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

LONG-TERM RENEWAL CONTRACT BETWEEN THE UNITED STATES
AND

PROVIDING FOR PROJECT WATER SERVICE
FROM _____ DIVISION

THIS CONTRACT, made this _____ day of _____, 2001, 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. 1262), 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 _____, hereinafter referred to as the Contractor, a public agency of the State of California, duly organized, existing, and acting pursuant to the laws thereof, with its principal place of business in California;

WITNESSETH, That:

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EXPLANATORY RECITALS

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

[2nd] WHEREAS, the United States constructed _____, hereinafter collectively referred to as the _____ [Division/Unit] facilities, which will be used in part for the furnishing of water to the Contractor pursuant to the terms of this Contract; and

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

[4th] WHEREAS, the Contractor and the United States entered into Contract No. _____, as amended, which established terms for the delivery to the Contractor of Central Valley Project Water from the _____ [Division/Unit] from _____ through _____; and

38 [5th] [FOR IRC'S] WHEREAS, the Contractor and the United States have pursuant to
39 subsection 3404(c)(1) of the Central Valley Project Improvement Act (CVPIA), subsequently
40 entered into interim renewal contract(s) identified as Contract
41 No(s)._____, the current of which is hereinafter referred to as the
42 Existing Contract, which provided for the continued water service to the Contractor from
43 _____ through _____; and

44 [6th] WHEREAS, Section 3404(c) of the CVPIA provides for long-term renewal of
45 interim and existing long-term Central Valley Project Water service contracts following
46 completion of appropriate environmental documentation, including a programmatic
47 environmental impact statement (PEIS) pursuant to the National Environmental Policy Act
48 analyzing the direct and indirect impacts and benefits of implementing the CVPIA and the
49 potential renewal of all existing contracts for Project Water; and

50 [7th] WHEREAS, the United States has completed the PEIS and all other appropriate
51 environmental review necessary to provide for long-term renewal of the Existing Contract; and

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

55 [9th] WHEREAS, the United States has determined that the Contractor has fulfilled all
56 of its obligations under the Existing Contract; and

57 [10th] [CONTRACTOR SPECIFIC] WHEREAS, the Contractor has demonstrated to the

58 satisfaction of the Contracting Officer that the Contractor has utilized the Central Valley Project
59 Water supplies available to it for reasonable and beneficial use and/or has demonstrated projected
60 future demand for water use such that the Contractor has the capability¹ and expects to utilize
61 fully for reasonable and beneficial use the quantity of Project Water to be made available to it
62 pursuant to this Contract; and

63 [11th] WHEREAS, water obtained from the Central Valley Project has been relied upon
64 by urban and agricultural areas within California for more than fifty (50) years, and is considered
65 by the Contractor as an essential portion of its water supply; and

66 [12th] WHEREAS, the economies of regions within the Central Valley Project,
67 including the Contractor's, depend upon the continued availability of water, including water
68 service from the Central Valley Project; and

69 [13th] WHEREAS, the Secretary intends through coordination, cooperation, and
70 partnerships to pursue measures to improve water supply, water quality, and reliability of the
71 Project for all Project purposes; and

¹ Contractor Specific issue - This recital may need to be modified for individual contractors who do not have the capability today to take Project Water but can demonstrate that they will have the capability to take Project Water prior to the delivery of water.

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

79 [15th] WHEREAS, the parties intend by this Contract to develop a more cooperative
80 relationship in order to achieve their mutual goals; and

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

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

86 DEFINITIONS

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

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

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

94 (c) "Condition of Shortage" shall mean a condition respecting the Project
95 during any Year such that the Contracting Officer is unable to deliver sufficient water to meet
96 the Contract Total;²

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

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

102 (f) "Contractor's Service Area" shall mean the area to which the Contractor
103 is permitted to provide Project Water under this Contract as described in Exhibit "A" attached
104 hereto, which may be modified from time to time in accordance with Article 35 of this Contract
105 without amendment of this Contract;³

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

² May need to be modified for some divisions, including a definition of interruption of supply.

³ Some Contractors may propose alternate language. Some Contractors may use a legal description, others may use a map.

108 (h) "Eligible Lands" shall mean all lands to which Irrigation Water may be
109 delivered in accordance with Section 204 of the Reclamation Reform Act of October 12, 1982
110 (96 Stat. 1263), as amended, hereinafter referred to as RRA;

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

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

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

118 (l) "Irrigation Full Cost Water Rate" shall have the same meaning as "full
119 cost" as that term is used in paragraph (3) of Section 202 of the Reclamation Reform Act of
120 1982;

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

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

126 (o) "Municipal and Industrial (M&I) Water"⁴ shall mean water made available
127 from the Project other than Irrigation Water made available to the Contractor. M&I Water shall
128 include water used for human use and purposes such as the watering of landscaping or pasture
129 for animals (e.g., horses) which are kept for personal enjoyment or water delivered to land
130 holdings operated in units of less than five (5) acres unless the Contractor establishes to the
131 satisfaction of the Contracting Officer that the use of water delivered to any such landholding is a
132 use described in subdivision (m) of this Article;

133 (p) "M&I Full Cost Water Rate" shall mean the annual rate, which, as
134 determined by the Contracting Officer, shall amortize the expenditures for construction allocable
135 to Project M&I facilities in service, including, O&M deficits funded, less payments, over such
136 periods as may be required under Federal Reclamation law with interest accruing from the dates
137 such costs were first incurred plus the applicable rate for the O&M of such Project facilities.
138 Interest rates used in the calculation of the M&I Full Cost Rate shall comply with the Interest
139 Rate methodology contained in Section 202 (3) (B) and (C) of the RRA;

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

⁴ Some Contractors may want to include "other water" definition in lieu of this definition. Individual Contractors with unique circumstances may negotiate a lower threshold.

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

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

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

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

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

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

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

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

166 (z) "Water Delivered" or "Delivered Water" shall mean Project Water
167 diverted for use by the Contractor at the point(s) of delivery approved by the Contracting
168 Officer⁵;

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

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

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

177 TERM OF CONTRACT

178 2. (a) This Contract shall be effective March 1, 2001, through February 28,
179 2026. In the event the Contractor wishes to renew the Contract beyond February 28, 2026, the

⁵ This language may be modified at the Contractor level.

180 Contractor shall submit a request for renewal in writing to the Contracting Officer no later than
181 two (2) years prior to the date this Contract expires. The renewal of this Contract insofar as it
182 pertains to the furnishing of Irrigation Water to the Contractor shall be governed by subdivision
183 (b) of this Article, and the renewal of this Contract insofar as it pertains to the furnishing of M&I
184 Water to the Contractor shall be governed by subdivision (c) of this Article.

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

190 (2) The conditions which must be met for this Contract to be renewed
191 are: (i) the Contractor has prepared a water conservation plan that has been determined by the
192 Contracting Officer in accordance with Article 26 of this Contract to meet the conservation and
193 efficiency criteria for evaluating such plans established under Federal law; (ii) the Contractor is
194 implementing an effective water conservation and efficiency program based on the Contractor's
195 water conservation plan as required by Article 26 of this Contract; (iii) the Contractor is
196 operating and maintaining all water measuring devices and implementing all water measurement
197 methods as approved by the Contracting Officer pursuant to Article 6 of this Contract; (iv) the
198 Contractor has reasonably and beneficially used the Project Water supplies made available to it

199 and, based on projected demands, is reasonably anticipated and expects fully to utilize for
200 reasonable and beneficial use the quantity of Project Water to be made available to it pursuant to
201 such renewal; (v) the Contractor is complying with all terms and conditions of this Contract; and
202 (vi) the Contractor has the physical and legal ability to deliver Project Water.

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

213 (c) This Contract, insofar as it pertains to the furnishing of M&I Water to the
214 Contractor, shall be renewed for a period of twenty five (25) years and thereafter shall be
215 renewed for successive periods of up to forty (40) years each, which periods shall be consistent
216 with the then-existing Reclamation-wide policy, under terms and conditions mutually agreeable
217 to the parties and consistent with federal and state law. The present Reclamation-wide policy,
218 dated March 20, 2000, provides that the term of such contracts shall be no more than twenty five

219 (25) years each, subject to a variance to allow a longer term in appropriate circumstances. The
220 Contractor shall be afforded the opportunity to comment to the Contracting Officer on the
221 proposed adoption and application of any revised Reclamation-wide policy applicable to the
222 delivery of Project M&I Water that would limit the term of any subsequent renewal contract with
223 the Contractor for the furnishing of M&I Water to less than twenty five (25) years.

224 (d) The Contracting Officer anticipates that by December 31, 2024, all
225 authorized project construction expected to occur will have occurred, and on that basis the
226 Contracting Officer agrees by that date to allocate all costs that are properly assignable to the
227 Contractor, and agrees further that, at any time after such allocation is made, and subject to
228 satisfaction of the condition set out in this subdivision, this Contract shall, at the request of the
229 Contractor, be converted to a contract under subsection (d) , Section 9 of the Reclamation Project
230 Act of 1939, subject to applicable Federal law and under stated terms and conditions mutually
231 agreeable to the Contractor and the Contracting Officer. A condition for such conversion to
232 occur shall be a determination by the Contracting Officer that, account being taken of the amount
233 credited to return by the Contractor as provided for under Reclamation law, the remaining
234 amount of construction costs assignable for ultimate return by the Contractor can probably be
235 repaid to the United States within the term of a contract under said subsection (d). If the
236 remaining amount of costs that are properly assignable to the Contractor cannot be determined by
237 December 31, 2024, the Contracting Officer shall notify the Contractor, and provide the reason(s)
238 why such a determination could not be made. Further, the Contracting Officer shall make such a

239 determination as soon thereafter as possible so as to permit, upon request of the Contractor and
240 satisfaction of the condition set out above, conversion to a contract under said subsection (d). In
241 the event such determination of costs has not been made at a time which allows conversion of
242 this Contract during the term of this Contract or the Contractor has not requested conversion of
243 this Contract within such term, the parties shall incorporate in any subsequent renewal contract as
244 described in subdivision (b) of this Article a provision that carries forth in substantially identical
245 terms the provisions of this subdivision. In the event the Contracting Officer is able to make a
246 determination of the remaining amount of costs that are properly assignable to the Contractor
247 before December 31, 2024, the Contracting Officer shall do so at the earliest time the Contracting
248 Officer has such ability.

249 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

250 3. **(Divisional)(a)**⁶ During each Year, consistent with all applicable State water rights,
251 permits, and licenses, Federal law, and subject to the provisions set forth in Articles 11 and 12 of
252 this Contract, the Contracting Officer shall make available for delivery to the Contractor _____
253 acre-feet of water for irrigation and M&I purposes. The quantity of Water Delivered to the
254 Contractor in accordance with this subdivision shall be scheduled and paid for pursuant to the
255 provisions of Articles 4 and 7 of this Contract.

256 (b) Because the capacity of the Central Valley Project to deliver Project Water

⁶Delta Export Agricultural contracts will require restructuring of this Article.

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

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

267 (d) The Contractor shall make reasonable and beneficial use of all Project
268 Water or other water furnished pursuant to this Contract. Ground-water recharge programs,
269 ground-water banking programs, surface water storage programs, and other similar programs
270 utilizing Project Water or other water furnished pursuant to this Contract conducted within the
271 Contractor's Service Area which are consistent with applicable State law and result in use
272 consistent with Reclamation law will be allowed; Provided, That any direct recharge program(s)
273 is (are) described in the Contractor's Water Conservation Plan submitted pursuant to Article 26
274 of this Contract; Provided, further, That such Water Conservation Plan demonstrates sufficient
275 lawful uses exist in the Contractor's Service Area so that using a long-term average, the quantity
276 of Delivered Water is demonstrated to be reasonable for such uses and in compliance with

277 Reclamation Law. Ground-water recharge programs, ground-water banking programs, surface
278 water storage programs, and other similar programs utilizing Project Water or other water
279 furnished pursuant to this Contract conducted outside the Contractor's Service Area may be
280 permitted upon written approval of the Contracting Officer, which approval will be based upon
281 environmental documentation, Project Water rights, and Project operational concerns. The
282 Contracting Officer will address such concerns in regulations, policies, or guidelines.

283 (e) The Contractor shall comply with requirements applicable to the
284 Contractor in biological opinion(s) prepared as a result of a consultation regarding the execution
285 of this Contract undertaken pursuant to Section 7 of the Endangered Species Act of 1973, as
286 amended, that are within the Contractor's legal authority to implement. The Contractor shall
287 comply with the limitations or requirements imposed by environmental documentation applicable
288 to the Contractor and within its legal authority to implement regarding specific activities,
289 including conversion of Irrigation Water to M&I Water. Nothing herein shall be construed to
290 prevent the Contractor from challenging or seeking judicial relief in a court of

291 competent jurisdiction with respect to any biological opinion or other environmental
292 documentation referred to in this Article.⁷

293 (f) Following the declaration of Water Made Available under Article 4 of this
294 Contact, the Contracting Officer will make a determination whether Project Water, or other water
295 available to the Project, can be made available to the Contractor in addition to the Contract Total
296 under Article 3 of this Contract during the Year without adversely impacting other Project
297 Contractors. At the request of the Contractor, the Contracting Officer will consult with the
298 Contractor prior to making such a determination. If the Contracting Officer determines that
299 Project Water, or other water available to the Project, can be made available to the Contractor,
300 the Contracting Officer will announce the availability of such water and shall so notify the
301 Contractor as soon as practical. The Contracting Officer will thereafter meet with the Contractor
302 and other Project Contractors capable of taking such water to determine the most equitable and
303 efficient allocation of such water. If the Contractor requests the delivery of any quantity of such
304 water, the Contracting Officer shall make such water available to the Contractor in accordance
305 with applicable statutes, regulations, guidelines, and policies.

⁷ **Specific Contract Issue:** The concern over land use authority may be the subject of discussion with individual contractors.

306 (g) The Contractor may request permission to reschedule for use during the
307 subsequent Year some or all of the Water Made Available to the Contractor during the current
308 Year referred to as “carryover.”⁸ The Contractor may request permission to use during the
309 current Year a quantity of Project Water which may be made available by the United States to the
310 Contractor during the subsequent Year referred to as “preuse.” The Contracting Officer’s written
311 approval may permit such uses in accordance with applicable statutes, regulations, guidelines,
312 and policies.

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

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

⁸ “Rescheduled” in some divisions.

324 conditions of such approval.

325 [DIVISIONAL ISSUE – SECTION 215 WATER]

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

332 TIME FOR DELIVERY OF WATER

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

341 declaration of Project operations will be expressed in terms of both Water Made Available and
342 the Recent Historic Average.

343 (b) [DIVISIONAL / CONTRACTOR SPECIFIC ISSUE – MORE SPECIFIC
344 INFORMATION WILL BE INCLUDED FOR SOME] On or before each March 1 and at such
345 other times as necessary, the Contractor shall submit to the Contracting Officer a written
346 schedule, satisfactory to the Contracting Officer, showing the monthly quantities of Project
347 Water to be delivered by the United States to the Contractor pursuant to this Contract for the
348 Year commencing on such March 1. The Contracting Officer shall use all reasonable means to
349 deliver Project Water according to the approved schedule for the Year commencing on such
350 March 1.

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

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

360 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

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

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

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

374 (d) All Water Delivered to the Contractor pursuant to this Contract shall be
375 measured and recorded with equipment furnished, installed, operated, and maintained by the
376 United States, the Operating Non-Federal Entity or other appropriate entity as designated by the
377 Contracting Officer (hereafter “other appropriate entity”) at the point or points of delivery
378 established pursuant to subdivision (a) of this Article. Upon the request of either party to this

379 Contract, the Contracting Officer shall investigate, or cause to be investigated by the responsible
380 Operating Non-Federal Entity, the accuracy of such measurements and shall take any necessary
381 steps to adjust any errors appearing therein. For any period of time when accurate measurements
382 have not been made, the Contracting Officer shall consult with the Contractor and the
383 responsible Operating Non-Federal Entity prior to making a final determination of the quantity
384 delivered for that period of time.

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

398 agents, or assigns including any responsible Operating Non-Federal Entity, or (iv) damage or
399 claims resulting from a malfunction of facilities owned and/or operated by the United States or
400 responsible Operating Non-Federal Entity; Provided, That the Contractor is not the Operating
401 Non-Federal Entity that owned or operated the malfunctioning facility(ies) from which the
402 damage claim arose.

403 MEASUREMENT OF WATER WITHIN THE SERVICE AREA⁹

404 6.(Contractor Specific)(a) By _____ [DATE] _____, the
405 Contractor shall ensure that, unless the Contractor establishes an alternative measurement
406 program satisfactory to the Contracting Officer, all surface water delivered for irrigation purposes
407 within the Contractor's Service Area is measured at each agricultural turnout and such water
408 delivered for municipal and industrial purposes is measured at each municipal and industrial
409 service connection. The water measuring devices or water measuring methods of comparable
410 effectiveness must be acceptable to the Contracting Officer. The Contractor shall be responsible
411 for installing, operating, and maintaining and repairing all such measuring devices and
412 implementing all such water measuring methods at no cost to the United States. The Contractor
413 shall use the information obtained from such water measuring devices or water measuring
414 methods to ensure its proper management of the water, to bill water users for water delivered by
415 the Contractor; and, if applicable, to record water delivered for municipal and industrial purposes

⁹ Recognize unique circumstances at Contractor level may require negotiation of different language.

416 by customer class as defined in the Contractor's water conservation plan provided for in Article
417 26 of this Contract. Nothing herein contained, however, shall preclude the Contractor from
418 establishing and collecting any charges, assessments, or other revenues authorized by California
419 law. The Contractor shall include a summary of all its annual surface water deliveries in the
420 annual report described in subdivision (c) of Article 26.

421 (b) **(Contractor Specific)** To the extent the information has not otherwise
422 been provided, upon execution of this Contract, the Contractor shall provide to the Contracting
423 Officer a written report describing the measurement devices or water measuring methods being
424 used or to be used to implement subdivision (a) of this Article and identifying the agricultural
425 turnouts and the municipal and industrial service connections or alternative measurement
426 programs approved by the Contracting Officer, at which such measurement devices or water
427 measuring methods are being used, and, if applicable, identifying the locations at which such
428 devices and/or methods are not yet being used including a time schedule for implementation at
429 such locations. The Contracting Officer shall advise the Contractor in writing within sixty (60)
430 days as to the adequacy of, and necessary modifications, if any, of the measuring devices or water
431 measuring methods identified in the Contractor's report and if the Contracting Officer does not
432 respond in such time, they shall be deemed adequate. If the Contracting Officer notifies the
433 Contractor that the measuring devices or methods are inadequate, the parties shall within sixty
434 (60) days following the Contracting Officer's response, negotiate in good faith the earliest

435 practicable date by which the Contractor shall modify said measuring devices and/or measuring
436 methods as required by the Contracting Officer to ensure compliance with subdivision (a) of this
437 Article.

438 (c) All new surface water delivery systems installed within the Contractor's
439 Service Area after the effective date of this Contract shall also¹⁰ comply with the measurement
440 provisions described in subdivision (a) of this Article.

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

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

447 RATES AND METHOD OF PAYMENT FOR WATER

448 7. (a) The Contractor shall pay the United States as provided in this Article for
449 all Delivered Water at Rates, Charges, and the Tiered Pricing Component established in
450 accordance with (i) the Secretary's ratesetting policy for Irrigation Water adopted in 1988 and the
451 Secretary's then-existing ratesetting policy for M&I Water. Such ratesetting policies shall be
452 amended, modified, or superseded only through a public notice and comment procedure; (ii)

¹⁰ Some Contractors may propose alternate date.

453 applicable Reclamation law and associated rules and regulations, or policies; and (iii) other
454 applicable provisions of this Contract. Payments shall be made by cash transaction, wire, or any
455 other mechanism as may be agreed to in writing by the Contractor and the Contracting Officer.
456 The Rates, Charges, and Tiered Pricing Components applicable to the Contractor upon execution
457 of this Contract are set forth in Exhibit "B", as may be revised annually.

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

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

468 (2) Prior to October 1 of each Calendar Year, the Contracting Officer
469 shall make available to the Contractor an estimate of the Rates and Tiered Pricing Components
470 for Project Water for the following Year and the computations and cost allocations upon which
471 those Rates are based. The Contractor shall be allowed not less than two (2) months to review

472 and comment on such computations and cost allocations. By December 31 of each Calendar
473 Year, the Contracting Officer shall provide the Contractor with the final Rates and Tiered Pricing
474 Components to be in effect for the upcoming Year, and such notification shall revise Exhibit
475 “B”.

476 (c) At the time the Contractor submits the initial schedule for the delivery of
477 Project Water for each Year pursuant to subdivision (b) of Article 4 of this Contract, the
478 Contractor shall make an advance payment to the United States equal to the total amount payable
479 pursuant to the applicable Rate(s) set under subdivision (a) of this Article, for the Project Water
480 scheduled to be delivered pursuant to this Contract during the first two (2) calendar months of the
481 Year. Before the end of the first month and before the end of each calendar month thereafter, the
482 Contractor shall make an advance payment to the United States, at the Rate(s) set under
483 subdivision (a) of this Article, for the Water Scheduled to be delivered pursuant to this Contract
484 during the second month immediately following. Adjustments between advance payments for
485 Water Scheduled and payments at Rates due for Water Delivered shall be made before the end
486 of the following month; Provided, That any revised schedule submitted by the Contractor
487 pursuant to Article 4 of this Contract which increases the amount of Water Delivered pursuant to
488 this Contract during any month shall be accompanied with appropriate advance payment, at the
489 Rates then in effect, to assure that Project Water is not delivered to the Contractor in advance of
490 such payment. In any month in which the quantity of Water Delivered to the Contractor pursuant

491 to this Contract equals the quantity of Water Scheduled and paid for by the Contractor, no
492 additional Project Water shall be delivered to the Contractor unless and until an advance payment
493 at the Rates then in effect for such additional Project Water is made. Final adjustment between
494 the advance payments for the Water Scheduled and payments for the quantities of Water
495 Delivered during each Year pursuant to this Contract shall be made as soon as practicable but no
496 later than April 30th of the following Year, or sixty (60) days after the delivery of Project Water
497 carried over under subdivision (f) of Article 3 of this Contract if such water is not delivered by
498 the last day of February.

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

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

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

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

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

524 (h) The Contracting Officer shall keep its accounts pertaining to the
525 administration of the financial terms and conditions of its long-term contracts, in accordance with
526 applicable Federal standards, so as to reflect the application of Project costs and revenues. The
527 Contracting Officer shall, each Year upon request of the Contractor, provide to the Contractor a
528 detailed accounting of all Project and Contractor expense allocations, the disposition of all

529 Project and Contractor revenues, and a summary of all water delivery information. The
530 Contracting Officer and the Contractor shall enter into good faith negotiations to resolve any
531 discrepancies or disputes relating to accountings, reports, or information.

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

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

548 the difference between (i) the Rate established under subdivision (a) of this Article and (ii) the
549 Irrigation Full Cost Water Rate or M&I Full Cost Water Rate, whichever is applicable.

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

558 (3) For purposes of determining the applicability of the Tiered Pricing
559 Components pursuant to this Article, Water Delivered shall include Project Water that the
560 Contractor transfers to others but shall not include Project Water transferred and delivered to the
561 Contractor.¹¹

¹¹ Divisions/Districts may propose alternative language.

562 (k) For the term of this Contract, Rates under the respective ratesetting
563 policies will be established to recover only reimbursable “operation and maintenance” (including
564 any deficits) and capital costs of the Project, as those terms are used in the then-current Project
565 ratesetting policies, and interest, where appropriate, except in instances where a minimum Rate is
566 applicable in accordance with the relevant Project ratesetting policy. Changes of significance in
567 practices which implement the Contracting Officer’s ratesetting policies will not be implemented
568 until the Contracting Officer has provided the Contractor an opportunity to discuss the nature,
569 need, and impact of the proposed change.

570 (l) Except as provided in subsections 3405(a)(1)(B) and 3405(f) of the
571 CVPIA, the Rates for Project Water transferred by the Contractor shall be the Contractor’s Rates
572 adjusted upward or downward to reflect the changed costs, (if any), incurred by the Contracting
573 Officer in the delivery of the transferred Project Water to the transferee’s point of delivery in
574 accordance with the then applicable CVP Ratesetting Policy; If the Contractor is receiving lower
575 Rates and Charges because of inability to pay and is transferring Project Water to another entity
576 whose Rates and Charges are not adjusted due to inability to pay, the Rates and Charges for
577 transferred Project Water shall be the Contractor’s Rates and Charges unadjusted for ability to
578 pay.

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

581 NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICITS

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

585 [Or,]

586 The Contractor and the Contracting Officer have entered into a written agreement
587 specifying a mutually acceptable mechanism through which the Contractor will retire its
588 outstanding non-interest bearing Operation and Maintenance deficits.

589 SALES, TRANSFERS, OR EXCHANGES OF WATER

590 9. (a) The right to receive Project Water provided for in this Contract may be
591 sold, transferred, or exchanged to others for reasonable and beneficial uses within the State of
592 California if such sale, transfer, or exchange is authorized by applicable Federal and State laws,
593 and applicable guidelines or regulations then in effect. No sale, transfer, or exchange of Project
594 Water under this Contract may take place without the prior written approval of the Contracting
595 Officer, except as provided for in subdivision (b) of this Article, and no such sales, transfers, or
596 exchanges shall be approved absent compliance with appropriate environmental documentation
597 including but not limited to the National Environmental Policy Act and the Endangered Species
598 Act. Such environmental documentation should include, as appropriate, an analysis of

599 groundwater impacts and economic and social effects, including environmental justice, of the
600 proposed water transfers on both the transferor and transferee.

601 (b) In order to facilitate efficient water management by means of water
602 transfers of the type historically carried out among Project Contractors located within the same
603 geographical area and to allow the Contractor to participate in an accelerated water transfer
604 program during the term of this Contract, the Contracting Officer shall prepare, as appropriate,
605 necessary environmental documentation including, but not limited to, the National
606 Environmental Policy Act and the Endangered Species Act analyzing annual transfers within
607 such geographical areas and the Contracting Officer shall determine whether such transfers
608 comply with applicable law. Following the completion of the environmental documentation,
609 such transfers addressed in such documentation shall be conducted with advance notice to the
610 Contracting Officer, but shall not require prior written approval by the Contracting Officer. Such
611 environmental documentation and the Contracting Officer's compliance determination shall be
612 reviewed every five (5) years and updated, as necessary, prior to the expiration of the then-
613 existing five (5) -year period. All subsequent environmental documentation shall include an
614 alternative to evaluate not less than the quantity of Project Water historically transferred within
615 the same geographical area.

616 (c) For a water transfer to qualify under subdivision (b) of this Article, such
617 water transfer must: (i) be for irrigation purposes for lands irrigated within the previous three (3)

618 years, for M&I use, ground-water recharge, water banking, or fish and wildlife resources; not
619 lead to land conversion; and be delivered to established cropland, wildlife refuges, ground-water
620 basins or municipal and industrial use; (ii) occur within a single Year; (iii) occur between a
621 willing seller and a willing buyer; (iv) convey water through existing facilities with no new
622 construction or modifications to facilities and be between existing Project Contractors and/or the
623 Contractor and the United States, Department of the Interior; and (v) comply with all applicable
624 Federal, State, and local or tribal laws and requirements imposed for protection of the
625 environment and Indian Trust Assets, as defined under Federal law.

626 APPLICATION OF PAYMENTS AND ADJUSTMENTS

627 10. (a) The amount of any overpayment by the Contractor of the Contractor's
628 O&M, Capital, and deficit (if any) obligations for the Year shall be applied first to any current
629 liabilities of the Contractor arising out of this Contract then due and payable. Overpayments of
630 more than One Thousand Dollars (\$1,000) shall be refunded at the Contractor's request. In lieu
631 of a refund, any amount of such overpayment at the option of the Contractor, may be credited
632 against amounts to become due to the United States by the Contractor. With respect to
633 overpayment, such refund or adjustment shall constitute the sole remedy of the Contractor or
634 anyone having or claiming to have the right to the use of any of the Project Water supply
635 provided for herein. All credits and refunds of overpayments shall be made within thirty (30)
636 days of the Contracting Officer obtaining direction as to how to credit or refund such

637 overpayment in response to the notice to the Contractor that it has finalized the accounts for the
638 Year in which the overpayment was made.

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

645 TEMPORARY REDUCTIONS--RETURN FLOWS

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

651 (b) The Contracting Officer or Operating Non-Federal Entity may temporarily
652 discontinue or reduce the quantity of Water Delivered to the Contractor as herein provided for
653 the purposes of investigation, inspection, maintenance, repair, or replacement of any of the
654 Project facilities or any part thereof necessary for the delivery of Project Water to the Contractor,
655 but so far as feasible the Contracting Officer or Operating Non-Federal Entity will give the

656 Contractor due notice in advance of such temporary discontinuance or reduction, except in case
657 of emergency, in which case no notice need be given; Provided, That the United States shall use
658 its best efforts to avoid any discontinuance or reduction in such service. Upon resumption of
659 service after such reduction or discontinuance, and if requested by the Contractor, the United
660 States will, if possible, deliver the quantity of Project Water which would have been delivered
661 hereunder in the absence of such discontinuance or reduction.

662 (c) The United States reserves the right to all seepage and return flow water
663 derived from Water Delivered to the Contractor hereunder which escapes or is discharged
664 beyond the Contractor's Service Area; Provided, That this shall not be construed as claiming for
665 the United States any right as seepage or return flow being put to reasonable and beneficial use
666 pursuant to this Contract within the Contractor's Service Area¹² by the Contractor or those
667 claiming by, through, or under the Contractor.

668 CONSTRAINTS ON THE AVAILABILITY OF WATER

669 12. (a) In its operation of the Project, the Contracting Officer will use all
670 reasonable means to guard against a Condition of Shortage in the quantity of water to be made
671 available to the Contractor pursuant to this long-term renewal Contract. In the event the

¹² Divisions may propose alternate language

672 Contracting Officer determines that a Condition of Shortage appears probable, the Contracting
673 Officer will notify the Contractor of said determination as soon as practicable.

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

679 (c) **DIVISIONAL ISSUE - APPORTIONMENT AMONG**
680 **CONTRACTORS.**

681 (d) **DIVISIONAL ISSUE - M&I Water Service Contracts**
682 **UNAVOIDABLE GROUNDWATER PERCOLATION**

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

687 RULES AND REGULATIONS¹³

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

693 WATER AND AIR POLLUTION CONTROL

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

698 QUALITY OF WATER¹⁴

699 16. (a) Project facilities used to deliver Project Water to the Contractor pursuant
700 to this Contract shall be operated and maintained to enable the United States to deliver Project
701 Water to the Contractor in accordance with the water quality standards specified in subsection
702 2(b) of the Act of August 26, 1937 (50 Stat. 850), as added by Section 101 of the Act of
703 October 27, 1986 (100 Stat. 3050) or other existing Federal laws. The United States is under no

¹³ Contractor Specific Issue - This may need to be modified on an individual contractor basis. Some contractors may be precluded by law to agreeing to all or part of this Article.

¹⁴ Some Contractors may request tailored language regarding water quality.

704 obligation to construct or furnish water treatment facilities to maintain or to improve the quality
705 of Water Delivered to the Contractor pursuant to this Contract. The United States does not
706 warrant the quality of Water Delivered to the Contractor pursuant to this Contract.

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

714 (c) [DIVISIONAL ISSUE – DRAINAGE, WHERE APPLICABLE]

715 WATER ACQUIRED BY THE CONTRACTOR
716 OTHER THAN FROM THE UNITED STATES

717 17. (a) Water or water rights now owned or hereafter acquired by the Contractor
718 other than from the United States and Irrigation Water furnished pursuant to the terms of this
719 Contract may be simultaneously transported through the same distribution facilities of the
720 Contractor subject to the following: (i) if the facilities utilized for commingling Irrigation Water
721 and non-project water were constructed without funds made available pursuant to Federal
722 Reclamation law, the provisions of Federal Reclamation law will be applicable only to the
723 Landholders of lands which receive Irrigation Water; (ii) the eligibility of land to receive

724 Irrigation Water must be established through the certification requirements as specified in the
725 Acreage Limitation Rules and Regulations (43 CFR Part 426); (iii) the water requirements of
726 Eligible Lands within the Contractor's Service Area can be established and the quantity of
727 Irrigation Water to be utilized is less than or equal to the quantity necessary to irrigate such
728 Eligible Lands; and (iv) if the facilities utilized for commingling Irrigation Water and non-project
729 water are/were constructed with funds made available pursuant to Federal Reclamation law, the
730 non-project water will be subject to the acreage limitation provisions of Federal Reclamation
731 law, unless the Contractor pays to the United States the incremental fee described in 43 CFR
732 426.15. In determining the incremental fee, the Contracting Officer will calculate annually the
733 cost to the Federal Government, including interest of storing or delivering non-project water,
734 which for purposes of this Contract shall be determined as follows: The quotient shall be the
735 unpaid distribution system costs divided by the total irrigable acreage within the Contractors
736 Service Area. The incremental fee per acre is the mathematical result of such quotient times the
737 interest rate determined using Section 202 (3) of the Act of October 12, 1982 (96 Stat. 1263).
738 Such incremental fee will be charged to each acre of excess or full cost land within the
739 Contractor's Service Area that receives non-project water through Federally financed or
740 constructed facilities. The incremental fee calculation methodology will continue during the
741 term of this Contract absent the promulgation of a contrary Reclamation- wide rule, regulation or
742 policy adopted after the Contractor has been afforded the opportunity to review and comment on

743 the proposed rule, regulation or policy. If such rule, regulation or policy is adopted it shall
744 supersede this provision.

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

751 (1) The Contractor may introduce non-project water into Project
752 facilities and deliver said water to lands within the Contractor's Service Area, including
753 Ineligible Lands, subject to payment to the United States and/or to any applicable Operating Non-
754 Federal Entity of an appropriate rate as determined by the CVP Ratesetting Policy and the
755 Reclamation Reform Act of 1982, each as amended, modified or superceded from time to time.
756 In addition, if electrical power is required to pump non-project water through the facilities, the
757 Contractor shall be responsible for obtaining the necessary power and paying the necessary
758 charges therefor.

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

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

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

775 (5) After Project purposes are met, as determined by the Contracting
776 Officer, the United States and the Contractor shall share priority to utilize the remaining capacity
777 of the facilities declared to be available by the Contracting Officer for conveyance and

778 transportation of non-project water prior to any such remaining capacity being made available to
779 non-Project contractors.[DIVISIONAL ISSUE – DIVISIONS MAY SEEK LANGUAGE
780 PROVIDING FOR WHEELING AND NON-PROJECT WATER PURSUANT TO CVPIA
781 SECTION 3408(c), ETC.]

782 OPINIONS AND DETERMINATIONS

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

793 (b) The Contracting Officer shall have the right to make determinations
794 necessary to administer this Contract that are consistent with the provisions of this Contract, the
795 laws of the United States and of the State of California, and the rules and regulations

796 promulgated by the Secretary of the Interior. Such determinations shall be made in consultation
797 with the Contractor to the extent reasonably practicable.

798 COORDINATION AND COOPERATION

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

809 (b) Within one hundred twenty (120) days following the effective date of this
810 Contract, the Contractor, other affected Project Contractors, and the Contracting Officer shall
811 arrange to meet with interested Project Contractors to develop a mutually agreeable, written
812 Project-wide process, which may be amended as necessary separate and apart from this Contract.
813 The goal of this process shall be to provide, to the extent practicable, the means of mutual

814 communication and interaction regarding significant decisions concerning Project operation and
815 management on a real-time basis.

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

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

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

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

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

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

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

839 CHARGES FOR DELINQUENT PAYMENTS

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

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

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

EQUAL OPPORTUNITY

857

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

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

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

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

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

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

887 (f) In the event of the Contractor's noncompliance with the nondiscrimination

888 clauses of this Contract or with any of the said rules, regulations, or orders, this Contract may be
889 canceled, terminated, or suspended, in whole or in part, and the Contractor may be declared
890 ineligible for further Government contracts in accordance with procedures authorized in said
891 amended Executive Order, and such other sanctions may be imposed and remedies invoked as
892 provided in said Executive Order, or by rule, regulation, or order of the Secretary of Labor, or as
893 otherwise provided by law.

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

903 GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

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

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

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

916 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

917 23. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964
918 (42 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (P.L. 93-112, as amended), the
919 Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.) and any other applicable civil rights
920 laws, as well as with their respective implementing regulations and guidelines imposed by the
921 U.S. Department of the Interior and/or Bureau of Reclamation.

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

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

936 PRIVACY ACT COMPLIANCE

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

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

946 (c) The Contracting Officer or a designated representative shall provide the

947 Contractor with current copies of the Interior Department Privacy Act regulations and the Bureau
948 of Reclamation Federal Register Privacy Act System of Records Notice (Acreage Limitation--
949 Interior, Reclamation-31) which govern the maintenance, safeguarding, and disclosure of
950 information contained in the Landholder's certification and reporting records.

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

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

962 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

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

WATER CONSERVATION

971
972 26. (a) Prior to the delivery of water provided from or conveyed through Federally
973 constructed or Federally financed facilities pursuant to this Contract, the Contractor shall be
974 implementing an effective water conservation and efficiency program based on the Contractor's
975 water conservation plan that has been determined by the Contracting Officer to meet the
976 conservation and efficiency criteria for evaluating water conservation plans established under
977 Federal law. The water conservation and efficiency program shall contain definite water
978 conservation objectives, appropriate economically feasible water conservation measures, and
979 time schedules for meeting those objectives. Continued Project Water delivery pursuant to this
980 Contract shall be contingent upon the Contractor's continued implementation of such water
981 conservation program. In the event the Contractor's water conservation plan or any revised water
982 conservation plan completed pursuant to subdivision (d) of Article 26 of this Contract have not
983 yet been determined by the Contracting Officer to meet such criteria, due to circumstances which
984 the Contracting Officer determines are beyond the control of the Contractor, water deliveries
985 shall be made under this Contract so long as the Contractor diligently works with the Contracting
986 Officer to obtain such determination at the earliest practicable date, and thereafter the Contractor
987 immediately begins implementing its water conservation and efficiency program in accordance
988 with the time schedules therein.

989 (b) Should the amount of M&I Water delivered pursuant to subdivision (a) of

990 Article 3 of this Contract equal or exceed two thousand (2,000) acre-feet per Year, the Contractor
991 shall implement the Best Management Practices identified by the time frames issued by the
992 California Urban Water Conservation Council for such M&I Water unless any such practice is
993 determined by the Contracting Officer to be inappropriate for the Contractor.

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

997 (d) At five (5)-year intervals, the Contractor shall revise its water conservation
998 plan to reflect the then current conservation and efficiency criteria for evaluating water
999 conservation plans established under Federal law and submit such revised water management
1000 plan to the Contracting Officer for review and evaluation. The Contracting Officer will then
1001 determine if the water conservation plan meets Reclamation's then current conservation and
1002 efficiency criteria for evaluating water conservation plans established under Federal law.

1003 (e) If the Contractor is engaged in direct ground-water recharge, such activity
1004 shall be described in the Contractor's water conservation plan.

1005 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

1006 27. Except as specifically provided in Article 17 of this Contract, the provisions of
1007 this Contract shall not be applicable to or affect non-project water or water rights now owned or

1008 hereafter acquired by the Contractor or any user of such water within the Contractor's Service
1009 Area. Any such water shall not be considered Project Water under this Contract. In addition,
1010 this Contract shall not be construed as limiting or curtailing any rights which the Contractor or
1011 any water user within the Contractor's Service Area acquires or has available under any other
1012 contract pursuant to Federal Reclamation law.

1013 OPERATION AND MAINTENANCE BY NON-FEDERAL ENTITY¹⁵

1014 28. (a) The Operation and Maintenance of a portion of the Project facilities which
1015 serve the Contractor, and responsibility for funding a portion of the costs of such Operation and
1016 Maintenance, have been transferred to the Operating Non-Federal Entity by separate agreement
1017 between the United States and the Operating Non-Federal Entity. That separate agreement shall
1018 not interfere with or affect the rights or obligations of the Contractor or the United States
1019 hereunder.

1020 (b) The Contracting Officer has previously notified the Contractor in writing
1021 that the Operation and Maintenance of a portion of the Project facilities which serve the
1022 Contractor has been transferred to the Operating Non-Federal Entity, and therefore, the
1023 Contractor shall pay directly to the Operating Non-Federal Entity, or to any successor approved
1024 by the Contracting Officer under the terms and conditions of the separate agreement between the

¹⁵ Include where applicable.

1025 United States and the Operating Non-Federal Entity described in subdivision (a) of this Article,
1026 all rates, charges, or assessments of any kind, including any assessment for reserve funds, which
1027 the Operating Non-Federal Entity or such successor determines, sets, or establishes for the
1028 Operation and Maintenance of the portion of the Project facilities operated and maintained by the
1029 Operating Non-Federal Entity or such successor. Such direct payments to the Operating
1030 Non-Federal Entity or such successor shall not relieve the Contractor of its obligation to pay
1031 directly to the United States the Contractor's share of the Project Rates, Charges, and Tiered
1032 Pricing Components except to the extent the Operating Non-Federal Entity collects payments on
1033 behalf of the United States in accordance with the separate agreement identified in subdivision
1034 (a) of this Article.

1035 (c) For so long as the Operation and Maintenance of any portion of the Project
1036 facilities serving the Contractor is performed by the Operating Non-Federal Entity, or any
1037 successor thereto, the Contracting Officer shall adjust those components of the Rates for Water
1038 Delivered under this Contract representing the cost associated with the activity being performed
1039 by the Operating Non-Federal Entity or its successor.

1040 (d) In the event the Operation and Maintenance of the Project facilities
1041 operated and maintained by the Operating Non-Federal Entity is re-assumed by the United States
1042 during the term of this Contract, the Contracting Officer shall so notify the Contractor, in writing,
1043 and present to the Contractor a revised Exhibit "B" which shall include the portion of the Rates

1044 to be paid by the Contractor for Project Water under this Contract representing the Operation and
1045 Maintenance costs of the portion of such Project facilities which have been re-assumed. The
1046 Contractor shall, thereafter, in the absence of written notification from the Contracting Officer to
1047 the contrary, pay the Rates, Charges, and Tiered Pricing Component(s) specified in the revised
1048 Exhibit "B" directly to the United States in compliance with Article 7 of this Contract.

1049 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

1050 29. The expenditure or advance of any money or the performance of any obligation of
1051 the United States under this Contract shall be contingent upon appropriation or allotment of
1052 funds. Absence of appropriation or allotment of funds shall not relieve the Contractor from any
1053 obligations under this Contract. No liability shall accrue to the United States in case funds are
1054 not appropriated or allotted.

1055 BOOKS, RECORDS, AND REPORTS

1056 30. (a) The Contractor shall establish and maintain accounts and other books and
1057 records pertaining to administration of the terms and conditions of this Contract, including: the
1058 Contractor's financial transactions, water supply data, and Project land and right-of-way
1059 agreements; the water users' land-use (crop census), land ownership, land-leasing and water use
1060 data; and other matters that the Contracting Officer may require. Reports thereon shall be
1061 furnished to the Contracting Officer in such form and on such date or dates as the Contracting
1062 Officer may require. Subject to applicable Federal laws and regulations, each party to this
1063 Contract shall have the right during office hours to examine and make copies of the other party's
1064 books and records relating to matters covered by this Contract.

1065 (b) Notwithstanding the provisions of subdivision (a) of this Article, no
1066 books, records, or other information shall be requested from the Contractor by the Contracting
1067 Officer unless such books, records, or information are reasonably related to the administration or

1068 performance of this Contract. Any such request shall allow the Contractor a reasonable period of
1069 time within which to provide the requested books, records, or information.

1070 (c) At such time as the Contractor provides information to the Contracting
1071 Officer pursuant to subdivision (a) of this Article, a copy of such information shall be provided to
1072 the Operating Non-Federal Entity.

1073 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

1074 31. (a) The provisions of this Contract shall apply to and bind the successors and
1075 assigns of the parties hereto, but no assignment or transfer of this Contract or any right or interest
1076 therein shall be valid until approved in writing by the Contracting Officer.

1077 (b) The assignment of any right or interest in this Contract by either party shall
1078 not interfere with the rights or obligations of the other party to this Contract absent the written
1079 concurrence of said other party.

1080 (c) The Contracting Officer shall not unreasonably condition or withhold his
1081 approval of any proposed assignment.

1082 SEVERABILITY

1083 32. In the event that a person or entity who is neither (i) a party to a Project contract,
1084 nor (ii) a person or entity that receives Project Water from a party to a Project contract, nor (iii)
1085 an association or other form of organization whose primary function is to represent parties to
1086 Project contracts, brings an action in a court of competent jurisdiction challenging the legality or
1087 enforceability of a provision included in this Contract and said person, entity, association, or
1088 organization obtains a final court decision holding that such provision is legally invalid or

1089 unenforceable and the Contractor has not intervened in that lawsuit in support of the plaintiff(s),
1090 the parties to this Contract shall use their best efforts to (i) within thirty (30) days of the date of
1091 such final court decision identify by mutual agreement the provisions in this Contract which must
1092 be revised, and (ii) within three (3) months thereafter promptly agree on the appropriate
1093 revision(s). The time periods specified above may be extended by mutual agreement of the
1094 parties. Pending the completion of the actions designated above, to the extent it can do so
1095 without violating any applicable provisions of law, the United States shall continue to make the
1096 quantities of Project Water specified in this Contract available to the Contractor pursuant to the
1097 provisions of this Contract which were not found to be legally invalid or unenforceable in the
1098 final court decision.

1099 RESOLUTION OF DISPUTES

1100 33. Should any dispute arise concerning any provisions of this Contract, or the
1101 parties' rights and obligations thereunder, the parties shall meet and confer in an attempt to
1102 resolve the dispute. Prior to the Contractor commencing any legal action, or the Contracting
1103 Officer referring any matter to Department of Justice, the party shall provide to the other party
1104 thirty (30) days' written notice of the intent to take such action; Provided, That such notice shall
1105 not be required where a delay in commencing an action would prejudice the interests of the party
1106 that intends to file suit. During the thirty (30)-day notice period, the Contractor and the

1107 Contracting Officer shall meet and confer in an attempt to resolve the dispute. Except as
1108 specifically provided, nothing herein is intended to waive or abridge any right or remedy that the
1109 Contractor or the United States may have.

1110 OFFICIALS NOT TO BENEFIT

1111 34. No Member of or Delegate to Congress, Resident Commissioner, or official of the
1112 Contractor shall benefit from this Contract other than as a water user or landowner in the same
1113 manner as other water users or landowners.

1114 CHANGES IN CONTRACTOR'S SERVICE AREA

1115 35. (a) While this Contract is in effect, no change may be made in the Contractor's
1116 Service Area or boundaries, by inclusion or exclusion of lands, dissolution, consolidation,
1117 merger, or otherwise, except upon the Contracting Officer's written consent.

1118 (b) Within thirty (30) days of receipt of a request for such a change, the
1119 Contracting Officer will notify the Contractor of any additional information required by the
1120 Contracting Officer for processing said request, and both parties will meet to establish a mutually
1121 agreeable schedule for timely completion of the process. Such process will analyze whether the
1122 proposed change is likely to: (i) result in the use of Project Water contrary to the terms of this
1123 Contract; (ii) impair the ability of the Contractor to pay for Project Water furnished under this
1124 Contract or to pay for any Federally-constructed facilities for which the Contractor is responsible;
1125 and (iii) have an impact on any Project Water rights applications, permits, or licenses. In
1126 addition, the Contracting Officer shall comply with the National Environmental Policy Act and
1127 the Endangered Species Act. The Contractor will be responsible for all costs incurred by the

1128 Contracting Officer in this process, and such costs will be paid in accordance with Article 25 of
1129 this Contract.

1130 FEDERAL LAWS

1131 36. By entering into this Contract, the Contractor does not waive its rights to contest
1132 the validity or application in connection with the performance of the terms and conditions of this
1133 Contract of any Federal law or regulation; Provided, That the Contractor agrees to comply with
1134 the terms and conditions of this Contract unless and until relief from application of such Federal
1135 law or regulation to the implementing provision of the Contract is granted by a court of
1136 competent jurisdiction.

1137 NOTICES

1138 37. Any notice, demand, or request authorized or required by this Contract shall be
1139 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or
1140 delivered to the Area Manager _____, and on
1141 behalf of the United States, when mailed, postage prepaid, or delivered to the Board of
1142 Directors/City Council of the _____. The designation of the
1143 addressee or the address may be changed by notice given in the same manner as provided in this
1144 Article for other notices.

1145 CONFIRMATION OF CONTRACT

1 By: _____
2 Secretary of the Board of Directors

R.O. Draft 11/01-2000
CVP-Wide Form 11-05
Contract No. _____ - LTR1

EXHIBIT A

[Map or Description of Service Area]

R.O. Draft 11/01-2000
CVP-Wide Form 11-05
Contract No. _____ - LTR1

EXHIBIT B
[Initial Rates and Charges]

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