigated lands are taken out of production and converted to urban use.**
"Water Made Available"	No similar definition.	Estimated amount of Project Water that can be delivered to CCWD for the upcoming Year.	**No effect; see operative provisions.**
"Water Scheduled"	No similar definition.	Project Water made available to CCWD for which times and quantities for delivery have been established by CCWD and the Contracting Officer.	**No effect; see operative provisions.**
"Year"	Period of time from and including March 1 of each calendar year through the last day of February of the following calendar year.	Same as Existing Contract.	**No effect; see operative provisions.**

Table A-1. Summary of Contract Provisions for the CCWD Proposed Long Term Water Service Contract, Contra Costa County, California (from North State Resources, Inc., May 2004)

Provision	Existing Amendatory Contract (1994 – 2010)	Federal Action Proposed Long-Term Water Service Contract Renewal	Effects Analysis
Term of Contract – Right to Use of Water	Contract expires on December 31, 2010. Provides for successive renewals, for periods not exceeding 25 years each, under specified conditions.	Assumes that the dates of the Contract shall be determined. Sets forth renewal standards and deadlines. 25-year renewal term for Irrigation Water; 40-year renewal term for M&I Water. Sets forth conditions for renewal, including establishing a water conservation plan and compliance with terms and conditions of the contract. Sets forth conditions for conversion of contract portions to a contract under the Reclamation Project Act of 1939.	**_☒_Financial Effect** **_☒_Administrative Effect** **__No Effect/_☒_ Effect on Listed Species** **Because the contract term would be increased from 25 to 40 years, less frequent renewals will be required. Less frequent scrutiny for ESA compliance could indirectly affect listed species.**
Water to be Made Available and Delivered to the District	The CCWD is entitled to, and the Contracting Officer shall make available to the CCWD, up to 195,000 AF of CVP water during any Year. Assumes unused CVP water will be put to reasonable beneficial use for CVP purposes, in accordance with applicable state water rights permits and licenses, and the CCWD will operate Los Vaqueros in accordance with applicable state water rights permits and licenses.	Substantially same as Existing Contract, with the following additions: Specifies that 195,000 AF of CVP water will be for M&I purposes. Assumes the Contract Total will not be available to the CCWD in many years. Allows groundwater recharge and banking, surface water storage, and similar programs, subject to certain provisions and approval by the Contracting Officer. Assumes CCWD will comply with relevant Biological Opinions. Provides methods for Contracting Officer to allocate water among Contractors, to approve "pre-use," to approve other purposes of use. Contracting Officer is to make efforts to protect Project water rights and to provide the water made available.	**_☒_Financial Effect** **_☒_Administrative Effect** **__No Effect/_☒_ Effect on Listed Species** **Eliminating irrigation water delivered to CCWD service area could indirectly affect listed species due to subsequent land use changes if irrigated lands are taken out of production and converted to urban use.**
Time for Delivery of Water	Describes methods for delivering CVP water. The CCWD will submit annual written schedules to the Contracting Officer that show the times, quantities, and points of delivery of CVP water, forecasts of Los Vaqueros operations, and forecasts of the conveyance and use of non-CVP water. The U.S. will provide annual forecasts of CVP operations to the CCWD.	Substantially same as Existing Contract.	**__Financial Effect** **__Administrative Effect** **_☒_No Effect/__ Effect on Listed Species** **No substantive change.**

Table A-1. Summary of Contract Provisions for the CCWD Proposed Long Term Water Service Contract, Contra Costa County, California (from North State Resources, Inc., May 2004)

Provision	Existing Amendatory Contract (1994 – 2010)	Federal Action Proposed Long-Term Water Service Contract Renewal	Effects Analysis
Points of Delivery and/or Diversion – Measurement – and Responsibility for Distribution of Water	Describes points of delivery and/or diversion of CVP water and Los Vaqueros water rights water in the CCWD, given certain provisions. The U.S. shall not be held responsible for certain activities, as set forth. Describes methods of and locations for installing water measuring and recording devices in the CCWD, and provisions for adjustments and repairs for such devices.	Substantially same as Existing Contract, and adds that CCWD shall not deliver Project Water to land outside the Service Area without written approval from the Contracting Officer.	**__Financial Effect** **_☒_Administrative Effect** **_☒_No Effect/__ Effect on Listed Species** **Minor administrative change only.**
Measurement for the Conservation of Water	States that CCWD will measure water delivered for irrigation purposes at each agricultural turnout, and will measure water delivered for M&I purposes at each M&I service connection. Describes purposes of use of measurement data obtained, and provides for annual summary of deliveries to be provided to the Contracting Officer.	Substantially same as Existing Contract, but omits references to 'water for irrigation purposes at each agricultural turnout.'	**_☒_Financial Effect** **_☒_Administrative Effect** **_☒_No Effect/__ Effect on Listed Species** **Measurement of the water will not have an impact on threatened and endangered species.**
Rate and Method of Payment for Water	Assumes payment of cost-of-service rates pursuant to rate-setting policy; payment of rates for first two months of scheduled deliveries with submission of delivery schedule each year; payment before end of month for next succeeding month's deliveries thereafter; assumes payment for charges before end of month following delivery. No provision for tiered pricing.	Assumes payment of rates and charges substantially same as Existing Contract; assumes obligation to pay tiered pricing on same schedule as charges; tiered pricing applies to deliveries over 80% of Contract Total; separate rates apply to deliveries over 80% and deliveries over 90% of the contract total. Specifies that Project Water and Los Vaqueros water rights water shall be considered M&I Water. Tiered pricing does not apply to Los Vaqueros water rights water.	**_☒_Financial Effect** **_☒_Administrative Effect** **__No Effect/_☒_ Effect on Listed Species** **Changes in the pricing of CVP water could indirectly affect listed species in the CCWD service area through subsequent changes in land use.**
Repayment of Project Works	Assumes costs and rates of interest for project works (Contra Costa Canal System; New Facilities; Contra Loma Dam and Reservoir; lateral distribution system); establishes annual payment schedule, under certain provisions.	Assumes same as Existing Contract.	**__Financial Effect** **__Administrative Effect** **_☒_No Effect/__ Effect on Listed Species** **No substantive change.**
Non-Interest Bearing Operation and Maintenance Deficits	No similar provision.	Assumes the CCWD has no non-interest bearing O&M deficits and therefore no liability.	**__Financial Effect** **__Administrative Effect** **_☒_No Effect/__ Effect on Listed Species** **No substantive change.**

Table A-1. Summary of Contract Provisions for the CCWD Proposed Long Term Water Service Contract, Contra Costa County, California (from North State Resources, Inc., May 2004)

Provision	Existing Amendatory Contract (1994 – 2010)	Federal Action Proposed Long-Term Water Service Contract Renewal	Effects Analysis
Sales, Transfers, or Exchanges of Water	Assumes sales, transfers or exchanges with others in accordance with federal and state laws, guidelines and regulations, with prior written approval of Contracting Officer.	Substantially same as Existing Contract; makes express required environmental documentation; assumes Contracting Officer to facilitate historic transfers by providing environmental documentation; establishes rules for qualifying water transfers.	**__Financial Effect** **_☒_Administrative Effect** **__No Effect/_☒_ Effect on Listed Species** **Potential beneficial effect to listed species because of the express requirement for environmental documentation.**
CVP Use Power (Existing Contract) or Project Use Power (Proposed Contract)	Assumes the U.S. will furnish the CCWD with appropriate CVP use power to operate necessary facilities for conveying CVP or Los Vaqueros water rights water, and that the U.S. can request the CCWD utilize particular points of diversion, subject to agreement and certain provisions.	Same as Existing Contract.	**__Financial Effect** **__Administrative Effect** **_☒_No Effect/__ Effect on Listed Species** **No substantive change.**
Adjustments (Existing Contract) or Application of Payment and Adjustments (Proposed Contract)	Assumes refund of overpayment after satisfaction of any accrued indebtedness upon contractor request.	Same as Existing Contract, with minor changes associated with methods described for overpayment including requirement for $1,000 or greater overpayment for refund.	**_☒_Financial Effect** **_☒_Administrative Effect** **_☒_No Effect/__ Effect on Listed Species** **Minor financial/administrative change only.**
Temporary Reduction – Return Flows	Assumes the U.S. reserves right to return-flows, seepage, and waste that escapes or is discharged beyond contractor boundaries; assumes temporary reductions for operation, maintenance, and rehabilitation of facilities; makes express existing obligation of the U.S. to make CVP water available.	Same as Existing Contract, except that references Contracting Officer as CVP operator, in lieu of United States; excludes non-Project water acquired by CCWD from carriage water costs.	**_☒_Financial Effect** **_☒_Administrative Effect** **_☒_No Effect/__ Effect on Listed Species** **Minor financial/administrative change only.**
Water Shortage and Apportionment (Existing Contract) or Constraints on the Availability of Water (Proposed Contract)	Assumes obligation of the U.S. to make full supplies of CVP water available; no liability of the U.S. for shortages from specified causes; provides mechanism for apportionment of shortages among existing contractors; no reduction to M&I water unless and until reductions also imposed on irrigation users to prevent undue hardship; defines quantities of CVP water that can legally be withheld from CCWD under regulatory restriction, under water shortage, and under water shortage emergency scenarios.	Assumes obligation of the Contracting Officer to utilize all reasonable means to guard against a condition of shortage; no liability of the U.S. for shortages from specified causes; if shortage occurs, Project Water will be allocated in accordance with the existing Project M&I Water Shortage Policy. CCWD has proposed to maintain the shortage provisions from the Existing Contract.	**__Financial Effect** **_☒_Administrative Effect** **_☒_No Effect/__ Effect on Listed Species** **Minor administrative change only**.

Table A-1. Summary of Contract Provisions for the CCWD Proposed Long Term Water Service Contract, Contra Costa County, California (from North State Resources, Inc., May 2004)

Provision	Existing Amendatory Contract (1994 – 2010)	Federal Action Proposed Long-Term Water Service Contract Renewal	Effects Analysis
Existing or Acquired Water or Water Rights	Assumes contract provisions not applicable to non-CVP water or water rights, except as specifically provided.	Same as Existing Contract.	**__Financial Effect** **__Administrative Effect** **_☒_No Effect/__ Effect on Listed Species** **No substantive change.**
Quality of Water	Assumes operation and maintenance of CVP facilities to enable the U.S. to deliver water in accordance with existing statutory quality standards; no warranty of quality; U.S. not under obligation to furnish water treatment facilities to better the quality of CVP water; no warranty of quality.	Substantially same as Existing Contract, with the following additional provision: O&M of Project Facilities will be performed in such a manner as to maintain the quality of raw water.	**__Financial Effect** **_☒_Administrative Effect** **__No Effect/_☒_ Effect on Listed Species** **Potential beneficial effect on listed species if water quality improves or is maintained.**
Water and Air Pollution Control	Assumes that CVP will operate in accordance with all applicable water and air pollution laws and regulations and obtain all required permits or licenses.	Same as Existing Contract.	**__Financial Effect** **__Administrative Effect** **_☒_No Effect/__ Effect on Listed Species** **No substantive change.**
Operation and Maintenance of Project Works (Existing Contract) or Operation and Maintenance of the Project Works by the Contractor (Proposed Contract)	Assumes the CCWD will operate and maintain facilities at their cost, in compliance with Reclamation laws and contract terms; Contracting Officer may periodically review Project Works O&M to assess facilities; if O&M on all or any part of Project Works is insufficient, the U.S. may take back possession and the O&M of said Work(s) at the CCWD's expense; changes to existing Project Works requires prior written consent of Contracting Officer.	Substantially the same as the Existing Contract.	**__Financial Effect** **__Administrative Effect** **_☒_No Effect/__ Effect on Listed Species** **No effect.**
Conveyance of Non-CVP Water (Existing Contract) or Water Acquired by the Contractor Other Than From the United States (Proposed Contract)	Assumes the CCWD may use Project Works to convey non-CVP water, under certain conditions.	Similar to Existing Contract, but applicable conditions differ. Assumes that water or water rights now owned or later acquired by CCWD other than from the U.S. may be stored, conveyed, and/or diverted through Project facilities, subject to environmental documentation, with Contracting Officer's approval, if certain conditions are met. This does not apply to Los Vaqueros water rights water.	**_☒_Financial Effect** **_☒_Administrative Effect** **_☒_No Effect/__ Effect on Listed Species** **Minor financial/administrative change only.**

Table A-1. Summary of Contract Provisions for the CCWD Proposed Long Term Water Service Contract, Contra Costa County, California (from North State Resources, Inc., May 2004)

Provision	Existing Amendatory Contract (1994 – 2010)	Federal Action Proposed Long-Term Water Service Contract Renewal	Effects Analysis
District to Pay Certain Miscellaneous Costs Relating to Project Works (Existing Contract) or Contractor to Pay Certain Miscellaneous Costs (Proposed Contract)	Assumes the CCWD will repay specific direct costs and a percentage of direct costs for administrative and general overhead to the U.S., in accordance with Reclamation policy and procedures.	Substantially same as Existing Contract, with the following exceptions: Assumes the CCWD will also repay specific indirect costs to the U.S., in accordance with Reclamation policy and procedures. Deletes percentage payment for administrative and general overhead costs.	**_☒_Financial Effect** **_☒_Administrative Effect** **_☒_No Effect/__ Effect on Listed Species** **Minor financial/administrative change only.**
Water Conservation	Assumes compliance with conservation programs established by Reclamation and the state; establishes reporting and evaluation requirements.	Similar to Existing contract, but describes requirements for water conservation and efficiency program in more detail, assumes that if M&I amount delivered equals or exceeds 2,000 AF annually, CCWD will implement Best Management Practices; extends revision period for water conservation plans from 3 to 5 year intervals.	**_☒_Financial Effect** **_☒_Administrative Effect** **_☒_No Effect/__ Effect on Listed Species** **Minor financial/administrative change only.**
Emergency Reserve Fund	Assumes the CCWD will accumulate and maintain a reserve fund for payment of O&M costs incurred during emergency circumstances; establishes rules for maintaining and using reserve fund.	No similar provision.	**_☒_Financial Effect** **_☒_Administrative Effect** **_☒_No Effect/__ Effect on Listed Species** **Minor financial/administrative change only.**
Transfer of Title to Project Works	Assumes all rights, title and interest in and to the relevant Project Work(s) will be transferred to CCWD upon repayment of all costs, pending authorization by Congress.	Same as Existing Contract.	**__Financial Effect** **__Administrative Effect** **_☒_No Effect/__ Effect on Listed Species** **No substantive change.**
Performance of Work with Contributed Funds	Assumes the Contracting Office may accept CCWD funds to finance authorized construction or O&M work on CVP facilities not specifically provided for and for which funds may not be available, subject to certain provisions and upon approval.	Same as Existing Contract.	**__Financial Effect** **__Administrative Effect** **_☒_No Effect/__ Effect on Listed Species** **No substantive change.**
General Obligation—Benefits Conditioned Upon Payment	Assumes that CCWD has an obligation to pay the U.S. as provided in this contract; payment of Charges must occur before CCWD can receive benefits (i.e., CVP water) under the contract.	Substantially same as Existing Contract, with the following addition: Assumes no requirement for contractor to levy in advance.	**_☒_Financial Effect** **_☒_Administrative Effect** **_☒_No Effect/__ Effect on Listed Species** **Minor financial/administrative change only.**

Table A-1. Summary of Contract Provisions for the CCWD Proposed Long Term Water Service Contract, Contra Costa County, California (from North State Resources, Inc., May 2004)

Provision	Existing Amendatory Contract (1994 – 2010)	Federal Action Proposed Long-Term Water Service Contract Renewal	Effects Analysis
Compliance with Reclamation Laws	Assumes contract implementation will comply with all provisions of Reclamation law.	Omitted; replaced with "Federal Laws" provision, below.	**__Financial Effect** **_☒_Administrative Effect** **_☒_No Effect/__ Effect on Listed Species** **Minor administrative change only.**
Federal Laws	No similar provision.	Assumes CCWD will comply with this Contract unless and until relief from Federal law or regulation is granted by a court; by entering into the Contract, CCWD does not waive its right to contest it.	**__Financial Effect** **_☒_Administrative Effect** **_☒_No Effect/__ Effect on Listed Species** **Minor administrative change only.**
Books, Records, and Reports	Assumes that CCWD will establish and maintain accounts and other books and records pertaining to contract administration, provide reports as needed to the Contracting Officer; each party will make their administrative record available for review by the other party.	Assumes same record keeping requirements as Existing Contract; clarifies that only contract-related records will be requested and requires copies to go to Operating Non-Federal Entity.	**__Financial Effect** **_☒_Administrative Effect** **_☒_No Effect/__ Effect on Listed Species** **Minor administrative change only.**
Contingent on Appropriation or Allotment of Funds	Expenditure or advance of any money or the performance of any obligation of the U.S. is contingent upon appropriation or allotment of funds; U.S. is not liable if funds are not appropriated or allocated.	Same as Existing Contract.	**__Financial Effect** **__Administrative Effect** **_☒_No Effect/__ Effect on Listed Species** **No substantive change.**
Rules, Regulations, and Determinations	Delivery of water or use of Federal facilities is subject to Reclamation law; Contracting Officer has the right to make necessary determinations to administer the contract within existing provisions, rules, and laws.	See "Rules and Regulations" and "Opinions and Determinations" Provisions, below.	**__Financial Effect** **_☒_Administrative Effect** **_☒_No Effect/__ Effect on Listed Species** **Minor administrative change only.**
Rules and Regulations	See "Rules, Regulations, and Determinations," above.	Same as Existing Contract (Delivery of M&I Water or use of Federal facilities is subject to Reclamation law.)	**__Financial Effect** **__Administrative Effect** **_☒_No Effect/__ Effect on Listed Species** **No substantive change.**

Table A-1. Summary of Contract Provisions for the CCWD Proposed Long Term Water Service Contract, Contra Costa County, California (from North State Resources, Inc., May 2004)

Provision	Existing Amendatory Contract (1994 – 2010)	Federal Action Proposed Long-Term Water Service Contract Renewal	Effects Analysis
Opinions and Determinations	See "Rules, Regulations, and Determinations," above.	Substantially same as Existing Contract (Contracting Officer has the right to make necessary determinations to administer the contract within existing provisions, rules, and laws.) Assumes the parties to this Contract reserve the right to seek relief from and appropriate adjustment for arbitrary, capricious, or unreasonable opinion or determination in a timely manner.	**__Financial Effect** **_☒_Administrative Effect** **_☒_No Effect/__ Effect on Listed Species** **Minor administrative change only.**
Coordination and Cooperation	No similar provision.	Assumes that coordination and cooperation between Contracting Officer and users should be implemented to improve the operation and management of the Project. Provides mechanism for developing coordination process. Parties retain exclusive decision-making authority for determinations by that party.	**__Financial Effect** **_☒_Administrative Effect** **_☒_No Effect/__ Effect on Listed Species** **Minor administrative change only.**
Officials Not to Benefit	Officials are not to benefit from this contract other than as would a water user or landowner in the CCWD.	Same as Existing Contract.	**__Financial Effect** **__Administrative Effect** **_☒_No Effect/__ Effect on Listed Species** **No substantive change.**
Notices	Establishes methods to notice, demand, or request on behalf of the CCWD.	Same as Existing Contract.	**__Financial Effect** **__Administrative Effect** **_☒_No Effect/__ Effect on Listed Species** **No substantive change.**
Assignment Limited	Assumes that CVP will operate in accordance with existing rules.	Assumes substantially same as Existing Contract.	**__Financial Effect** **__Administrative Effect** **_☒_No Effect/__ Effect on Listed Species** **No substantive change.**
Severability	No similar provision.	Assumes mechanism to address correction of provision found to be invalid upon legal challenge.	**__Financial Effect** **_☒_Administrative Effect** **_☒_No Effect/__ Effect on Listed Species** **Minor administrative change only.**
Resolution of Disputes	No similar provision.	Assumes a dispute resolution process.	**__Financial Effect** **_☒_Administrative Effect** **_☒_No Effect/__ Effect on Listed Species** **Minor administrative change only.**

Table A-1. Summary of Contract Provisions for the CCWD Proposed Long Term Water Service Contract, Contra Costa County, California (from North State Resources, Inc., May 2004)

Provision	Existing Amendatory Contract (1994 – 2010)	Federal Action Proposed Long-Term Water Service Contract Renewal	Effects Analysis
Equal Opportunity	Assumes CCWD will operate in accordance with existing rules, regulations, or orders regarding equal opportunity; establishes sanctions or remedies to be invoked in the event of non-compliance.	Same as Existing Contract.	**__Financial Effect** **__Administrative Effect** **_☒_No Effect/__ Effect on Listed Species** **No substantive change.**
Charges for Delinquent Payments	Establishes procedures and penalties for account delinquency.	Same as Existing Contract.	**__Financial Effect** **__Administrative Effect** **_☒_No Effect/__ Effect on Listed Species** **No substantive change.**
Compliance with Civil Rights Laws and Regulations	Assumes CCWD will operate in accordance with existing civil rights laws and regulations, as set forth in the contract.	Same as Existing Contract.	**__Financial Effect** **__Administrative Effect** **_☒_No Effect/__ Effect on Listed Species** **No substantive change.**
Privacy Act Compliance	Assumes CCWD will comply with the Privacy Act of 1974, as set forth in the contract.	Omitted.	**__Financial Effect** **_☒_Administrative Effect** **_☒_No Effect/__ Effect on Listed Species** **Minor administrative change only.**
Confirmation of Contract	Assumes required validation of contract under state law.	Assumes required validation of contract under state law; CCWD will supply the U.S. with pertinent records.	**_☒_Financial Effect** **_☒_Administrative Effect** **_☒_No Effect/__ Effect on Listed Species** **Minor financial/administrative change only.**
Changes in District's Organization (Existing Contract) or Changes in Contractor's Service Area (Proposed Contract)	Assumes that while this contract is in effect, no change may be made to the CCWD organization except upon written consent of the Contracting Officer to ensure that obligations are met and compliance with certain provisions of Reclamation law.	Assumes that while this contract is in effect, no change may be made to the CCWD service area except upon written consent of the Contracting Officer; establishes methods for processing such a request.	**_☒_Financial Effect** **_☒_Administrative Effect** **_☒_No Effect/__ Effect on Listed Species** **Minor financial/administrative change only.**

M&I Only
R. O. Draft 11/30-2004
Contract No.
I75r-3401A-LTR1

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

LONG-TERM RENEWAL CONTRACT BETWEEN THE UNITED STATES AND CONTRA COSTA WATER DISTRICT PROVIDING FOR PROJECT WATER SERVICE AND FOR FACILITIES REPAYMENT

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Exhibit A - Map of Contractor's Service Area

Exhibit B - Rates and Charges

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

LONG-TERM RENEWAL CONTRACT BETWEEN THE UNITED STATES AND CONTRA COSTA WATER DISTRICT PROVIDING FOR PROJECT WATER SERVICE AND FOR FACILITIES REPAYMENT

THIS CONTRACT, made this _____ day of _____, 2005, in pursuance generally of the Act of June 17, 1902 (32 Stat. 388), and acts amendatory or supplementary thereto, including, but not limited to, the Acts of August 26, 1937 (50 Stat. 844), as amended and supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented, July 2, 1956 (70 Stat. 483), June 21, 1963 (77 Stat. 68), October 12, 1982 (96 Stat. 1263), October 27, 1986 (100 Stat. 3050), as amended, and Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706), all collectively hereinafter referred to as Federal Reclamation law, between THE UNITED STATES OF AMERICA, hereinafter referred to as the United States, and CONTRA COSTA WATER DISTRICT, hereinafter referred to as the Contractor, a public agency of the State of California, duly organized, existing, and acting pursuant to the laws thereof;

WITNESSETH, That:

25 EXPLANATORY RECITALS

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

32 [2nd] WHEREAS, the Contractor has constructed the Los Vaqueros Project, that is
33 intended to exclusively serve the Contractor to assist in attaining its goals of providing high
34 quality water to the Contractor customers, while also providing reliability to the Contractor's
35 existing contract water supply during emergencies, droughts or other water shortages; and

36 [2.1] WHEREAS, it is necessary for the Contractor and the United States to agree on
37 how the Los Vaqueros Project will be utilized in conjunction with Project Water and Project
38 facilities; and

39 [3rd] WHEREAS, the rights to Project Water were acquired by the United States
40 pursuant to California law for operation of the Project; and

41 [4th] WHEREAS, the Contractor and the United States entered into Contract
42 No. I75r-3401, on September 18, 1951, which established terms for the delivery to the
43 Contractor of Project Water and for construction and repayment of certain facilities. This
44 contract was amended on November 9, 1970, April 26 1973, May 26, 1994 (hereinafter referred
45 to as Existing Contract), and February 7, 2000.

46 [4.1] WHEREAS, the United States and the Contractor executed Memorandum of
47 Agreement No. 14-06-200-6072A dated June 28, 1972, and subsequent Amendment 1 dated

May 15, 1995, that requires the Contractor to operate and maintain the Contra Costa Canal System and Contra Loma Dam and Reservoir; and

[5th] WHEREAS, the United States and the Contractor have, pursuant to Subsection 3404 (c) (3) of the Central Valley Project Improvement Act (CVPIA), subsequently entered into a binding agreement, identified as Binding Agreement No. I75r-3401-BA, and Supplemental Agreement No. I75r-3401-SA, which sets out the terms pursuant to which the Contractor agreed to renew the Existing Contract before its expiration date after completion of a programmatic environmental impact statement (PEIS) and other appropriate environmental documentation and negotiation of a renewal contract, and which also sets out the consequences of a subsequent decision not to renew; and

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

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

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

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

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

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

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

[13th] WHEREAS, in the CALFED Programmatic Record of Decision, dated August 28, 2000, the United States and the State of California adopted a general target of continuously improving Delta water quality for all uses. The CALFED Agencies' target for providing safe, reliable, and affordable drinking water in a cost-effective way, is to achieve either: (a) average concentrations at Clifton Forebay and other southern and central Delta drinking water intakes of 50 ug/L bromide and 3.0 mg/L total organic carbon, or (b) an equivalent level of public health protection using a cost-effective combination of alternative source waters, source control and treatment technologies; and

[14th] WHEREAS, the Secretary intends through coordination, cooperation, and partnerships to pursue measures to improve water supply, water quality, and reliability of the Project for all Project purposes; and

[15th] WHEREAS, the mutual goals of the United States and the Contractor include: to provide for reliable Project Water supplies; to control costs of those supplies; to achieve repayment of the Project as required by law; to guard reasonably against Project Water shortages; to achieve a reasonable balance among competing demands for use of Project Water; and to comply with all applicable environmental statutes, all consistent with the legal obligations of the United States relative to the Project; and

[16th] WHEREAS, the parties intend by this Contract to develop a more cooperative relationship in order to achieve their mutual goals; and

[17th] WHEREAS, the United States and the Contractor are willing to enter into this Contract pursuant to Federal Reclamation law on the terms and conditions set forth below;

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

DEFINITIONS

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

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

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

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

(c.1) "Contra Costa Canal System" shall mean the Contra Costa Canal, including the intake channel from Rock Slough, Clayton, and Ygnacio Relift Canals and pumping plants, the Martinez Reservoir and Pumping Plants 1, 2, 3, and 4, and such other facilities as may be authorized by Congress from time to time for rehabilitation or replacement thereof;

(c.2) "Contra Loma Dam and Reservoir" shall mean the dam, pumping plant, and reservoir constructed as an addition to the Contra Costa Canal System;

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

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

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

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

(h-i) Omitted

(j) "Full Cost Rate" shall mean an annual rate, as determined by the Contracting Officer that shall amortize the expenditures for construction properly allocable to the Project irrigation or M&I functions, as appropriate, of facilities in service including all O&M deficits funded, less payments, over such periods as may be required under Federal Reclamation

law, or applicable contract provisions. Interest will accrue on both the construction expenditures and funded O&M deficits from October 12, 1982, on costs outstanding at that date, or from the date incurred in the case of costs arising subsequent to October 12, 1982, and shall be calculated in accordance with subsections 202(3)(B) and (3)(C) of the RRA. The Full Cost Rate includes actual operation, maintenance, and replacement costs consistent with Section 426.2 of the Rules and Regulations for the RRA;

(k - 1) Omitted;

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

(n) Omitted;

(n.1) "Lateral Distribution System" shall mean the water conveyance system constructed by the United States which consists of pipelines extending to Contractor's water users from the Contra Costa Canal at milepost 5.3, 6.2, 7.1, 7.3, 9.1, 14.0, 25.6, 36.6, and Y-2-6;

(n.2) "Los Vaqueros" shall mean the Los Vaqueros Project consisting of a storage reservoir and associated facilities constructed by the Contractor on property which is owned by the Contractor, and in which the United States has no legal interest, to store and convey Los Vaqueros Water Rights Water and Project Water as well as additional water that may be acquired by the Contractor;

(n.3) "Los Vaqueros Water Rights Water" shall mean that water appropriated pursuant to State Water Rights Application 20245 (Permit 20749), which is in addition to Project Water;

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

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

(p.1) "New Facilities" shall mean the Short Cut Pipeline located between Contra Costa Canal at milepost 25.70 and at milepost 47.77 and the Pump Units in Pumping Plant 1, 2, 3, and 4 of the Contra Costa Canal System;

(1) "Pump Units" shall mean the pump, motor, motor controls, wiring, structural supports and discharge control apparatus for pumping 100 cubic feet per second ("cfs") of water; and

(2) "Short Cut Pipeline" shall mean the Contra Costa Canal intake, pipeline, pipeline appurtenances, Martinez Reservoir inlet;

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

(r) Omitted.

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

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

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

(u.1) "Project Works" shall mean all those facilities defined in subsections (c.1), (c.2), (n.1), and (p.1) of this Article;

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

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

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

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

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

206 (aa) "Water Made Available" shall mean the estimated amount of Project
207 Water that can be delivered to the Contractor for the upcoming Year as declared by the
208 Contracting Officer, pursuant to subdivision (a) of Article 4 of this Contract;
209 (bb) "Water Scheduled" shall mean Project Water made available to the
210 Contractor for which times and quantities for delivery have been established by the Contractor
211 and Contracting Officer, pursuant to subdivision (b) of Article 4 of this Contract; and
212 (cc) "Year" shall mean the period from and including March 1 of each
213 Calendar Year through the last day of February of the following Calendar Year.

214 TERM OF CONTRACT

215 2. (a) This Contract shall be effective March 1, 2005, through February 28,
216 2045. This Contract when effective supersedes the Existing Contract. In the event the
217 Contractor wishes to renew this Contract beyond February 28, 2045, the Contractor shall submit
218 a request for renewal in writing to the Contracting Officer no later than two years prior to the
219 date this Contract expires.
220 (b) Omitted;
221 (c) This Contract shall be renewed for successive periods of up to 40 years
222 each, which periods shall be consistent with the then-existing Reclamation-wide policy, under
223 terms and conditions mutually agreeable to the parties and consistent with Federal and State law.
224 The Contractor shall be afforded the opportunity to comment to the Contracting Officer on the
225 proposed adoption and application of any revised policy applicable to the delivery of M&I Water
226 that would limit the term of any subsequent renewal contract with the Contractor for the
227 furnishing of M&I Water to less than 40 years.

228 (d) The Contracting Officer shall make a determination ten years after the
229 date of execution of this Contract and every five years thereafter during the term of this Contract
230 of whether a conversion of this Contract to a contract under subsection 9 (c)(1) of the
231 Reclamation Project Act of 1939 can be accomplished. The Contracting Officer anticipates that
232 during the term of this Contract, all authorized Project construction expected to occur will have
233 occurred, and on that basis the Contracting Officer agrees upon such completion to allocate all
234 costs that are properly assignable to the Contractor, and agrees further that, at any time after such
235 allocation is made, and subject to satisfaction of the condition set out in this subdivision this
236 Contract shall, at the request of the Contractor, be converted to a contract under said subsection
237 (c)(1) of Section 9, is applicable of the Reclamation Project Act of 1939, subject to applicable
238 Federal law and under stated terms and conditions mutually agreeable to the Contractor and the
239 Contracting Officer. A condition for such conversion to occur shall be a determination by the
240 Contracting Officer that, account being taken of the amount credited to return by the Contractor
241 as provided for under Federal Reclamation law, the remaining amount of construction costs
242 assignable for ultimate return by the Contractor can probably be repaid to the United States
243 within the term of a contract under said subsection (c) (1) of Section 9. If the remaining amount
244 of costs that are properly assignable to the Contractor cannot be determined during the term of
245 this Contract, the Contracting Officer shall notify the Contractor, and provide the reason(s) why
246 such a determination could not be made. Further, the Contracting Officer shall make such a
247 determination as soon thereafter as possible so as to permit, upon request of the Contractor and
248 satisfaction of the conditions set out above, conversion to a contract under said subsection (c)(1)
249 of Section 9. In the event such determination of costs has not been made at a time which allows
250 conversion of this Contract during the term of this Contract or the Contractor has not requested

conversion of this Contract within such term, the parties shall incorporate in any subsequent renewal contract as described in subdivision (b) of this Article a provision that carries forth in substantially identical terms the provisions of this subdivision.

WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

3. (a) During each Year, consistent with all applicable State water rights, permits, and licenses; Federal law; and subject to the provisions set forth in Articles 11 and 12 of this Contract, the Contracting Officer shall make available for delivery to the Contractor 195,000 acre-feet of Project Water for M&I purposes. Water Delivered to the Contractor in accordance with this subdivision shall be scheduled and paid for pursuant to the provisions of Articles 4 and 7 of this Contract.

(b) Because the capacity of the Project to deliver Project Water has been constrained in recent years and may be constrained in the future due to many factors including hydrologic conditions and implementation of Federal and State laws, the likelihood of the Contractor actually receiving the amount of Project Water set out in subdivision (a) of this Article in any given Year is uncertain. The Contracting Officer's most recent modeling referenced in the PEIS projected that the Contract Total set forth in this Contract will not be available to the Contractor in many years. During the most recent five years, the Recent Historic Average of Water Made Available to the Contractor was 152,100 acre-feet. Nothing in subdivision (b) of this Article shall affect the rights and obligations of the parties under any provision of this Contract.

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

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

(e) The Contractor shall comply with requirements applicable to the Contractor in biological opinion(s) prepared as a result of a consultation regarding the execution of this Contract undertaken pursuant to Section 7 of the Endangered Species Act of 1973 (ESA), as amended, that are within the Contractor's legal authority to implement. The Existing Contract, which evidences in excess of 50 years of diversions for irrigation and/or M&I purposes of the quantities of water provided in subdivision (a) of Article 3 of this Contract, will be

296 considered in developing an appropriate baseline for biological assessment(s) prepared pursuant
297 to the ESA, and any other needed environmental review. Nothing herein shall be construed to
298 prevent the Contractor from challenging or seeking judicial relief in a court of competent
299 jurisdiction with respect to any biological opinion or other environmental documentation referred
300 to in this Article.

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

314 (g) The Contractor may request permission to reschedule for use during the
315 subsequent Year some or all of the Water Made Available to the Contractor during the current
316 Year, referred to as "rescheduled water." The Contractor may request permission to use during
317 the current Year, a quantity of Project Water which may be made available by the United States
318 to the Contractor during the subsequent Year referred to as "preuse." The Contracting Officer's

written approval may permit such uses in accordance with applicable statutes, regulations, guidelines, and policies.

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

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

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

TIME FOR DELIVERY OF WATER

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

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

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

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

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

POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

5. (a) Project Water scheduled pursuant to subdivision (b) of Article 4 of this Contract shall be delivered to the Contractor at Rock Slough at the intake of Pumping Plant 1 of the Contra Costa Canal System or in the Sacramento-San Joaquin Delta at the intake and any additional point or points of delivery either on Project facilities or another location or locations mutually agreed to in writing by the Contracting Officer and the Contractor. Such deliveries at the Sacramento-San Joaquin Delta may be made at the intake to the Tracy Pumping Plant of the Project at Old River, the intake of the State Water Project to Clifton Court at Old River and/or the intake to Los Vaqueros at Old River. Los Vaqueros Water Rights Water shall be delivered and/or diverted in the Sacramento-San Joaquin Delta. Said point(s) of delivery and/or diversion of Project Water and Los Vaqueros Water Rights Water shall be subject to change by written agreements of the parties hereto: Provided, That such change(s) is/are consistent with the applicable state water right permit(s) or license(s) as they may be amended or modified. The United States shall not be obligated to construct additional facilities for the delivery and/or diversion of water under this Contract.

(b) Omitted.

(c) The Contractor shall not deliver Project Water to land outside the Contractor's Service Area unless approved in advance by the Contracting Officer.

(d) All Water Delivered to the Contractor pursuant to this Contract shall be measured and recorded with equipment furnished, installed, operated, and maintained by the United States, or the Contractor at the point or points of delivery established pursuant to

subdivision (a) of this Article. Upon the request of either party to this Contract, the Contracting Officer or the Contractor shall investigate the accuracy of such measurements and shall take any necessary steps to adjust any errors appearing therein. For any period of time when accurate measurements have not been made, the Contracting Officer shall consult with the Contractor prior to making a final determination of the quantity delivered for that period of time.

(e) The Contracting Officer shall not be responsible for the control, carriage, handling, use, disposal, or distribution of Water Delivered to the Contractor pursuant to this Contract beyond the delivery points specified in subdivision (a) of this Article. The Contractor shall indemnify the United States, its officers, employees, agents, and assigns on account of damage or claim of damage of any nature whatsoever for which there is legal responsibility, including property damage, personal injury, or death arising out of or connected with the control, carriage, handling, use, disposal, or distribution of such Water Delivered beyond such delivery points, except for any damage or claim arising out of: (i) acts or omissions of the Contracting Officer or any of its officers, employees, agents, or assigns, with the intent of creating the situation resulting in any damage or claim; (ii) willful misconduct of the Contracting Officer or any of its officers, employees, agents, or assigns; (iii) negligence of the Contracting Officer or any of its officers, employees, agents, or assigns; or (iv) damage or claims resulting from a malfunction of facilities owned and/or operated by the United States; Provided, That the Contractor is not the entity that owned or operated the malfunctioning facility(ies) from which the damage claim arose.

(f) Water diverted by the Contractor pursuant to this Contract shall be measured and recorded by the Contractor for each of the points set forth below through measuring and recording devices, acceptable to the Contracting Officer: Provided, The parties

thereto, may agree in writing that such points and/or method of water measurement may be changed or added to. Except for Rock Slough at the intake of Pumping Plant 1, the Contractor shall O&M each of the measuring and recording devices at no cost to the United States. The Contractor shall install all measuring and recording devices:

(1) At the intake to Pumping Plant 1 of the Contra Costa Canal System;

(2) At the Los Vaqueros intake in Old River;

(3) At the intake to the Los Vaqueros storage reservoir; and

(4) At the point at which the Los Vaqueros Water Rights Water and Project Water diverted from other than Rock Slough are introduced into the Contra Costa Canal System from Los Vaqueros;

(g) The Contractor shall measure or compute and record daily, or at such other intervals as may be agreed upon in writing by the parties, and provide to the United States on or before the 20th day of each month following the month in which the measurement or computation was made the rates and quantities associated with the following:

(1) Diversion of Project Water at Rock Slough;

(2) Diversion of Project Water from Old River for direct use;

(3) Diversion of Los Vaqueros Water Rights Water to storage in Los Vaqueros storage reservoir;

(4) Diversion of Project Water to storage in Los Vaqueros storage reservoir;

(5) Diversion to storage in Contra Loma Dam and Reservoir;

(6) Withdrawal of Project Water from Los Vaqueros storage reservoir;

(7) Withdrawal of Los Vaqueros Water Rights Water from Los Vaqueros storage reservoir;

(8) Withdrawal of water from Contra Loma Dam and Reservoir for delivery to the East Bay Regional Park District pursuant to Contract No. 4-06-200-6023A, dated September 18, 1972, as amended on November 29, 1977;

(9) Withdrawal of water from Contra Loma Dam and Reservoir for purposes other than that specified in subdivision (g)(8) above; and

(10) Total M&I water distributed.

MEASUREMENT OF WATER WITHIN THE CONTRACTOR'S SERVICE AREA

6. (a) The Contractor has established a measuring program satisfactory to the Contracting Officer. The Contractor shall ensure that all surface water delivered for M&I purposes within the Contractor's Service Area is measured at each M&I service connection. The water measuring devices or water measuring methods of comparable effectiveness must be acceptable to the Contracting Officer. The Contractor shall be responsible for installing, operating, and maintaining and repairing all such measuring devices and implementing all such water measuring methods at no cost to the United States. The Contractor shall use the information obtained from such water measuring devices or water measuring methods to ensure its proper management of the water, to bill water users for water delivered by the Contractor; and, if applicable, to record water delivered for M&I purposes by customer class as defined in the Contractor's water conservation plan provided for in Article 26 of this Contract. Nothing herein contained, however, shall preclude the Contractor from establishing and collecting any charges, assessments, or other revenues authorized by California law. The Contractor shall

include a summary of all its annual surface water deliveries in the annual report described in subdivision (c) of Article 26.

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

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

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

(e) Omitted.

RATES AND METHOD OF PAYMENT FOR WATER

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

(a.1) The payment to be made by the Contractor for Los Vaqueros Water Rights Water and Project Water Made Available to it pursuant to this Contract shall be the applicable Rates and Charges determined annually in accordance with the applicable Federal law and associated regulations.

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

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

499 period October 1, of the current Calendar Year, through September 30, of the following Calendar
500 Year, and the basis for such estimate. The Contractor shall be allowed not less than two months
501 to review and comment on such estimates. On or before September 15 of each Calendar Year,
502 the Contracting Officer shall notify the Contractor in writing of the Charges to be in effect during
503 the period October 1 of the current Calendar Year, through September 30, of the following
504 Calendar Year, and such notification shall revise Exhibit "B."

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

513 (c) At the time the Contractor submits the initial schedule for the delivery of
514 Project Water for each Year pursuant to subdivision (b) of Article 4 of this Contract, the
515 Contractor shall make an advance payment to the United States equal to the total amount payable
516 pursuant to the applicable Rate(s) set under subdivision (a) of this Article, for the Project Water
517 scheduled to be delivered pursuant to this Contract during the first two calendar months of the
518 Year. Before the end of the first month and before the end of each calendar month thereafter, the
519 Contractor shall make an advance payment to the United States, at the Rate(s) set under
520 subdivision (a) of this Article, for the Water Scheduled to be delivered pursuant to this Contract
521 during the second month immediately following. Adjustments between advance payments for

522 Water Scheduled and amounts due for Water Delivered shall be made before the end of the
523 following month; Provided, That any revised schedule submitted by the Contractor pursuant to
524 Article 4 of this Contract which increases the amount of Water Delivered pursuant to this
525 Contract during any month shall be accompanied with appropriate advance payment, at the Rates
526 then in effect, to assure that Project Water is not delivered to the Contractor in advance of such
527 payment. In any month in which the quantity of Water Delivered to the Contractor pursuant to
528 this Contract equals the quantity of Water Scheduled and paid for by the Contractor, no
529 additional Project Water shall be delivered to the Contractor unless and until an advance
530 payment at the Rates then in effect for such additional Project Water is made. Final adjustment
531 between the advance payments for the Water Scheduled and payments for the quantities of Water
532 Delivered during each Year pursuant to this Contract shall be made as soon as practicable but no
533 later than April 30th of the following Year, or 60 days after the delivery of Project Water
534 rescheduled under subdivision (g) of Article 3 of this Contract if such water is not delivered by
535 the last day of February.

536 (d) The Contractor shall also make a payment in addition to the Rate(s) in
537 subdivision (c) of this Article to the United States for Water Delivered, at the Charges and the
538 appropriate Tiered Pricing Component then in effect, before the end of the month following the
539 month of delivery. The payments shall be consistent with the quantities of M&I Water Delivered
540 as shown in the water delivery report for the subject month prepared by the Contractor. The
541 water delivery report shall be deemed a bill for the payment of Charges and the applicable Tiered
542 Pricing Component for Water Delivered. Adjustment for overpayment or underpayment of
543 Charges shall be made through the adjustment of payments due to the United States for Charges

for the next month. Any amount to be paid for past due payment of Charges and the Tiered Pricing Component shall be computed pursuant to Article 20 of this Contract.

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

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

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

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

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

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

(2) Omitted.

(3) For purposes of determining the applicability of the Tiered Pricing Component~~s~~ pursuant to this Article, Water Delivered shall include Project Water that the Contractor transfers to others but shall not include Project Water transferred to the Contractor, nor shall it include the additional water provided to the Contractor under the provisions of subdivision (f) of Article 3 of this Contract.

(4) The Tiered Pricing Component does not apply to Los Vaqueros Water Rights Water.

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

(l) Except as provided in subsections 3405(a)(1)(B) and 3405(f) of the CVPIA, the Rates for Project Water transferred by the Contractor shall be the Contractor's Rates adjusted upward or downward to reflect the changed costs, if any, incurred by the Contracting Officer in the delivery of the transferred Project Water to the transferee's point of delivery in accordance with the then applicable Project ratesetting policy.

(m) Omitted.

(n) With respect to the Rates for M&I water, the Contractor asserts that it is not legally obligated to pay any Project deficits claimed by the United States to have accrued as of the date of this Contract or deficit-related interest charges thereon. By entering into this Contract, the Contractor does not waive any legal rights or remedies that it may have with respect to such disputed issues. Notwithstanding the execution of this Contract and payments made hereunder, the Contractor may challenge in the appropriate administrative or judicial forums; (1) the existence, the computation, or imposition of any deficit charges accruing during

612 the term of the Existing Contract; (2) interest accruing on any such deficits; (3) the inclusion of
613 any such deficit charges or interest in the Rates; (4) the application by the United States of
614 payments made by the Contractor under its Existing Contract; and (5) the application of such
615 payments in the Rates. The Contracting Officer agrees that the Contractor shall be entitled to the
616 benefit of any administrative or judicial ruling in favor of any Project M&I contractor on any of
617 these issues, and credits for payments heretofore made, provided that the basis for such ruling is
618 applicable to the Contractor. [Pending Litigation]

619 REPAYMENT OF PROJECT WORKS

620 7.1. (a) Contra Costa Canal System. The remaining capitalized cost of the Contra
621 Costa Canal System on December 31, 2004, will be $839,101. The Contractor shall fully repay
622 $914,032.56, including interest at 2.5 percent per annum, by making six annual payments of
623 $152,338.76, beginning January 1, 2005, and ending January 1, 2010.

624 (b) New Facilities. The remaining capitalized cost of the New Facilities on
625 December 31, 2004, will be $1,446,457.07. The Contractor shall fully repay $1,620,281.05, plus
626 interest at 3.342 percent per annum, by making six annual payments of $270,046.84 beginning
627 January 1, 2005, and ending January 1, 2010.

628 (c) Contra Loma Dam and Reservoir. The remaining capitalized costs of the
629 Contra Loma Dam and Reservoir on December 31, 2004, will be $1,689,039.16. The Contractor
630 shall fully repay $1,879,257.85, including interest at 3.137 percent per annum, by making six
631 annual payments of $313,209.63 beginning January 1, 2005, and ending January 1, 2010.

632 (d) The Contractor may, instead of making the payments provided for in
633 subdivisions (a), (b), and (c) above, at any time, make full payment of the sum then due and
634 owing on any or all of the facilities described in those subdivisions: Provided, That the

Contractor agrees that such accelerated repayment shall not exempt the Contractor from compliance with the otherwise applicable ownership and full cost pricing provisions of Federal Reclamation laws. If payment is made at any time in the year other than that specified in subdivisions (a), (b), and (c) of this Article, the remaining payment balance as of such date will be determined by the Contracting Officer and provided to the Contractor. Upon full repayment, the Contractor shall have no further repayment obligations associated with the capitalized costs specified in subdivisions (a), (b), and (c) of this Article.

NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICITS

8. The Contractor and the Contracting Officer concur that, as of the effective date of this Contract, the Contractor has no non-interest bearing O&M deficits and shall have no further liability therefore.

SALES, TRANSFERS, OR EXCHANGES OF WATER

9. (a) The right to receive Project Water provided for in this Contract may be sold, transferred, or exchanged to others for reasonable and beneficial uses within the State of California if such sale, transfer, or exchange is authorized by applicable Federal and State laws, and applicable guidelines or regulations then in effect. No sale, transfer, or exchange of Project Water under this Contract may take place without the prior written approval of the Contracting Officer, except as provided for in subdivision (b) of this Article, and no such sales, transfers, or exchanges shall be approved absent all appropriate environmental documentation, including but not limited to, documents prepared pursuant to the NEPA and ESA. Such environmental documentation should include, as appropriate, an analysis of groundwater impacts and economic and social effects, including environmental justice, of the proposed water transfers on both the transferor and transferee.

(b) In order to facilitate efficient water management by means of water transfers of the type historically carried out among Project Contractors located within the same geographical area and to allow the Contractor to participate in an accelerated water transfer program during the term of this Contract, the Contracting Officer shall prepare, as appropriate, all necessary environmental documentation including but not limited to documents prepared pursuant to NEPA and ESA analyzing annual transfers within such geographical areas and the Contracting Officer shall determine whether such transfers comply with applicable law. Following the completion of the environmental documentation, such transfers addressed in such documentation shall be conducted with advance notice to the Contracting Officer, but shall not require prior written approval by the Contracting Officer. Such environmental documentation and the Contracting Officer's compliance determination shall be reviewed every five years and updated, as necessary, prior to the expiration of the then existing five-year period. All subsequent environmental documentation shall include an alternative to evaluate not less than the quantity of Project Water historically transferred within the same geographical area.

(c) For a water transfer to qualify under subdivision (b) of this Article, such water transfer must: (i) be for irrigation purposes for lands irrigated within the previous three years, for M&I use, groundwater recharge, groundwater banking, or similar groundwater activities, surface water storage, or fish and wildlife resources; not lead to land conversion; and be delivered to established cropland, wildlife refuges, groundwater basins or M&I use; (ii) occur within a single Year; (iii) occur between a willing seller and a willing buyer; (iv) convey water through existing facilities with no new construction or modifications to facilities and be between existing Project Contractors and/or the Contractor and the United States, Department of the Interior; and (v) comply with all applicable Federal, State, and local or tribal laws and

681 requirements imposed for protection of the environment and Indian Trust Assets, as defined
682 under Federal law.

683 PROJECT USE POWER

684 9.1. (a) During each Year, the United States shall furnish to the Contractor the
685 quantity of Project use power, not to exceed 164.8 kWh of energy for each acre-foot of Project
686 Water or Los Vaqueros Water Rights Water, required to operate facilities needed to pump
687 through the Contra Costa Canal System and Contra Loma Dam and Reservoir the full quantity of
688 Project Water scheduled and the Los Vaqueros Water Rights Water forecasted for delivery and
689 diversion to and by the Contractor for use within the Contractor's Service Area during that Year.
690 Such quantity of Project use power may be utilized at one or more of the following locations: the
691 Contra Costa Canal System; the intake of Los Vaqueros in Old River; Contra Loma Dam and
692 Reservoir; and such other points of diversion set forth in Article 5(a) as may be mutually agreed
693 upon. Project use power can only be used to convey Project Water or Los Vaqueros Water
694 Rights Water and shall be available to pump no more than 195,000 acre-feet annually.

695 (b) The United States may, at any time, request in writing that the Contractor
696 take delivery of some or all of the Project Water Made Available to the Contractor pursuant to
697 this Contract at the point of diversion for Los Vaqueros Water Rights Water in lieu of taking
698 delivery of such water at the intake of Pumping Plant 1 of the Contra Costa Canal System at
699 Rock Slough. If the Contractor agrees in writing to such a request, the United States shall
700 furnish to the Contractor during the term of the agreement, the quantity of Project use power
701 required to pump said Project Water and Los Vaqueros Water Rights Water from the point of
702 diversion for Los Vaqueros Water Rights Water to the Los Vaqueros transfer reservoir, not to
703 exceed 350 kWh of energy per acre-foot; Provided, That such a written agreement by the parties

704 for the delivery to and diversion at the point of diversion for Los Vaqueros Water Rights Water
705 of the full supply of Project Water Made Available under this Contract during the term of such
706 agreement shall not be implemented absent modification acceptable to the Contracting Officer of
707 applicable Sacramento-San Joaquin Delta water quality standards during the entire term of such
708 agreement.

709 (c) If the Contracting Officer and the Contractor are required under any
710 biological opinion issued by an agency of the United Sates to take delivery of some or all of the
711 Project Water Made Available to the Contractor pursuant to this Contract at the point of
712 diversion for Los Vaqueros Water Rights Water in lieu of taking delivery of such water at the
713 intake to Pumping Plant 1 of the Contra Costa Canal System at Rock Slough, the United States
714 shall furnish to the Contractor the quantity of Project use power required to pump said Project
715 water from the point of diversion for Los Vaqueros Water Rights Water to the Los Vaqueros
716 transfer reservoir, not to exceed 350 kWh of energy per acre-foot; Provided, That the quantity of
717 Project use power furnished pursuant to this subdivision shall not exceed the quantity of Project
718 use power needed to convey the quantity of Project Water diverted at the point of diversion of
719 Los Vaqueros Water Rights Water for immediate delivery through the Contra Costa Canal; and
720 Provided further, That the Contractor shall notify the Contracting Officer by March 1 of each
721 calendar year, in accordance with the written schedules submitted pursuant to Article 4(b), of the
722 projected quantity of Project Water which will be pumped with Project use power described in
723 this subdivision.

724 (d) The Contractor shall pay the United States for the quantity of Project use
725 power as set forth in subdivision (a), (b), and (c) above as a component of the water Rates
726 described in Article 7(a) of this Contract.

(e) The Contracting Officer may adjust the quantity of Project use power required to pump each acre-foot of Project Water or Los Vaqueros Water Rights Water if the Contracting Officer determines based on substantial evidence that the actual energy required for such pumping is different from the quantity set forth in this Article. Such determinations and adjustments by the Contracting Officer shall not require further amendment to this Contract.

APPLICATION OF PAYMENTS AND ADJUSTMENTS

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

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

TEMPORARY REDUCTIONS--RETURN FLOWS

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

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

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

CONSTRAINTS ON THE AVAILABILITY OF WATER

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

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

(c) Omitted.

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

(e) By entering into this Contract, the Contractor does not waive any legal rights or remedies it may have to file or participate in any administrative or judicial proceeding contesting (i) the sufficiency of the manner in which any Project M&I Water Shortage Policy adopted after the effective date of this Contract was promulgated; (ii) the substance of such a policy; or (iii) the applicability of such a policy. By agreeing to the foregoing, the Contracting Officer does not waive any legal defenses or remedies that it may then have to assert in such a proceeding.

13. Omitted.

RULES AND REGULATIONS

14. The parties agree that the delivery of M&I Water or use of Federal facilities pursuant to this Contract is subject to the applicable provisions of Federal Reclamation law, and any applicable rules and regulations promulgated by the Secretary of the Interior under such law.

WATER AND AIR POLLUTION CONTROL

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

QUALITY OF WATER

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

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

820 WATER ACQUIRED BY THE CONTRACTOR
821 OTHER THAN FROM THE UNITED STATES

822 17. (a) Omitted.

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

828 (1) The Contractor may introduce non-Project water into Project
829 facilities, other than Project Works, subject to payment to the United States of an appropriate rate
830 as determined by the applicable Project ratesetting policy and the RRA, and the Project use
831 power policy, if such Project use power policy is applicable, each as amended, modified, or
832 superseded from time to time. In addition, if electrical power is required to pump non-Project
833 water through the facilities, the Contractor shall be responsible for obtaining the necessary power
834 and paying the necessary charges therefore.

835 (2) Delivery of such non-Project water in and through Project
836 facilities, other than Project Works, shall only be allowed to the extent such deliveries do not:
837 (i) interfere with other Project purposes as determined by the Contracting Officer; (ii) reduce the
838 quantity or quality of water available to other Project Contractors; (iii) interfere with the delivery
839 of contractual water entitlements to any other Project Contractors; or (iv) interfere with the
840 physical maintenance of the Project facilities.

841 (c) The Contractor may use Project Works to convey non-Project water,
842 subject to each of the following conditions:

(1) Such conveyance shall not interfere with deliveries of water hereunder;

(2) Non-Project water for irrigation use shall be utilized in accordance with the applicable acreage limitation provisions of the Federal Reclamation laws;

(3) Project use power shall not be used to pump or convey non-Project water except as provided for in Article 9.1(a);

(4) The United States shall not incur any liability or unreimbursed cost or expense thereby;

(5) The quantities of non-Project water introduced into and conveyed through the Project Works shall be measured or otherwise determined by the Contractor in a manner consistent with Article 6 of this Contract, acceptable to the Contracting Officer and at no cost to the United States;

(6) The amount the Contractor is to pay to the United States for conveying non-Project water through Project Works shall be determined annually by the United States in accordance with the applicable provisions of Federal law, including but not limited to the Warren Act of February 21, 1911 (36 Stat. 935), as amended and supplemented, associated regulations, and the then-current applicable federal ratesetting policies.

(d) The United States shall not be responsible for control, care, or distribution of the non-Project water before it is introduced into or after it is delivered from the Project facilities. The Contractor hereby releases and agrees to defend and indemnify the United States and their respective officers, agents, and employees, from any claim for damage to persons or property, direct or indirect, resulting from the Contractor's or its officers', employees', agents',

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

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

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

OPINIONS AND DETERMINATIONS

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

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

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

891 COORDINATION AND COOPERATION

892 19. (a) In order to further their mutual goals and objectives, the Contracting
893 Officer and the Contractor shall communicate, coordinate, and cooperate with each other, and
894 with other affected Project Contractors, in order to improve the operation and management of the
895 Project. The communication, coordination, and cooperation regarding operations and
896 management shall include, but not be limited to, any action which will or may materially affect
897 the quantity or quality of Project Water supply, the allocation of Project Water supply, and
898 Project financial matters including, but not limited to, budget issues. The communication,
899 coordination, and cooperation provided for hereunder shall extend to all provisions of this
900 Contract. Each party shall retain exclusive decision making authority for all actions, opinions,
901 and determinations to be made by the respective party.

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

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

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

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

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

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

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

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

CHARGES FOR DELINQUENT PAYMENTS

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

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

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

EQUAL OPPORTUNITY

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

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

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

(c) The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the Contracting Officer, advising the said labor union or workers' representative of the Contractor's commitments under Section 202 of Executive Order 11246 of

September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

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

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

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

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

GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

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

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

1005 (c) With respect to subdivision (b) of this Article, the Contractor shall have no
1006 obligation to require advance payment for water rates which it levies.

1007 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

1008 23. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964
1009 (42 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (P.L. 93-112, as amended), the
1010 Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.) and any other applicable civil rights
1011 laws, as well as with their respective implementing regulations and guidelines imposed by the
1012 U.S. Department of the Interior and/or Bureau of Reclamation.

1013 (b) These statutes require that no person in the United States shall, on the
1014 grounds of race, color, national origin, handicap, or age, be excluded from participation in, be
1015 denied the benefits of, or be otherwise subjected to discrimination under any program or activity
1016 receiving financial assistance from the Bureau of Reclamation. By executing this Contract, the
1017 Contractor agrees to immediately take any measures necessary to implement this obligation,
1018 including permitting officials of the United States to inspect premises, programs, and documents.

1019 (c) The Contractor makes this agreement in consideration of and for the
1020 purpose of obtaining any and all Federal grants, loans, contracts, property discounts, or other
1021 Federal financial assistance extended after the date hereof to the Contractor by the Bureau of
1022 Reclamation, including installment payments after such date on account of arrangements for
1023 Federal financial assistance which were approved before such date. The Contractor recognizes
1024 and agrees that such Federal assistance will be extended in reliance on the representations and
1025 agreements made in this Article, and that the United States reserves the right to seek judicial
1026 enforcement thereof.

24. Omitted.

1027 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS
1028 RELATING TO PROJECT WORKS

1029 25. In addition to all other payments to be made by the Contractor pursuant to this
1030 Contract, the Contractor shall pay to the United States, within 60 days after receipt of a bill and
1031 detailed statement submitted by the Contracting Officer to the Contractor for such specific items
1032 of direct cost incurred by the United States for work requested by the Contractor associated with
1033 this Contract plus indirect costs in accordance with applicable Bureau of Reclamation policies
1034 and procedures. All such amounts referred to in this Article shall not exceed the amount agreed

to in writing in advance by the Contractor. This Article shall not apply to costs for routine contract administration.

WATER CONSERVATION

26. (a) Prior to the delivery of water provided from or conveyed through Federally constructed or Federally financed facilities pursuant to this Contract, the Contractor shall be implementing an effective water conservation and efficiency program based on the Contractor's water conservation plan that has been determined by the Contracting Officer to meet the conservation and efficiency criteria for evaluating water conservation plans established under Federal law. The water conservation and efficiency program shall contain definite water conservation objectives, appropriate economically feasible water conservation measures, and time schedules for meeting those objectives. Continued Project Water delivery pursuant to this Contract shall be contingent upon the Contractor’s continued implementation of such water conservation program. In the event the Contractor's water conservation plan or any revised water conservation plan completed pursuant to subdivision (d) of Article 26 of this Contract have not yet been determined by the Contracting Officer to meet such criteria, due to circumstances which the Contracting Officer determines are beyond the control of the Contractor, water deliveries shall be made under this Contract so long as the Contractor diligently works with the Contracting Officer to obtain such determination at the earliest practicable date, and thereafter the Contractor immediately begins implementing its water conservation and efficiency program in accordance with the time schedules therein.

(b) Should the amount of M&I Water delivered pursuant to subdivision (a) of Article 3 of this Contract equal or exceed 2,000 acre-feet per Year, the Contractor shall implement the Best Management Practices identified by the time frames issued by the California

Urban Water Conservation Council for such M&I Water unless any such practice is determined by the Contracting Officer to be inappropriate for the Contractor.

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

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

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

EXISTING OR ACQUIRED WATER OR WATER RIGHTS

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

OPERATIONS AND MAINTENANCE BY NON-FEDERAL OPERATING ENTITY

28. (a) Omitted.

1081 OPERATION AND MAINTENANCE OF PROJECT WORKS
1082 BY THE CONTRACTOR

1083 28.1. (a) The Contractor, without expense to the United States, shall operate and
1084 maintain the Project Works in full compliance with the Federal Reclamation laws and the terms
1085 of this Contract. The provisions of this Article shall be implemented by the Memorandum of
1086 Agreement relating to Details of Transfer Operations and Maintenance of Contra Costa Canal
1087 System, dated June 28, 1972, and Amendment 1, dated May 15, 1995, and may be amended from
1088 time to time in such manner that Project Works shall be maintained in good and efficient
1089 condition. The Contractor shall use proper methods to assure the reasonable and beneficial use
1090 of Water Delivered by means of Project Works. At any time the Contracting Officer determines
1091 the O&M by the Contractor of one or more of the Project Works is insufficient, the United States
1092 may take back the O&M of all or any part of such Project Works and the Contractor hereby
1093 agrees to surrender possession of said Project Works. The O&M of such Project Works so taken
1094 back for O&M may be retransferred to the Contractor upon the furnishing by the Contracting
1095 Officer of a written notice of intention to retransfer O&M to the Contractor 90 days in advance
1096 of the date of retransfer by the United States. Such transfer shall not be made until the Project
1097 Works have been placed in efficient operating condition: Provided, That for Project Works
1098 taken back by the United States for O&M, the Contractor shall pay the United States quarterly, in
1099 advance, sufficient funds, on the basis of an estimate to be submitted by the Contracting Officer,
1100 to finance the O&M of such Project Works. If the actual O&M costs should exceed the
1101 estimated costs, the Contractor shall pay the United States the necessary additional sums of
1102 money within 60 days after receipt of a bill submitted by the Contracting Officer to the
1103 Contractor. Any surplus of advances by the Contractor shall be refunded or, at the option of the

Contracting Officer, be applied against any obligation of the Contractor under this Contract due at that time.

(b) No substantial change in any of the Project Works or the installation of Contractor facilities on the lands and rights of way of Project Works shall be made by the Contractor without first obtaining the written consent of the Contracting Officer. The Contractor shall promptly make at its expense any and all repairs or replacements to one or more of the Project Works which the Contracting Officers determines are necessary for the proper O&M of such Project Works. If at any time, in the opinion of the Contracting Officer one or more of the Project Works shall from any cause be in a condition unfit for service, the Contracting Officer may order that the water be shut off from that Project Works until, in the Contracting Officer's opinion, said Project Works are put in proper condition for service. If the Contractor neglects or fails to make necessary repairs or replacements, at the option of the Contracting Officer, such repairs or replacements may be made by the United States and the cost therefore charged to the Contractor. The Contractor shall repay such costs as a miscellaneous cost in accordance with Article 25 of this Contract. The Contractor at its own expense shall repair any damage to the Project Works resulting from negligence of its officers, employees, or agents.

(c) From time to time the Contracting Officer, without cost to the Contractor, may make a review of the maintenance of the Project Works in order to assist the Contractor in determining the condition of those facilities and the adequacy of the maintenance program. The review may include any or all of the Project Works. A report of each such review, including recommendations, if any, shall be prepared and a copy shall be furnished to the Contractor. If deemed necessary by the Contracting Officer or when requested by the Contractor, an inspection of any of the Project Works and of the Contractor's books and records relating thereto may be

1127 made to ascertain whether the requirements of this Contract are being satisfactorily performed by
1128 the Contractor or to assist the Contractor in solving specific problems. Any such inspection
1129 shall, except in a case of emergency, be made after written notice to the Contractor and the actual
1130 cost thereof shall be paid by the Contractor to the United States as a miscellaneous cost pursuant
1131 to Article 25 of this Contract. The Contractor may participate in either the review or inspection.

1132 (d) The Contractor shall have the right to abandon one or more of the Project
1133 Works with the prior written approval of the Contracting Officer: Provided, That abandonment
1134 of one or more of the Project Works shall not relieve the Contractor of its obligation to repay the
1135 capital cost plus interest as appropriate of such Project Works less any disposal or salvage value
1136 which may be realized.

1137 (e) If and when the Contractor fully repays the United States the costs of one
1138 or more of the Project Works and the ownership of such Project Works is transferred to the
1139 Contractor pursuant to an Act of Congress, the provisions of subdivision (a), (b), (c), and (d) of
1140 this Article and subdivision (c) of Article 17 shall no longer apply to such Project Works

1141 EMERGENCY RESERVE FUND

1142 28.2. (a) The Contractor shall accumulate and maintain a reserve fund, as set forth
1143 in subdivision (b) below, which the Contractor shall keep available to pay O&M costs incurred
1144 during periods of special stress caused by damaging droughts, storms, earthquakes, floods, or
1145 other emergencies threatening or causing interruption of water service.

1146 (b) The Contractor shall establish a reserve fund of not less than $1,000,000 in
1147 a Federally insured interest- or dividend-bearing account, or investments in securities guaranteed
1148 by the Federal Government; Provided, That the money so deposited or invested shall be available
1149 within a reasonable time to meet expenses for the purposes identified in subdivision (d) of this

1150 Article. Whenever said reserve fund is reduced below $1,000,000 by expenditures therefrom, it
1151 shall be restored to that amount by accumulation of annual deposits at a minimum of $250,000.
1152 The interest earnings shall continue to accumulate and be retained as part of the reserve fund
1153 except when required to meet expenditures pursuant to subdivisions (a) and (d) of this Article.
1154 (c) By written agreement between the Contractor and the Contracting Officer,
1155 the basic amount of the reserve fund may be adjusted to account for risk and uncertainty
1156 stemming from the size and complexity of the Project Works, the size of the Contractor's annual
1157 O&M budget and O&M costs not contemplated when this Contract was executed.
1158 (d) The Contractor may withdraw money from the reserve fund only for
1159 meeting unusual O&M costs incurred during periods of stress as described in subdivision (a)
1160 above, and unforeseen extraordinary O&M costs, unusual or extraordinary repair or replacement
1161 costs, and betterment costs (in situations where recurrence of severe problems can be eliminated)
1162 during periods of special stress. The Contractor shall notify the Contracting Officer of any
1163 expenditure from the reserve fund pursuant to this subdivision.

1164 TRANSFER OF TITLE TO PROJECT WORKS

1165 28.3. Upon repayment of all outstanding capitalized costs of one or more of the Project
1166 Works, and upon appropriate authorization of Congress, all rights, title, and interests in and to
1167 the relevant Project Work(s) shall be transferred to the Contractor.

1168 PERFORMANCE OF PROJECT WORKS WITH CONTRIBUTED FUNDS

1169 28.4. (a) Pursuant to the Act of March 4, 1921 (41 Stat. 1367, 1404), the
1170 Contracting Officer may accept funds contributed by the Contractor to finance any authorized
1171 construction work on the Project facilities not otherwise provided for by this Contract for which
1172 funds may not be available. Pursuant to the Act of January 12, 1927 (44 Stat. 957, 43 U.S.C. §

397a), the Contracting Officer may also accept funds contributed by the Contractor to finance any authorized O&M work on the Project facilities not otherwise provided for by this Contract for which funds may not be available. When the undertaking of such work is approved, funds therefore shall be advanced by the Contractor as may be directed by the Contracting Officers and there shall be submitted to the Contracting Officer a certified copy of the resolution of the Board of Directors of the Contractor describing the work to be done and authorizing its performance with contributed funds.

(b) After completion of any work on Project facilities financed in whole or in part with funds contributed by the Contractor under subdivision (a) of this Article, the Contractor shall be furnished with a statement of the final cost thereof. Any unexpended balance of funds shall be refunded to the Contractor or applied as otherwise directed by the Contractor. The amount by which the cost of such work exceeds the amount of funds advanced by the Contractor therefore shall be paid by the Contractor to the United States as the Contracting Officer may direct.

CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

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

BOOKS, RECORDS, AND REPORTS

30. (a) The Contractor shall establish and maintain accounts and other books and records pertaining to administration of the terms and conditions of this Contract, including: the Contractor's financial transactions, water supply data, and Project land and right-of-way agreements; the water users' land-use (crop census), land ownership, land-leasing and water use data; and other matters that the Contracting Officer may require. Reports thereon shall be furnished to the Contracting Officer in such form and on such date or dates as the Contracting Officer may require. Subject to applicable Federal laws and regulations, each party to this

Contract shall have the right during office hours to examine and make copies of the other party's books and records relating to matters covered by this Contract.

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

(c) Omitted.

ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

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

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

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

SEVERABILITY

32. In the event that a person or entity who is neither (i) a party to a Project contract, nor (ii) a person or entity that receives Project Water from a party to a Project contract, nor (iii) an association or other form of organization whose primary function is to represent parties to Project contracts, brings an action in a court of competent jurisdiction challenging the legality or enforceability of a provision included in this Contract and said person, entity, association, or organization obtains a final court decision holding that such provision is legally invalid or unenforceable and the Contractor has not intervened in that lawsuit in support of the plaintiff(s),

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

RESOLUTION OF DISPUTES

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

OFFICIALS NOT TO BENEFIT

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

1248 CHANGES IN CONTRACTOR'S SERVICE AREA

1249 35. (a) While this Contract is in effect, no change may be made in the
1250 Contractor's Service Area, by inclusion or exclusion of lands, dissolution, consolidation, merger,
1251 or otherwise, except upon the Contracting Officer's written consent.

1252 (b) Within 30 days of receipt of a request for such a change, the Contracting
1253 Officer will notify the Contractor of any additional information required by the Contracting
1254 Officer for processing said request, and both parties will meet to establish a mutually agreeable
1255 schedule for timely completion of the process. Such process will analyze whether the proposed
1256 change is likely to: (i) result in the use of Project Water contrary to the terms of this Contract;
1257 (ii) impair the ability of the Contractor to pay for Project Water furnished under this Contract or
1258 to pay for any Federally-constructed facilities for which the Contractor is responsible; and (iii)
1259 have an impact on any Project Water rights applications, permits, or licenses. In addition, the
1260 Contracting Officer shall comply with the NEPA and the ESA. The Contractor will be
1261 responsible for all costs incurred by the Contracting Officer in this process, and such costs will
1262 be paid in accordance with Article 25 of this Contract.

1263 FEDERAL LAWS

1264 36. By entering into this Contract, the Contractor does not waive its rights to contest
1265 the validity or application in connection with the performance of the terms and conditions of this
1266 Contract of any Federal law or regulation; Provided, That the Contractor agrees to comply with
1267 the terms and conditions of this Contract unless and until relief from application of such Federal
1268 law or regulation to the implementing provision of the Contract is granted by a court of
1269 competent jurisdiction.

1270 NOTICES

1271 37. Any notice, demand, or request authorized or required by this Contract shall be
1272 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or

delivered to the Area Manager, South-Central California Area Office, 1243 N Street, Fresno, California 93721, and on behalf of the United States, when mailed, postage prepaid, or delivered to the Board of Directors, Contra Costa Water District, P. O. Box H_20, Concord, California 94524. The designation of the addressee or the address may be changed by notice given in the same manner as provided in this Article for other notices.

CONFIRMATION OF CONTRACT

38. The Contractor, after the execution of this Contract, shall furnish to the Contracting Officer evidence that pursuant to the laws of the State of California, the Contractor is a legally constituted entity, and the Contract is lawful, valid, and binding on the Contractor.

IN WITNESS WHEREOF, the parties hereto have executed this 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)

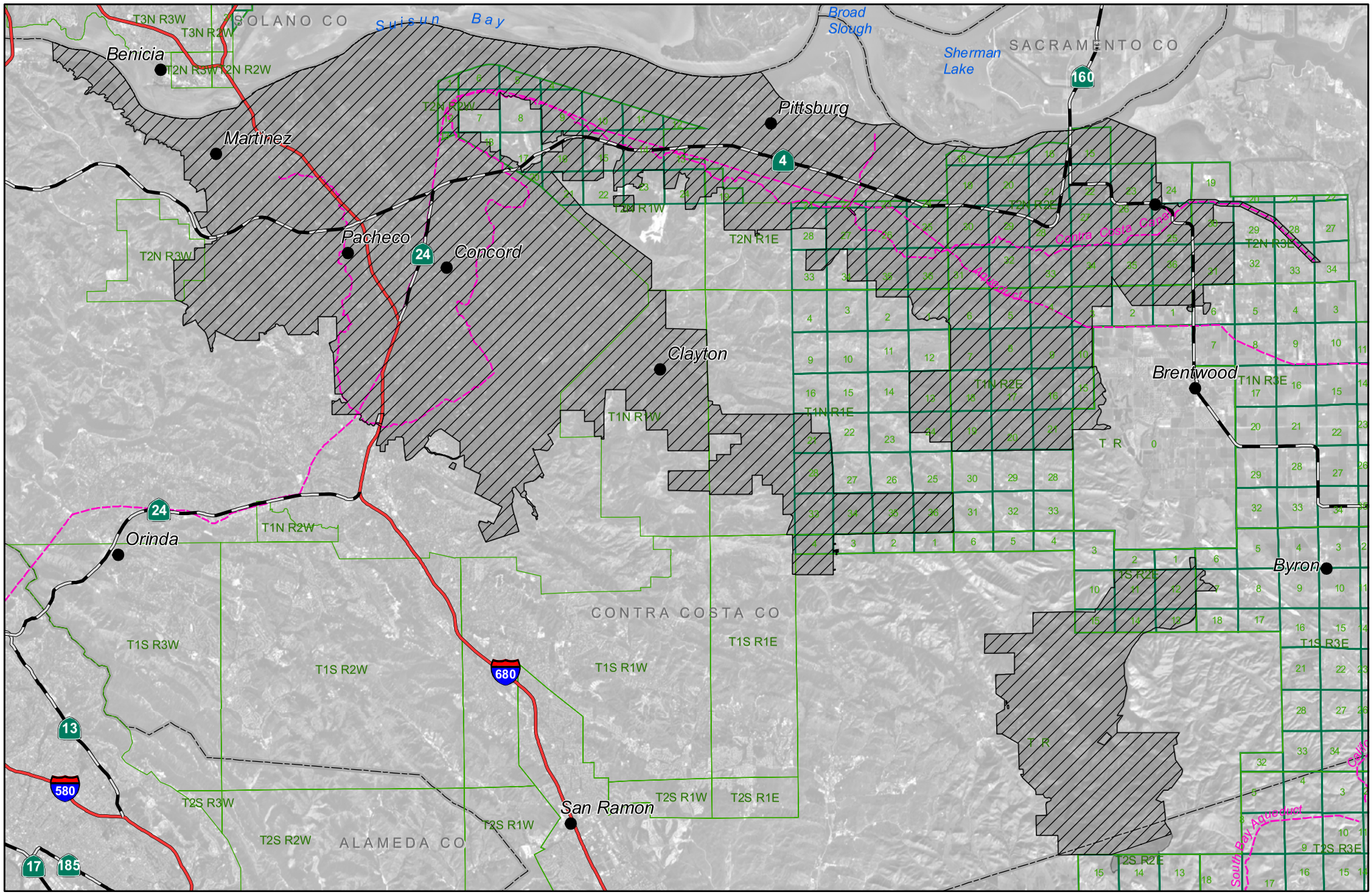
CONTRA COSTA WATER DISTRICT

By: _____
President of the Board of Directors

Attest:

By: _____
Secretary of the Board of Directors

(H:\pub 440\LTRC\Final Draft LTRC's – Fresno, Tracy\11-30-04 Contra Costa WD Final Draft LTRC with exhibits.doc)



Contra Costa Water District

Contract No. I75r-3401A-LTR1
Exhibit A

District Boundary
Contractor's Service Area

0 5 10 Miles

Date: December 2, 2004
File Name: N:\districts\contracts\contra_costa\contra_costa.mxd

214-202-796

EXHIBIT B
CONTRA COSTA WATER DISTRICT
2004 Water Rates and Charges

Note: Rates and Charges are 2004 rates. This exhibit will be updated prior to execution of the contract to reflect the current Rates and Charges.

	Central Valley Project M&I	*Non-Project Water Los Vaqueros M&I	*Non-Project Water Other M&I
COST-OF-SERVICE RATES:			
Capital Rates	$10.75	$ 1.24	
O&M Rates:			
Water Marketing	$ 5.01	$ 5.01	$ 5.01
Storage	$ 6.38		
San Luis Drain			
Direct Pumping	$ 3.70	$ 3.70	
Conveyance			
Conveyance Pumping			
Total O&M Rates	$15.09	$ 9.95	$ 5.01
Deficit Rates:			
Non-Interest Bearing	N/A	N/A	N/A
Interest Bearing	$10.49	N/A	N/A
Total Deficit Rate	$10.49	N/A	N/A
Cost-Service Rate	$36.33	$ 9.95	$5.01

FULL COST RATES as defined in Reclamation Reform Act (96 Stat. 1263):

Section 202(3) Rate is applicable to a Qualified Recipient or to a Limited Recipient receiving irrigation water on or before October 1, 1981.	N/A	N/A	N/A
Section 205(a)(3) Rate is applicable to a Limited Recipient that did not receive irrigation water on or before October 1, 1981.	N/A	N/A	N/A

CHARGES UNDER P.L. 102-575 TO RESTORATION FUND: **

Restoration Payments [Section 3407(d)(2)(A)]	$15.64	N/A	N/A

* Non-Project Rates/Chares may be modified by various methods on a CVP-Wide Basis at some future point.

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

HISTORIC USE as defined in CVP M&I Water Shortage Policy:

Recent Historic Average - 152,100