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

Contract No.
14-06-200-4305A-IR5

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

INTERIM RENEWAL CONTRACT BETWEEN THE UNITED STATES
AND

BANTA-CARBONA IRRIGATION DISTRICT
PROVIDING FOR PROJECT WATER SERVICE

THIS CONTRACT, made this 28th day of February _____ 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. 1261), as
amended and Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706), all collectively

1 hereinafter referred to as the Federal Reclamation law, between THE UNITED STATES OF
2 AMERICA, hereinafter referred to as the United States, and BANTA-CARBONA IRRIGATION
3 DISTRICT, hereinafter referred to as the Contractor, a public agency of the State of California,
4 duly organized, existing, and acting pursuant to the laws thereof, with its principal place of
5 business in Tracy, California;

6 WITNESSETH, That:

7 EXPLANATORY RECITALS

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

14 WHEREAS, the United States constructed the Delta-Mendota Canal and related
15 facilities, hereinafter collectively referred to as the Delta-Division facilities, which will be used
16 in part for the furnishing of water to the Contractor pursuant to the terms of this interim renewal
17 contract; and

18 WHEREAS, the Contractor and the United States entered into Contract No. 14-
19 06-200-4305A, which provided the Contractor, Central Valley Project water from the Delta-
20 Mendota Canal from February 14, 1969 to February 28, 1995; and

1 WHEREAS, the Contractor and the United States entered into interim renewal
2 contract(s) identified as Contract No(s). 14-06-200-4305A-IR1, 14-06-200-4305A-IR2, 14-06-
3 200-4305A-IR3, and 14-06-200-4305A-IR4, the latter of which is hereinafter referred to as the
4 Existing Interim Renewal Contract, which provided Project Water to the Contractor from
5 December 1, 2000 through February 28, 2001; and

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

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

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

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

1 WHEREAS, rights of renewal of Contract No. 14-04-200-4305A and to convert
2 said contract to a contract as provided by subsection (d), Section 9 of the Act of August 4, 1939
3 (53 Stat. 1187), are set forth in said contract; and

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

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

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

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

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

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

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

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

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

18 (l) "M&I Water" shall mean water made available from the Project other than
19 Irrigation Water. M&I Water shall include water used for purposes such as the watering
20 of landscaping or pasture for animals (e.g., horses) which are kept for personal enjoyment
21 or water delivered to landholding operated in units of less than 5 acres unless the

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

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

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

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

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

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

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

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

1 Contractor asserts that Contract No. 14-06-200-4305A and existing law go beyond the preceding
2 sentence to give it enforceable rights to successive long-term renewal contracts. The Contracting
3 Officer disagrees with that assertion. The parties agree that this interim renewal contract
4 preserves the rights and positions of the parties and that the omission of language in this interim
5 renewal contract setting out the rights asserted by the Contractor to successive renewals is not
6 intended to be, nor shall it be interpreted as, a waiver of any such rights to the extent any such
7 rights are later determined to exist by a court of competent jurisdiction or by mutual agreement of
8 the parties. If a court of competent jurisdiction or the parties by mutual agreement determine that
9 incorporation of such language in this interim renewal contract is necessary to preserve such
10 rights, this interim renewal contract shall be construed as incorporating such language as though
11 fully set forth herein as of the effective date hereof.

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

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

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

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

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

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

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

1 renewal contract or to exercise such conversion, all as provided by law, or to negotiate the
2 language regarding such conversion to be included in subsequent renewal contracts.

3 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

4 3. (a) Subject to the provisions set forth in Articles 11 and 12 hereof, and
5 consistent with applicable State water rights, permits and licenses, the Contractor is entitled to,
6 and the Contracting Officer shall be obligated to make available to the Contractor up to 25,000
7 acre-feet of Project Water for irrigation and/or municipal and industrial purposes during the term
8 of this interim renewal contract. The quantity of Project Water delivered to the Contractor in
9 accordance with this Article 3(a) in any Year shall be scheduled and paid for pursuant to the
10 provisions of Articles 4 and 7 hereof, and shall not exceed the quantity of Project Water the
11 Contractor intends to put to reasonable beneficial use within the Contractor's Boundaries or sold,
12 transferred, or exchanged pursuant to Article 9 during the term of this interim renewal contract.

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

19 (c) The Contractor shall make reasonable and beneficial use of Project Water
20 or other water furnished pursuant to this interim renewal contract. In addition, use of Project
21 Water in a ground water recharge program shall be permitted under this contract to the extent

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

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

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

17 (f) The Contractor's right pursuant to Federal Reclamation law and applicable
18 State law to the beneficial use of water furnished pursuant to this interim renewal contract, any
19 subsequent interim renewal contract and, as described in Article 2(a), any long-term renewal
20 contract, shall not be disturbed so long as the Contractor shall fulfill all of its obligations under
21 this interim renewal contract and any such renewal thereof. Nothing in the preceding sentence

1 shall affect the Contracting Officer's ability to impose shortages under subdivision (b) of Article
2 12 of this interim renewal contract and the applicable provisions of any such renewal thereof.

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

7 TIME FOR DELIVERY OF WATER

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

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

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

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

8 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

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

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

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

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

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

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

3 MEASUREMENT OF WATER WITHIN THE DISTRICT

4 6. (a) The Contractor shall ensure that, unless the Contractor has established an
5 alternative measurement program satisfactory to the Contracting Officer, all surface water
6 delivered for irrigation purposes within the Contractor's Boundaries is measured at each
7 agricultural turnout and such water delivered for municipal and industrial purposes is measured
8 at each municipal and industrial service connection. All water measuring devices or water
9 measuring methods of comparable effectiveness must be acceptable to the Contracting Officer.

10 The Contractor shall be responsible for installing, operating, and maintaining and repairing all
11 such measuring devices and implementing all such water measuring methods at no cost to the
12 United States. The Contractor shall use the information obtained from such water measuring
13 devices or water measuring methods to ensure proper management of the water; to bill water
14 users for water delivered by the Contractor; and, if applicable, to record water delivered for
15 municipal and industrial purposes by customer class as defined in its water conservation plan.

16 Nothing herein contained, however, shall preclude the Contractor from establishing and
17 collecting any charges, assessments, or other revenues authorized by California law. The
18 Contractor shall include a summary of its annual surface water deliveries in the annual report
19 described in subdivision (d) of Article 25.

20 (b) Omitted.

1 (c) All new surface water delivery systems installed within the Contractor's
2 Boundaries after the effective date of this interim renewal contract shall also comply with the
3 measurement provisions described in subdivision (a) of this Article.

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

7 RATES AND METHOD OF PAYMENT FOR WATER

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

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

16 (1) Prior to July 1, of each Calendar Year, the Contracting Officer
17 shall provide the Contractor the preliminary calculation of the Charges that will be applied for
18 the period October 1 of the current Calendar Year, through September 30, of the following
19 Calendar Year, and identify the statutes, regulations and guidelines used as the basis for such
20 calculations. On or before September 15 of each Calendar Year, the Contracting Officer shall
21 notify the Contractor in writing of the Charges to be in effect during the period October 1 of the

1 current Calendar Year, through September 30 of the following Calendar Year, and such
2 notification shall revise Exhibit "A."

3 (2) Prior to October 1 of each Calendar Year, the Contracting Officer
4 shall make available to the Contractor an estimate of the Rates of payment for the following Year
5 and the computations and cost allocations upon which those Rates are based. The Contractor
6 shall be allowed not less than two months to review and comment on such computations and cost
7 allocations. By December 31 of each Calendar Year, the Contracting Officer shall provide the
8 Contractor with the final Rates to be in effect for the upcoming Year, and such notification shall
9 revise Exhibit "A."

10 (c) At the time the Contractor submits the initial schedule for the delivery of
11 Project Water for each Year pursuant to subdivision (b) of Article 4 of this interim renewal
12 contract, the Contractor shall pay the United States the total amount payable pursuant to the
13 applicable Rate(s) for all Project Water scheduled to be delivered pursuant to this interim
14 renewal contract during the first two (2) calendar months of the Year. Before the end of the first
15 month or part thereof of the Year, and before the end of each calendar month thereafter, the
16 Contractor shall pay pursuant to the applicable Rate(s) for all Project Water scheduled to be
17 delivered pursuant to this interim renewal contract during the second month immediately
18 following. Adjustments between the payments for the scheduled amount of Project Water and
19 the appropriate payments for quantities of Delivered Water furnished pursuant to this interim
20 renewal contract each month shall be made before the end of the following month: Provided,
21 That any revised schedule submitted by the Contractor pursuant to Article 4 which increases the

1 amount of Project Water to be delivered pursuant to this interim renewal contract during any
2 month shall be accompanied with appropriate payment for Rates to assure that Project Water is
3 not furnished to the Contractor in advance of such payment. In any month in which the quantity
4 of Delivered Water furnished to the Contractor pursuant to this interim renewal contract equals
5 the quantity of Project Water scheduled and paid for by the Contractor, no additional Project
6 Water shall be made available to the Contractor unless and until payment of Rates for such
7 additional Project Water is made. Final adjustment between the payments of Rates for the
8 Project Water scheduled and the quantities of Delivered Water furnished during each Year
9 pursuant to its contract shall be made as soon as possible but no later than April 30th of the
10 following Year.

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

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

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

6 (g) Revenues received by the United States pursuant to this interim renewal
7 contract shall be allocated and applied in accordance with Federal Reclamation law, including
8 but not limited to, subsection 3 of Section 1 of the Act of July 2, 1956 (70 Stat. 483), and
9 subsection (f) of Section 3405, subsection (c)(1) of Section 3406 and subsection (d)(2)(A) of
10 Section 3407 of the CVPIA, and the associated regulations, including but not limited to, the
11 Project Irrigation Water ratesetting policy and the Project M&I ratesetting policy promulgated
12 pursuant to the Administrative Procedures Act.

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

20 (i) The parties acknowledge and agree that the efficient administration of this
21 interim renewal contract is their mutual goal. Recognizing that experience has demonstrated that

1 mechanisms, policies, and procedures used for establishing Rates and Charges, and/or for making
2 and allocating payments, other than those set forth in this Article would be in the mutual best
3 interest of the parties, it is expressly agreed that the parties may enter into agreements for
4 alternative mechanisms, policies, and procedures for any of those purposes while this interim
5 renewal contract is in effect without amending this contract.

6 NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICITS

7 8. The Contractor and the Contracting Officer concur that at the time of execution of
8 this interim renewal contract, the Contractor has no non-interest bearing operation and
9 maintenance deficits and shall have no further liability therefor.

10 TRANSFERS OR EXCHANGES OF WATER

11 9. The right to Project Water provided for in this interim renewal contract may be
12 sold, transferred, or exchanged to others for beneficial uses within the State of California if such
13 sale, transfer or exchange is authorized by applicable Federal laws, State laws, and applicable
14 guidelines or regulations then in effect. The right to sell, transfer, or exchange Project Water
15 shall include, and the Contracting Officer shall apply this Article in a manner that does not
16 impede or restrict, lawful short-term sales, transfers, or exchanges of the type the Contractor
17 historically carried out with approval of the Contracting Officer under Contract No. 14-06-200-
18 4305A. No sale, transfer, or exchange of the right to Project Water under this interim renewal
19 contract may take place without the prior written approval of the Contracting Officer.

1 APPLICATION OF PAYMENTS AND ADJUSTMENTS

2 10. (a) The amount of any overpayment by the Contractor shall be applied first to
3 any accrued indebtedness arising out of this interim renewal contract then due and payable by the
4 Contractor. Any amount of such overpayment then remaining shall, at the option of the
5 Contractor, be refunded to the Contractor or credited upon amounts to become due to the United
6 States from the Contractor under the provisions hereof in the following months. With respect to
7 overpayment, such adjustment shall constitute the sole remedy of the Contractor or anyone
8 having or claiming to have the right to the use of any of the water supply provided for herein.

9 (b) All advances for miscellaneous costs incurred for work requested by the
10 Contractor pursuant to Article 24 shall be adjusted to reflect the actual costs when the work has
11 been completed. If the advances exceed the actual costs incurred, the difference will be refunded
12 to the Contractor. If the actual costs exceed the Contractor's advances, the Contractor will be
13 billed for the additional costs pursuant to Article 24.

14 TEMPORARY REDUCTIONS--RETURN FLOWS

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

19 (b) The United States may temporarily discontinue or reduce the quantity of
20 Project Water to be delivered to the Contractor as herein provided for the purposes of
21 investigation, inspection, maintenance, repair, or replacement of any of the Project facilities or

1 any part thereof necessary for the delivery of Project Water to the Contractor, but so far as
2 feasible the Contracting Officer will give the Contractor due notice in advance of such temporary
3 discontinuance or reduction, except in case of emergency, in which case no notice need be given:
4 Provided, That the United States shall use its best efforts to avoid any discontinuance or
5 reduction in such service. Upon resumption of service after such reduction or discontinuance,
6 and if requested by the Contractor, the United States will, if possible, deliver the quantity of
7 Project Water, which would have been delivered hereunder in the absence of such discontinuance
8 or reduction: Provided further, That with respect to any quantity of Project Water not delivered
9 after a discontinuance or reduction the Contractor shall be relieved of its scheduling and payment
10 obligations for such quantity of Project Water.

11 (c) The United States reserves the right to all seepage and return flow water
12 derived from water delivered to the Contractor hereunder which escapes or is discharged beyond
13 the Contractor's Boundaries: Provided, That this shall not be construed as claiming for the
14 United States any right to seepage or return flow being put to reasonable and beneficial use
15 pursuant to this interim renewal contract within the Contractor's Boundaries by the Contractor or
16 those claiming by, through, or under the Contractor.

17 WATER SHORTAGE AND APPORTIONMENT

18 12. (a) In its operation of the Project, the Contracting Officer will use all
19 reasonable means to guard against a condition of shortage in the quantity of water to be made
20 available to the Contractor pursuant to this contract. Insofar as determined by the Contracting

1 Officer to be practicable, the Contracting Officer will, in the event a shortage appears probable,
2 notify the Contractor of such determinations as soon as possible.

3 (b) If there is a reduction in the total water supply available to the Contractor
4 during any Year because of errors in physical operations of the Project, drought, other physical
5 causes beyond the control of the Contracting Officer or actions taken by the Contracting Officer
6 to meet legal obligations, no liability shall accrue against the United States or any of its officers,
7 agents, or employees for any damage, direct or indirect, arising therefrom, so long as actions
8 based upon the opinions or determinations of the Contracting Officer are consistent with the
9 standards in Article 18.

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

16 (d) Subject to subdivisions (c) of this Article, in any Year in which there
17 may occur a shortage for any of the reasons specified in subdivision (b) above, the Contracting
18 Officer shall apportion the available Project Water among the Contractor and others entitled to
19 receive Project Water from the Delta-Mendota Canal as follows:

20 (1) A determination shall be made of the total quantity of water
21 scheduled to be delivered during the respective Year under all contracts then in force

1 for the delivery of water from the Delta-Mendota Canal, the quantity so determined
2 being herein referred to as the contractual commitments from the Delta-Mendota Canal.

3 (2) The total quantity of water scheduled to be delivered to the
4 Contractor from the Delta-Mendota Canal during the respective Year under subdivision
5 (a) of Article 3 shall be divided by the contractual commitments, the quotient thus
6 obtained being herein referred to as the Contractor's contractual entitlement from the
7 Delta-Mendota Canal.

8 (3) The supply determined by the Contracting Officer to be available
9 from the Delta-Mendota Canal shall be multiplied by the Contractor's contractual
10 entitlement and the result shall be the quantity of water required to be delivered by the
11 United States to the Contractor for the respective Year from the Delta-Mendota Canal.

12 UNAVOIDABLE GROUND-WATER PERCOLATION

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

17 COMPLIANCE WITH FEDERAL RECLAMATION LAW

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

1 WATER ACQUIRED BY THE CONTRACTOR OTHER THAN
2 FROM THE UNITED STATES

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

18 OPINIONS AND DETERMINATIONS

19 18. (a) Where the terms of this interim renewal contract provide for actions to be
20 based upon the opinion or determination of either party to this contract, said terms shall not be
21 construed as permitting such action to be predicated upon arbitrary, capricious, or unreasonable
22 opinions or determinations. Both parties, notwithstanding any other provisions of this contract,

1 expressly reserve the right to seek relief from and appropriate adjustment, including monetary
2 damages, for any such arbitrary, capricious, or unreasonable opinion or determination. Each
3 opinion or determination by either party shall be provided in a timely manner.

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

9 CHARGES FOR DELINQUENT PAYMENTS

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

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

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

1 and remedies invoked as provided in said Executive Order, or by rule, regulation, or order
2 of the Secretary of Labor, or as otherwise provided by law.

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

13 GENERAL OBLIGATION--BENEFITS
14 CONDITIONED UPON PAYMENT

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

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

25 COMPLIANCE WITH CIVIL RIGHTS LAWS
26 AND REGULATIONS

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

32 (b) These statutes require that no person in the United States shall, on the
33 grounds of race, color, national origin, handicap, or age, be excluded from participation in, be
34 denied the benefits of, or be otherwise subjected to discrimination under any program or activity
35 receiving financial assistance from the Bureau of Reclamation. By executing this contract, the

1 Contractor agrees to immediately take any measures necessary to implement this obligation,
2 including permitting officials of the United States to inspect premises, programs, and documents.

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

11 PRIVACY ACT COMPLIANCE

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

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

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

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

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

2001 Water Rates for Interim Renewal Contract No. 14-06-200-4305A-IR5
Banta-Carbona Irrigation District - DMC

	<u>2001 Rates per Acre-Foot</u>	
<u>COST-OF-SERVICE RATES:</u>	<u>Irrigation</u>	<u>M&I</u>
	<u>Water</u>	<u>Water 1/</u>
Capital Rates	\$ 8.56	
O&M Rates:		
Water Marketing	6.91	
Storage	4.23	
Conveyance		
Conveyance Pumping		
Deficit Rates:		
Non-Interest Bearing		
Interest Bearing	_____	_____
TOTAL COST-OF-SERVICE-RATES	<u>\$19.70</u>	<u>1/</u>

FULL-COST RATES

Section 202(3) Rate is applicable to a Qualified Recipient or to a Limited Recipient receiving irrigation water on or before October 1, 1981. \$32.41

Section 205(a)(3) Rate is applicable to a Limited Recipient that did not receive irrigation water on or before October 1, 1981. \$39.60

CHARGES UNDER P.L. 102-575 TO RESTORATION FUND 2/

Restoration Payments (3407(d)(2)(A))	<u>\$ 7.28</u>	<u>\$14.56</u>
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- 1/ To be provided as needed. Contractor does not currently receive M&I water and is not projected to take any in the near future.
- 2/ Restoration fund charges are payments in addition to the water rates and were determined pursuant to Title XXXIV of Public Law 102-575. Restoration fund charges are on a fiscal year basis (10/1-9/30).
 (01bc.EXB)