

AG and M&I
 R. O. Final CVP-Wide Draft 4/19-2004
 Bella Vista Draft 3/01-2004
 Bella Vista Draft 2/26-2004
 Bella Vista Draft 6/16-2003
 Shasta/Trinity Division Draft 6/16-2003
 CVP-Wide Draft 5/23-2003
 Contract No.
 14-06-200-851A-LTR1

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

LONG-TERM RENEWAL CONTRACT BETWEEN THE UNITED STATES
AND
BELLA VISTA WATER DISTRICT
PROVIDING FOR PROJECT WATER SERVICE
FROM TRINITY RIVER DIVISION

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8 PROVIDING FOR PROJECT WATER SERVICE
9 FROM TRINITY RIVER DIVISION

10 THIS CONTRACT, made this ____ day of _____, 20____, in
11 pursuance generally of the Act of June 17, 1902 (32 Stat. 388), and acts amendatory or
12 supplementary thereto, including, but not limited to, the Acts of August 26, 1937 (50 Stat. 844), as
13 amended and supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented, July 2,
14 1956 (70 Stat. 483), June 21, 1963 (77 Stat. 68), October 12, 1982 (96 Stat. 1263), October 27, 1986
15 (100 Stat. 3050), as amended, and Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706), all
16 collectively hereinafter referred to as Federal Reclamation law, between THE UNITED STATES
17 OF AMERICA, hereinafter referred to as the United States, and BELLA VISTA WATER
18 DISTRICT, hereinafter referred to as the Contractor, a public agency of the State of California, duly
19 organized, existing, and acting pursuant to the laws thereof;

20 WITNESSETH, That:

21 EXPLANATORY RECITALS

22 [1st] WHEREAS, the United States has constructed and is operating the Central Valley
23 Project (Project), California, for diversion, storage, carriage, distribution and beneficial use, for
24 flood control, irrigation, municipal, domestic, industrial, fish and wildlife mitigation, protection and
25 restoration, generation and distribution of electric energy, salinity control, navigation and other

26 beneficial uses, of waters of the Sacramento River, the American River, the Trinity River, and the
27 San Joaquin River and their tributaries; and

28 [2nd] WHEREAS, the United States constructed the Cow Creek Unit facilities, which will
29 be used in part for the furnishing of water to the Contractor pursuant to the terms of this Contract;
30 and

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

33 [4th] WHEREAS, the Contractor and the United States entered into Contract
34 No. 14-06-200-851A, dated April 3, 1964, as amended by a letter agreement from the Bureau of
35 Reclamation to the Contractor dated December 14, 1971, which letter agreement was accepted and
36 countersigned by the Contractor on December 28, 1971, which contract and letter agreement
37 established terms for the delivery to the Contractor of Project Water from the Cow Creek Unit from
38 April 3, 1964, through December 31, 1994; and

39 [5th] WHEREAS, pursuant to subsection 3404(c)(1) of the Central Valley Project
40 Improvement Act (CVPIA), the Contractor and the United States have, beginning on December 28,
41 1994, entered into successive interim renewal contract(s) identified as Contract No(s). 14-06-200-
42 851A-IR1, 14-06-200-851A-IR2, 14-06-200-851A-IR3, 14-06-200-851A-IR4, 14-06-200-851A-
43 IR5, 14-06-200-851A-IR6, 14-06-200-851A-IR7, 14-06-200-851A-IR8, and 14-06-200-851A-IR9,
44 which individually and successively amended and replaced the water service component, Part A, of
45 Contract No. 14-06-200-851A, the current form of which is hereinafter referred to as the Existing
46 Contract, providing for continued water service to the Contractor from March 1, 2004, through
47 February 28, 2006; and

48 [6th] WHEREAS, Section 3404(c) of the CVPIA provides for long-term renewal of the
49 Existing Contract following completion of appropriate environmental documentation, including a
50 programmatic environmental impact statement (PEIS) pursuant to the National Environmental
51 Policy Act (NEPA), analyzing the direct and indirect impacts and benefits of implementing the
52 CVPIA and the potential renewal of all existing contracts for Project Water; and

53 [7th] WHEREAS, the United States has completed the PEIS and all other appropriate
54 environmental review necessary to provide for long-term renewal of the Existing Contract; and

55 [8th] WHEREAS, the Contractor has requested the long-term renewal of the Existing
56 Contract, pursuant to the terms of the Existing Contract, Federal Reclamation law, and the laws of
57 the State of California, for water service from the Project; and

58 [9th] WHEREAS, the United States has determined that the Contractor has fulfilled all of
59 its obligations, including its responsibility to ascertain whether Project Water delivered by it is put
60 to use as Irrigation Water or M&I Water, under the Existing Contract; and

61 [10th] WHEREAS, the Contractor has demonstrated to the satisfaction of the Contracting
62 Officer that the Contractor has utilized the Project Water supplies available to it for reasonable and
63 beneficial use and, based upon a needs analysis cooperatively prepared by the Contracting Officer
64 and the Contractor, has demonstrated projected future demand for water use that exceeds the
65 Contract Total to be made available to it pursuant to this Contract; and

66 [11th] WHEREAS, water obtained from the Project has been relied upon by urban and
67 agricultural areas within California for more than 50 years, and is considered by the Contractor as
68 an essential portion of its water supply; and

69 [12th] WHEREAS, the economies of regions within the Project, including the Contractor's,
70 depend upon the continued availability of water, including water service from the Project; and

71 [12.1] WHEREAS, Contractor has made and will continue to make substantial capital
72 investments in diversion and treatment facilities, and requires a consistent, predictable quality of
73 raw water in order to meet Safe Drinking Water Act requirements for its municipal customers, and
74 to provide a consistent and predictable quality of water for its industrial customers; and

75 [13th] WHEREAS, the Secretary intends through coordination, cooperation, and
76 partnerships to pursue measures to improve water supply, water quality, and reliability of the
77 Project for all Project purposes; and

78 [13.1] WHEREAS, the Contractor is located in the region of the Redding Groundwater
79 Basin, and it is the desire of both the United States and the Contractor to facilitate the cooperative
80 efforts of local water service agencies to develop the Redding Groundwater Basin for conjunctive
81 management and use with Project Water supplies, to maximize the reasonable beneficial use of
82 water for the water service agencies and their customers in the region; and

83 [14th] WHEREAS, the mutual goals of the United States and the Contractor include: to
84 provide for reliable Project Water supplies; to control costs of those supplies; to achieve repayment
85 of the Project as required by law; to guard reasonably against Project Water shortages; to achieve a
86 reasonable balance among competing demands for use of Project Water; and to comply with all
87 applicable environmental statutes, all consistent with the legal obligations of the United States
88 relative to the Project; and

89 [15th] WHEREAS, the parties intend by this Contract to develop a more cooperative
90 relationship in order to achieve their mutual goals; and

91 [16th] WHEREAS, the United States and the Contractor are willing to enter into this
92 Contract pursuant to Federal Reclamation law on the terms and conditions set forth below;

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

95 DEFINITIONS

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

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

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

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

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

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

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

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

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

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

123 (j) "Full Cost Rate" shall mean an annual rate as determined by the Contracting
124 Officer that shall amortize the expenditures for construction properly allocable to the Project
125 irrigation or M&I functions, as appropriate, of facilities in service including all O&M deficits
126 funded, less payments, over such periods as may be required under Federal Reclamation law, or
127 applicable contract provisions. Interest will accrue on both the construction expenditures and
128 funded O&M deficits from October 12, 1982, on costs outstanding at that date, or from the date

129 incurred in the case of costs arising subsequent to October 12, 1982, and shall be calculated in
130 accordance with subsections 202(3)(B) and (3)(C) of the RRA. The Full Cost Rate includes actual
131 operation, maintenance, and replacement costs consistent with Section 426.2 of the Rules and
132 Regulations for the RRA. The costs associated with the Contractor's irrigation water distribution
133 works constructed by the United States are separately covered by a repayment contract, Contract
134 No. 14-06-200-851A, Part B, entered into pursuant to 43 USC 485h(d);

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

137 (l) "Irrigation Full Cost Water Rate" shall mean the Full Cost Rate applicable to
138 the delivery of Irrigation Water;

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

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

144 (o) "Municipal and Industrial (M&I) Water" shall mean Project Water, other
145 than Irrigation Water, made available to the Contractor. M&I Water shall include water used for
146 human use and purposes such as the watering of landscaping or pasture for animals (e.g., horses)
147 which are kept for personal enjoyment or water delivered to landholdings operated in units of less
148 than five acres unless the Contractor establishes to the reasonable satisfaction of the Contracting
149 Officer that the use of water delivered to any such landholding is a use described in subdivision (m)
150 of this Article. The determination of whether Project Water is used as Irrigation Water or M&I
151 Water shall be in accordance with the guidelines set forth in Exhibit "C" attached hereto, which
152 guidelines may be modified by mutual agreement of the parties to this Contract without amending
153 the Contract: Provided, That if during the term of this Contract, a Reclamation-wide rule or
154 regulation is promulgated that defines M&I Water or Irrigation Water or if Congress should enact a

155 law which defines M&I Water or Irrigation Water, such rule, regulation, or law shall supercede this
156 Article 1(o);

157 (p) “M&I Full Cost Water Rate” shall mean the Full Cost Rate applicable to the
158 delivery of M&I Water;

159 (q) “Operation and Maintenance” or “O&M” shall mean normal and reasonable
160 care, control, operation, repair, replacement (other than capital replacement), and maintenance of
161 Project facilities or the Transferred Works;

162 (r) Omitted;

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

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

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

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

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

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

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

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

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

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

189 (cc) "Year" shall mean the period from and including March 1 of each Calendar
190 Year through the last day of February of the following Calendar Year;

191 (dd) "Distribution System" shall mean the general distribution and lateral system,
192 and related works or a portion of portions thereof, constructed by the United States pursuant to
193 Contract No. 14-06-200-851A, and all federal lands and federal interests in lands held in connection
194 therewith;

195 (ee) "Project Works" shall mean the Wintu Pumping Plant, the Bella Vista
196 conduit, and all necessary federal lands and related facilities and structures located thereon; and

197 (ff) "Transferred Works" shall mean "Project Works" or "Distribution System"
198 or both, as defined herein, or portions thereof which have been transferred to the Contractor for
199 operation and maintenance, pursuant to the terms of Contract No. 14-06-200-851A.

200 TERM OF CONTRACT

201 2. (a) This Contract shall be effective March 1, 20___, through February 28,
202 20___, and supercedes the Existing Contract. In the event the Contractor wishes to renew this
203 Contract beyond February 28, 20___, the Contractor shall submit a request for renewal in writing to
204 the Contracting Officer no later than two years prior to the date this Contract expires. The renewal
205 of this Contract insofar as it pertains to the furnishing of Irrigation Water to the Contractor shall be

206 governed by subdivision (b) of this Article, and the renewal of this Contract insofar as it pertains to
207 the furnishing of M&I Water to the Contractor shall be governed by subdivision (c) of this Article.

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

213 (2) The conditions which must be met for this Contract to be renewed
214 are: (i) the Contractor has prepared a water conservation plan that has been determined by the
215 Contracting Officer in accordance with Article 26 of this Contract to meet the conservation and
216 efficiency criteria for evaluating such plans established under Federal law; (ii) the Contractor is
217 implementing an effective water conservation and efficiency program based on the Contractor's
218 water conservation plan as required by Article 26 of this Contract; (iii) the Contractor is maintaining
219 all water measuring devices and implementing all water measurement methods as approved by the
220 Contracting Officer pursuant to Article 6 of this Contract; (iv) the Contractor has reasonably and
221 beneficially used the Project Water supplies made available to it and, based on projected demands,
222 is reasonably anticipated and expects to fully utilize for reasonable and beneficial use the quantity
223 of Project Water to be made available to it pursuant to such renewal; (v) the Contractor is
224 complying with all terms and conditions of this Contract; and (vi) the Contractor has the physical
225 and legal ability to deliver Project Water.

226 (3) The terms and conditions of the renewal contract described in
227 subdivision (b)(1) of this Article and any subsequent renewal contracts shall be developed
228 consistent with the parties' respective legal rights and obligations, and in consideration of all
229 relevant facts and circumstances, as those circumstances exist at the time of renewal, including,
230 without limitation, the Contractor's need for continued delivery of Project Water; environmental
231 conditions affected by implementation of the Contract to be renewed, and specifically changes in
232 those conditions that occurred during the life of the Contract to be renewed; the Secretary's progress

233 toward achieving the purposes of the CVPIA as set out in Section 3402 and in implementing the
234 specific provisions of the CVPIA; and current and anticipated economic circumstances of the region
235 served by the Contractor.

236 (c) This Contract, insofar as it pertains to the furnishing of M&I Water to the
237 Contractor, shall be renewed for successive periods of up to 40 years each, which periods shall be
238 consistent with then-existing Reclamation-wide policy, under terms and conditions mutually
239 agreeable to the parties and consistent with Federal and State law. The Contractor shall be afforded
240 the opportunity to comment to the Contracting Officer on the proposed adoption and application of
241 any revised policy applicable to the delivery of M&I Water that would limit the term of any
242 subsequent renewal contract with the Contractor for the furnishing of M&I Water to less than 40
243 years.

244 (d) The Contracting Officer shall make a determination ten years after the date of
245 execution of this Contract, and every five years thereafter during the term of this Contract, of
246 whether a conversion of the relevant portion of this Contract to a contract under subsection 9(d) of
247 the Reclamation Project Act of 1939 can be accomplished pursuant to the Act of July 2, 1956 (70
248 Stat. 483). The Contracting Officer shall also make a determination ten years after the date of
249 execution of this Contract and every five years thereafter during the term of this Contract of
250 whether a conversion of the relevant portion of this Contract to a contract under subsection 9(c)(1)
251 of the Reclamation Project Act of 1939 can be accomplished. Notwithstanding any provision of
252 this Contract, the Contractor reserves and shall have all rights and benefits under the Act of July 2,
253 1956 (70 Stat. 483). The Contracting Officer anticipates that during the term of this Contract, all
254 authorized Project construction expected to occur will have occurred, and on that basis the
255 Contracting Officer agrees upon such completion to allocate all costs that are properly assignable to
256 the Contractor, and agrees further that, at any time after such allocation is made, and subject to
257 satisfaction of the condition set out in this subdivision, this Contract shall, at the request of the
258 Contractor, be converted to a contract under subsection 9(d) or 9(c)(1), whichever is applicable, of
259 the Reclamation Project Act of 1939, subject to applicable Federal law and under stated terms and

260 conditions mutually agreeable to the Contractor and the Contracting Officer. A condition for such
261 conversion to occur shall be a determination by the Contracting Officer that, account being taken of
262 the amount credited to return by the Contractor as provided for under Federal Reclamation law, the
263 remaining amount of construction costs assignable for ultimate return by the Contractor can
264 probably be repaid to the United States within the term of a contract under subsection 9(d) or
265 9(c)(1), whichever is applicable. If the remaining amount of costs that are properly assignable to
266 the Contractor cannot be determined during the term of this Contract, the Contracting Officer shall
267 notify the Contractor, and provide the reason(s) why such a determination could not be made.
268 Further, the Contracting Officer shall make such a determination as soon thereafter as possible so as
269 to permit, upon request of the Contractor and satisfaction of the condition set out above, conversion
270 to a contract under subsection 9(d) or 9(c)(1), whichever is applicable. In the event such
271 determination of costs has not been made at a time which allows conversion of this Contract during
272 the term of this Contract or the Contractor has not requested conversion of this Contract within such
273 term, the parties shall incorporate in any subsequent renewal contract as described in subdivision (b)
274 of this Article a provision that carries forth in substantially identical terms the provisions of this
275 subdivision.

276 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

277 3. (a) During each Year, consistent with all applicable State water rights, permits,
278 and licenses, Federal law, and subject to the provisions set forth in Articles 11 and 12 of this
279 Contract, the Contracting Officer shall make available for delivery to the Contractor 24,000 acre-
280 feet of Project Water for irrigation and M&I purposes. Water Delivered to the Contractor in
281 accordance with this subdivision shall be scheduled and paid for pursuant to the provisions of
282 Articles 4 and 7 of this Contract.

283 (b) Because the capacity of the Project to deliver Project Water has been
284 constrained in recent years and may be constrained in the future due to many factors including
285 hydrologic conditions and implementation of Federal and State laws, the likelihood of the

286 Contractor actually receiving the amount of Project Water set out in subdivision (a) of this Article
287 in any given Year is uncertain. The Contracting Officer's modeling referenced in the PEIS
288 projected that the Contract Total set forth in this Contract will not be available to the Contractor in
289 many years. During the most recent five years, the Recent Historic Average of water made
290 available to the Contractor was 22,080 acre-feet of Irrigation and M&I Water. Nothing in
291 subdivision (b) of this Article shall affect the rights and obligations of the parties under any
292 provision of this Contract.

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

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

311 (e) The Contractor shall comply with requirements applicable to the Contractor
312 in biological opinion(s) prepared as a result of a consultation regarding the execution of this

313 Contract undertaken pursuant to Section 7 of the Endangered Species Act of 1973 (ESA), as
314 amended, that are within the Contractor's legal authority to implement. The Existing Contract,
315 which evidences in excess of 38 years of diversions for irrigation and/or M&I purposes of the
316 quantities of water provided in subdivision (a) of Article 3 of this Contract, will be considered in
317 developing an appropriate baseline for biological assessment(s) prepared pursuant to the ESA, and
318 any other needed environmental review. Nothing herein shall be construed to prevent the
319 Contractor from challenging or seeking judicial relief in a court of competent jurisdiction with
320 respect to any biological opinion or other environmental documentation referred to in this Article.

321 (f) As soon as possible following each declaration of Water Made Available
322 under Article 4 of this Contract, the Contracting Officer will make a determination whether Project
323 Water, or other water available to the Project, can be made available to the Contractor in addition to
324 the Contract Total under Article 3 of this Contract during the Year without adversely impacting
325 other Project Contractors. At the request of the Contractor, the Contracting Officer will consult
326 with the Contractor prior to making such a determination. If the Contracting Officer determines
327 that Project Water, or other water available to the Project, can be made available to the Contractor,
328 the Contracting Officer will announce the availability of such water and shall so notify the
329 Contractor as soon as practical. The Contracting Officer will thereafter meet with the Contractor
330 and other Project Contractors capable of taking such water to determine the most equitable and
331 efficient allocation of such water. If the Contractor requests the delivery of any quantity of such
332 water, the Contracting Officer shall make such water available to the Contractor in accordance with
333 applicable statutes, regulations, guidelines, and policies.

334 (g) The Contractor may request permission to reschedule for use during the
335 subsequent Year some or all of the Water Made Available to the Contractor during the current Year,
336 referred to as "carryover." The Contractor may request permission to use during the current Year a
337 quantity of Project Water which may be made available by the United States to the Contractor

338 during the subsequent Year, referred to as “preuse.” The Contracting Officer’s written approval
339 may permit such uses in accordance with applicable statutes, regulations, guidelines, and policies.

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

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

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

358 TIME FOR DELIVERY OF WATER

359 4. (a) On or about February 20 of each Calendar Year, the Contracting Officer shall
360 announce the Contracting Officer’s expected declaration of the Water Made Available. Such
361 declaration will be expressed in terms of both Water Made Available and the Recent Historic
362 Average and will be updated monthly, and more frequently if necessary, based on then-current
363 operational and hydrologic conditions and a new declaration with changes, if any, to the Water
364 Made Available will be made. The Contracting Officer shall provide forecasts of Project operations

365 and the basis of the estimate, with relevant supporting information, upon the written request of the
366 Contractor. Concurrently with the declaration of the Water Made Available, the Contracting
367 Officer shall provide the Contractor with the updated Recent Historic Average.

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

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

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

382 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

383 5. (a) Project Water scheduled pursuant to subdivision (b) of Article 4 of this
384 Contract shall be delivered to the Contractor at the Sacramento River at the Wintu Pumping Plant
385 and any additional point or points of delivery either on Project facilities or another location or
386 locations mutually agreed to in writing by the Contracting Officer and the Contractor.

387 (b) The Contracting Officer shall make all reasonable efforts to maintain
388 sufficient flows and levels of water in the Sacramento River to deliver Project Water to the
389 Contractor at the Wintu Pumping Plant established as a delivery point pursuant to subdivision (a) of
390 this Article.

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

395 (d) All Water Delivered to the Contractor pursuant to this Contract shall be
396 measured and recorded with equipment originally furnished and installed by the United States, and
397 operated, maintained, and replaced as necessary by the Contractor at the point or points of delivery
398 established pursuant to subdivision (a) of this Article. Upon the request of either party to this
399 Contract, the Contracting Officer shall investigate the accuracy of such measurements and shall take
400 any necessary steps to adjust any errors appearing therein. For any period of time when accurate
401 measurements have not been made, the Contracting Officer shall consult with the Contractor prior
402 to making a final determination of the quantity delivered for that period of time.

403 (e) The Contracting Officer shall not be responsible for the control, carriage,
404 handling, use, disposal, or distribution of Water Delivered to the Contractor pursuant to this
405 Contract beyond the delivery points specified in subdivision (a) of this Article. The Contractor
406 shall indemnify the United States, its officers, employees, agents, and assigns on account of damage
407 or claim of damage of any nature whatsoever for which there is legal responsibility, including
408 property damage, personal injury, or death arising out of or connected with the control, carriage,
409 handling, use, disposal, or distribution of such Water Delivered beyond such delivery points, except
410 for any damage or claim arising out of (i) acts or omissions of the Contracting Officer or any of its
411 officers, employees, agents, or assigns, with the intent of creating the situation resulting in any
412 damage or claim, (ii) willful misconduct of the Contracting Officer or any of its officers,
413 employees, agents, or assigns, (iii) negligence of the Contracting Officer or any of its officers,
414 employees, agents, or assigns, or (iv) damage or claims resulting from a malfunction of facilities
415 owned and/or operated by the United States.

416 MEASUREMENT OF WATER WITHIN THE CONTRACTOR'S SERVICE AREA

417 6. (a) The Contractor has established a measuring program satisfactory to the
418 Contracting Officer. The Contractor shall ensure that all surface water delivered for irrigation
419 purposes within the Contractor's Service Area is measured at each agricultural turnout and such
420 water delivered for M&I purposes is measured at each M&I service connection. The water
421 measuring devices or water measuring methods of comparable effectiveness must be acceptable to
422 the Contracting Officer. The Contractor shall be responsible for installing, operating, and
423 maintaining and repairing all such measuring devices and implementing all such water measuring
424 methods at no cost to the United States. The Contractor shall use the information obtained from
425 such water measuring devices or water measuring methods to ensure its proper management of the
426 water, to bill water users for water delivered by the Contractor; and, if applicable, to record water
427 delivered for M&I purposes by customer class as defined in the Contractor's water conservation
428 plan provided for in Article 26 of this Contract. Nothing herein contained, however, shall preclude
429 the Contractor from establishing and collecting any charges, assessments, or other revenues
430 authorized by California law. The Contractor shall include a summary of all its annual surface
431 water deliveries in the annual report described in subdivision (c) of Article 26.

432 (b) To the extent the information has not otherwise been provided, upon
433 execution of this Contract, the Contractor shall provide to the Contracting Officer a written report
434 describing the measurement devices or water measuring methods being used or to be used to
435 implement subdivision (a) of this Article and identifying the agricultural turnouts and the M&I
436 service connections or alternative measurement programs approved by the Contracting Officer, at
437 which such measurement devices or water measuring methods are being used, and, if applicable,
438 identifying the locations at which such devices and/or methods are not yet being used including a
439 time schedule for implementation at such locations. The Contracting Officer shall advise the
440 Contractor in writing within 60 days as to the adequacy and necessary modifications, if any, of the
441 measuring devices or water measuring methods identified in the Contractor's report and if the
442 Contracting Officer does not respond in such time, they shall be deemed adequate. If the

443 Contracting Officer notifies the Contractor that the measuring devices or methods are inadequate,
444 the parties shall within 60 days following the Contracting Officer's response, negotiate in good faith
445 the earliest practicable date by which the Contractor shall modify said measuring devices and/or
446 measuring methods as required by the Contracting Officer to ensure compliance with subdivision
447 (a) of this Article.

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

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

454 (e) The Contractor shall inform the Contracting Officer on or before the 20th
455 calendar day of each month of the quantity of Irrigation and M&I Water taken during the preceding
456 month.

457 RATES AND METHOD OF PAYMENT FOR WATER

458 7. (a) The Contractor shall pay the United States as provided in this Article for all
459 Delivered Water at Rates, Charges, and the Tiered Pricing Component established in accordance
460 with (i) the Secretary's ratesetting policy for Irrigation Water adopted in 1988 and the Secretary's
461 then-existing ratesetting policy for M&I Water. Such ratesetting policies shall be amended,
462 modified, or superceded only through a public notice and comment procedure; (ii) applicable
463 Federal Reclamation law and associated rules and regulations, or policies; and (iii) other applicable
464 provisions of this Contract. Payments shall be made by cash transaction, electronic funds transfer,
465 or any other mechanism as may be agreed to in writing by the Contractor and the Contracting
466 Officer. The Rates, Charges, and Tiered Pricing Component applicable to the Contractor upon
467 execution of this Contract are set forth in Exhibit "B," as may be revised annually.

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

470 (1) Prior to July 1 of each Calendar Year, the Contracting Officer shall
471 provide the Contractor an estimate of the Charges for Project Water that will be applied to the
472 period October 1, of the current Calendar Year, through September 30, of the following Calendar
473 Year, and the basis for such estimate. The Contractor shall be allowed not less than two months to
474 review and comment on such estimates. On or before September 15 of each Calendar Year, the
475 Contracting Officer shall notify the Contractor in writing of the Charges to be in effect during the
476 period October 1 of the current Calendar Year, through September 30, of the following Calendar
477 Year, and such notification shall revise Exhibit "B."

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

485 (c) At the time the Contractor submits the initial schedule for the delivery of
486 Project Water for each Year pursuant to subdivision (b) of Article 4 of this Contract, the Contractor
487 shall make an advance payment to the United States equal to the total amount payable pursuant to
488 the applicable Rate(s) set under subdivision (a) of this Article, for the Project Water scheduled to be
489 delivered pursuant to this Contract during the first two calendar months of the Year. Before the end
490 of the first month and before the end of each calendar month thereafter, the Contractor shall make
491 an advance payment to the United States, at the Rate(s) set under subdivision (a) of this Article, for
492 the Water Scheduled to be delivered pursuant to this Contract during the second month immediately
493 following. Adjustments between advance payments for Water Scheduled and payments at Rates
494 due for Water Delivered shall be made before the end of the following month; Provided, That any

495 revised schedule submitted by the Contractor pursuant to Article 4 of this Contract which increases
496 the amount of Water Delivered pursuant to this Contract during any month shall be accompanied
497 with appropriate advance payment, at the Rates then in effect, to assure that Project Water is not
498 delivered to the Contractor in advance of such payment. In any month in which the quantity of
499 Water Delivered to the Contractor pursuant to this Contract equals the quantity of Water Scheduled
500 and paid for by the Contractor, no additional Project Water shall be delivered to the Contractor
501 unless and until an advance payment at the Rates then in effect for such additional Project Water is
502 made. Final adjustment between the advance payments for the Water Scheduled and payments for
503 the quantities of Water Delivered during each Year pursuant to this Contract shall be made as soon
504 as practicable, but no later than April 30th of the following Year, or 60 days after the delivery of
505 Project Water carried over under subdivision (g) of Article 3 of this Contract if such water is not
506 delivered by the last day of February.

507 (d) The Contractor shall also make a payment in addition to the Rate(s) in
508 subdivision (c) of this Article to the United States for Water Delivered, at the Charges and the
509 appropriate Tiered Pricing Component then in effect, before the end of the month following the
510 month of delivery; Provided, That the Contractor may be granted an exception from the Tiered
511 Pricing Component pursuant to subdivision (j)(2) of this Article. The payments shall be consistent
512 with the quantities of Irrigation Water and M&I Water Delivered as shown in the water delivery
513 report for the subject month prepared by the Contracting Officer. The water delivery report shall be
514 deemed a bill for the payment of Charges and the applicable Tiered Pricing Component for Water
515 Delivered. Adjustment for overpayment or underpayment of Charges shall be made through the
516 adjustment of payments due to the United States for Charges for the next month. Any amount to be
517 paid for past due payment of Charges and the Tiered Pricing Component shall be computed
518 pursuant to Article 20 of this Contract.

519 (e) The Contractor shall pay for any Water Delivered under subdivision (a), (f),
520 or (g) of Article 3 of this Contract as determined by the Contracting Officer pursuant to applicable
521 statutes, associated regulations, any applicable provisions of guidelines or ratesetting policies;

522 Provided, That the Rate for Water Delivered under subdivision (f) of Article 3 of this Contract shall
523 be no more than the otherwise applicable Rate for Irrigation Water or M&I Water under subdivision
524 (a) of this Article.

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

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

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

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

546 (j) (1) Beginning at such time as deliveries of Project Water in a Year
547 exceed 80 percent of the Contract Total, then before the end of the month following the month of

548 delivery the Contractor shall make an additional payment to the United States equal to the
549 applicable Tiered Pricing Component. The Tiered Pricing Component for the amount of Water
550 Delivered in excess of 80 percent of the Contract Total, but less than or equal to 90 percent of the
551 Contract total, shall equal one-half of the difference between the Rate established under subdivision
552 (a) of this Article and the Irrigation Full Cost Water Rate or M&I Full Cost Water Rate, whichever
553 is applicable. The Tiered Pricing Component for the amount of Water delivered which exceeds 90
554 percent of the Contract Total shall equal the difference between (i) the Rate established under
555 subdivision (a) of this Article and (ii) the Irrigation Full Cost Water Rate or M&I Full Cost Water
556 Rate, whichever is applicable. For all Water Delivered pursuant to subdivision (a) of Article 3 of
557 this Contract which is in excess of 80 percent of the Contract Total, this increment shall be deemed
558 to be divided between Irrigation Water and M&I Water in the same proportion as actual deliveries
559 of each bear to the cumulative total Water Delivered. Solely for the purpose of calculating the
560 Tiered Pricing Component, the Full Cost Rate shall not include the interest component of the
561 Contractor's water distribution system constructed by the United States and covered by Repayment
562 Contract No. 14-06-200-851A entered into pursuant to 43 USC 485h(d).

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

571 (3) For purposes of determining the applicability of the Tiered Pricing
572 Component pursuant to this Article, Water Delivered shall include Project Water that the

573 Contractor transfers to others but shall not include Project Water transferred to the Contractor, nor
574 shall it include the additional water provided to the Contractor under the provisions of subdivision
575 (f) of Article 3 of this Contract.

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

584 (l) Except as provided in subsections 3405(a)(1)(B) and 3405(f) of the CVPIA,
585 the Rates for Project Water transferred by the Contractor shall be the Contractor's Rates adjusted
586 upward or downward to reflect the changed costs, if any, incurred by the Contracting Officer in the
587 delivery of the transferred Project Water to the transferee's point of delivery in accordance with the
588 then applicable Project ratesetting policy . If the Contractor is receiving lower Rates and Charges
589 because of inability to pay and is transferring Project Water to another entity whose Rates and
590 Charges are not adjusted due to inability to pay, the Rates and Charges for transferred Project Water
591 shall be the Contractor's Rates and Charges and will not be adjusted to reflect the Contractor's
592 inability to pay.

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

595 (n) With respect to the Rates for M&I water the Contractor asserts that it is not
596 legally obligated to pay any Project deficits claimed by the United States to have accrued as of the
597 date of this Contract or deficit-related interest charges thereon. By entering into this Contract, the
598 Contractor does not waive any legal rights or remedies that it may have with respect to such
599 disputed issues. Notwithstanding the execution of this Contract and payments made hereunder, the

600 Contractor may challenge in the appropriate administrative or judicial forums: (1) the existence,
601 computation, or imposition of any deficit charges accruing during the term of the Existing Contract
602 and any preceding interim renewal contracts, if applicable; (2) interest accruing on any such
603 deficits; (3) the inclusion of any such deficit charges or interest in the Rates; (4) the application by
604 the United States of payments made by the Contractor under its Existing Contract and any
605 preceding interim renewal contracts, if applicable; and (5) the application of such payments in the
606 Rates. The Contracting Officer agrees that the Contractor shall be entitled to the benefit of any
607 administrative or judicial ruling in favor of any Project M&I contractor on any of these issues, and
608 credits for payments heretofore made, Provided, That the basis for such ruling is applicable to the
609 Contractor.

610 NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICITS

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

614 SALES, TRANSFERS, OR EXCHANGES OF WATER

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

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

640 (c) For a water transfer to qualify under subdivision (b) of this Article, such
641 water transfer must: (i) be for irrigation purposes for lands irrigated within the previous three years,
642 for M&I use, ground-water recharge, water banking, similar ground-water activities, surface water
643 storage, or fish and wildlife resources; not lead to land conversion; and be delivered to established
644 cropland, wildlife refuges, ground-water basins or M&I use; (ii) occur within a single Year; (iii)
645 occur between a willing seller and a willing buyer; (iv) convey water through existing facilities with
646 no new construction or modifications to facilities and be between existing Project Contractors
647 and/or the Contractor and the United States, Department of the Interior; and (v) comply with all
648 applicable Federal, State, and local or tribal laws and requirements imposed for protection of the
649 environment and Indian Trust Assets, as defined under Federal law.

650 (d) For the purpose of determining whether Section 3405(a)(1)(M) of the CVPIA
651 applies to the Contractor as a transferor or transferee of Project Water, the Contracting Officer
652 acknowledges that the Contractor is within a county, watershed, or other area of origin, as those

653 terms are utilized under California law, of water that constitutes the natural flow of the Sacramento
654 River and its tributaries above the confluence of the American and Sacramento Rivers.

655 APPLICATION OF PAYMENTS AND ADJUSTMENTS

656 10. (a) The amount of any overpayment by the Contractor of the Contractor's O&M,
657 capital, and deficit (if any) obligations for the Year shall be applied first to any current liabilities of
658 the Contractor arising out of this Contract then due and payable. Overpayments of more than
659 \$1,000 shall be refunded at the Contractor's request. In lieu of a refund, any amount of such
660 overpayment, at the option of the Contractor, may be credited against amounts to become due to the
661 United States by the Contractor. With respect to overpayment, such refund or adjustment shall
662 constitute the sole remedy of the Contractor or anyone having or claiming to have the right to the
663 use of any of the Project Water supply provided for herein. All credits and refunds of overpayments
664 shall be made within 30 days of the Contracting Officer obtaining direction as to how to credit or
665 refund such overpayment in response to the notice to the Contractor that it has finalized the
666 accounts for the Year in which the overpayment was made.

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

672 TEMPORARY REDUCTIONS--RETURN FLOWS

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

678 (b) The Contracting Officer may temporarily discontinue or reduce the quantity
679 of Water Delivered to the Contractor as herein provided for the purposes of investigation,

680 inspection, maintenance, repair, or replacement of any of the Project facilities or any part thereof
681 necessary for the delivery of Project Water to the Contractor, but so far as feasible the Contracting
682 Officer will give the Contractor due notice in advance of such temporary discontinuance or
683 reduction, except in case of emergency, in which case no notice need be given; Provided, That the
684 United States shall use its best efforts to avoid any discontinuance or reduction in such service.
685 Upon resumption of service after such reduction or discontinuance, and if requested by the
686 Contractor, the United States will, if possible, deliver the quantity of Project Water which would
687 have been delivered hereunder in the absence of such discontinuance or reduction.

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

694 CONSTRAINTS ON THE AVAILABILITY OF WATER

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

700 (b) If there is a Condition of Shortage because of errors in physical operations of
701 the Project, drought, other physical causes beyond the control of the Contracting Officer or actions
702 taken by the Contracting Officer to meet legal obligations then, except as provided in subdivision

703 (a) of Article 18 of this Contract, no liability shall accrue against the United States or any of its
704 officers, agents, or employees for any damage, direct or indirect, arising therefrom.

705 (c) In any Year in which there may occur a shortage for any of the reasons
706 specified in subdivision (b) above, the Contracting Officer shall apportion Project Water among the
707 Contractor and others entitled, under existing contracts and future contracts (to the extent such
708 future contracts are permitted under subsections (a) and (b) of Section 3404 of the CVPIA) and
709 renewals thereof, to receive Irrigation Water consistent with the contractual obligations of the
710 United States.

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

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

720 UNAVOIDABLE GROUND-WATER PERCOLATION

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

725

RULES AND REGULATIONS

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

730

WATER AND AIR POLLUTION CONTROL

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

734

QUALITY OF WATER

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

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

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WATER ACQUIRED BY THE CONTRACTOR
OTHER THAN FROM THE UNITED STATES

17. (a) Water or water rights now owned or hereafter acquired by the Contractor other than from the United States and Irrigation Water furnished pursuant to the terms of this Contract may be simultaneously transported through the same distribution facilities of the Contractor subject to the following: (i) if the facilities utilized for commingling Irrigation Water and non-Project water were constructed without funds made available pursuant to Federal Reclamation law, the provisions of Federal Reclamation law will be applicable only to the Landholders of lands which receive Irrigation Water; (ii) the eligibility of land to receive Irrigation Water must be established through the certification requirements as specified in the Acreage Limitation Rules and Regulations (43 CFR Part 426); (iii) the water requirements of Eligible Lands within the Contractor's Service Area can be established and the quantity of Irrigation Water to be utilized is less than or equal to the quantity necessary to irrigate such Eligible Lands; and (iv) if the facilities utilized for commingling Irrigation Water and non-Project water are/were constructed with funds made available pursuant to Federal Reclamation law, the non-Project water will be subject to the acreage limitation provisions of Federal Reclamation law, unless the Contractor pays to the United States the incremental fee described in 43 CFR 426.15. In determining the incremental fee, the Contracting Officer will calculate annually the cost to the Federal Government, including interest, on storing or delivering non-Project water, which for purposes of this Contract shall be determined as follows: The quotient shall be the unpaid Distribution System costs divided by the total irrigable acreage within the Contractor's Service Area. The incremental fee per acre is the mathematical result of such quotient times the interest rate determined using Section 202 (3) of the Act of October 12, 1982 (96 Stat. 1263). Such incremental fee will be charged to each acre of excess or full cost land within the Contractor's Service Area that receives non-Project water through

773 Federally financed or constructed facilities. The incremental fee calculation methodology will
774 continue during the term of this Contract absent the promulgation of a contrary Reclamation-wide
775 rule, regulation, or policy adopted after the Contractor has been afforded the opportunity to review
776 and comment on the proposed rule, regulation, or policy. If such rule, regulation, or policy is
777 adopted it shall supercede this provision.

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

783 (1) The Contractor may introduce non-Project water into Project facilities
784 and deliver said water to lands within the Contractor's Service Area, including Ineligible Lands,
785 subject to payment to the United States of an appropriate rate as determined by the applicable
786 Project ratesetting policy, the RRA, and the Project use power policy, if such Project use power
787 policy is applicable, each as amended, modified, or superceded from time to time.

788 (2) Delivery of such non-Project water in and through Project facilities
789 shall only be allowed to the extent such deliveries do not: (i) interfere with other Project purposes
790 as determined by the Contracting Officer; (ii) reduce the quantity or quality of water available to
791 other Project Contractors; (iii) interfere with the delivery of contractual water entitlements to any
792 other Project Contractors; or (iv) interfere with the physical maintenance of the Project facilities.

793 (3) The United States shall not be responsible for control, care, or
794 distribution of the non-Project water before it is introduced into or after it is delivered from the
795 Project facilities. The Contractor hereby releases and agrees to defend and indemnify the United
796 States and its respective officers, agents, and employees, from any claim for damage to persons or

797 property, direct or indirect, resulting from the acts of the Contractor, its officers', employees',
798 agents' or assigns', act(s) in (i) extracting or diverting non-Project water from any source, or (ii)
799 diverting such non-Project water into Project facilities.

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

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

808 OPINIONS AND DETERMINATIONS

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

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

821 by the Secretary of the Interior. Such determinations shall be made in consultation with the
822 Contractor to the extent reasonably practicable.

823 COORDINATION AND COOPERATION

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

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

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

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

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

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

852 (3.1) The Secretary and the Contractor desire to work together to maximize
853 the reasonable beneficial use of water for their mutual benefit. As a consequence, the Secretary and
854 the Contractor will work in partnership and with others in the region of the Redding Groundwater
855 Basin, including other Contractors in the Shasta and Trinity Divisions of the Project, to facilitate the
856 better integration with the region of the Redding Groundwater Basin of all water supplies including,
857 but not limited to, the better management and integration of surface water and groundwater,
858 transfers and exchanges of water, the development and better utilization of surface water storage,
859 the effective utilization of waste, seepage and return flow water, and other operational and
860 management options that may be identified in the future.

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

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

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

871 CHARGES FOR DELINQUENT PAYMENTS

872 20. (a) The Contractor shall be subject to interest, administrative and penalty charges
873 on delinquent installments or payments. When a payment is not received by the due date, the
874 Contractor shall pay an interest charge for each day the payment is delinquent beyond the due date.

875 When a payment becomes sixty (60) days delinquent, the Contractor shall pay an administrative
876 charge to cover additional costs of billing and processing the delinquent payment. When a payment
877 is delinquent ninety (90) days or more, the Contractor shall pay an additional penalty charge of six
878 (6%) percent per year for each day the payment is delinquent beyond the due date. Further, the
879 Contractor shall pay any fees incurred for debt collection services associated with a delinquent
880 payment.

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

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

889 EQUAL OPPORTUNITY

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

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

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

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

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

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

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

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

933 GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

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

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

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

946 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

947 23. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964
948 (42 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (P.L. 93-112, as amended), the
949 Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.) and any other applicable civil rights laws,

950 as well as with their respective implementing regulations and guidelines imposed by the U.S.
951 Department of the Interior and/or Bureau of Reclamation.

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

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

965 PRIVACY ACT COMPLIANCE

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

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

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

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

984 (e) The Contractor shall forward promptly to the System Manager each proposed
985 denial of access under 43 CFR 2.64; and each request for amendment of records filed under 43 CFR
986 2.71; notify the requester accordingly of such referral; and provide the System Manager with
987 information and records necessary to prepare an appropriate response to the requester. These
988 requirements do not apply to individuals seeking access to their own certification and reporting

989 forms filed with the Contractor pursuant to 43 CFR 426.18, unless the requester elects to cite the
990 Privacy Act as a basis for the request.

991 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

992 25. In addition to all other payments to be made by the Contractor pursuant to this
993 Contract, the Contractor shall pay to the United States, within 60 days after receipt of a bill and
994 detailed statement submitted by the Contracting Officer to the Contractor for such specific items of
995 direct cost incurred by the United States for work requested by the Contractor associated with this
996 Contract plus indirect costs in accordance with applicable Bureau of Reclamation policies and
997 procedures. All such amounts referred to in this Article shall not exceed the amount agreed to in
998 writing in advance by the Contractor. This Article shall not apply to costs for routine contract
999 administration.

1000 WATER CONSERVATION

1001 26. (a) Prior to the delivery of water provided from or conveyed through Federally
1002 constructed or Federally financed facilities pursuant to this Contract, the Contractor shall be
1003 implementing an effective water conservation and efficiency program based on the Contractor's
1004 water conservation plan that has been determined by the Contracting Officer to meet the
1005 conservation and efficiency criteria for evaluating water conservation plans established under
1006 Federal law. The water conservation and efficiency program shall contain definite water
1007 conservation objectives, appropriate economically feasible water conservation measures, and time
1008 schedules for meeting those objectives. Continued Project Water delivery pursuant to this Contract
1009 shall be contingent upon the Contractor's continued implementation of such water conservation
1010 program. In the event the Contractor's water conservation plan or any revised water conservation
1011 plan completed pursuant to subdivision (d) of Article 26 of this Contract have not yet been
1012 determined by the Contracting Officer to meet such criteria, due to circumstances which the
1013 Contracting Officer determines are beyond the control of the Contractor, water deliveries shall be
1014 made under this Contract so long as the Contractor diligently works with the Contracting Officer to
1015 obtain such determination at the earliest practicable date, and thereafter the Contractor immediately

1016 begins implementing its water conservation and efficiency program in accordance with the time
1017 schedules therein.

1018 (b) Should the amount of M&I Water delivered pursuant to subdivision (a) of
1019 Article 3 of this Contract equal or exceed 2,000 acre-feet per Year, the Contractor shall implement
1020 the Best Management Practices identified by the time frames issued by the California Urban Water
1021 Conservation Council for such M&I Water unless any such practice is determined by the
1022 Contracting Officer to be inappropriate for the Contractor.

1023 (c) The Contractor shall submit to the Contracting Officer a report on the status
1024 of its implementation of the water conservation plan on the reporting dates specified in the then
1025 existing conservation and efficiency criteria established under Federal law.

1026 (d) At five-year intervals, the Contractor shall revise its water conservation plan
1027 to reflect the then-current conservation and efficiency criteria for evaluating water conservation
1028 plans established under Federal law and submit such revised water management plan to the
1029 Contracting Officer for review and evaluation. The Contracting Officer will then determine if the
1030 water conservation plan meets Reclamation's then-current conservation and efficiency criteria for
1031 evaluating water conservation plans established under Federal law.

1032 (e) If the Contractor is engaged in direct ground-water recharge, such activity
1033 shall be described in the Contractor's water conservation plan.

1034 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

1035 27. Except as specifically provided in Article 17 of this Contract, the provisions of this
1036 Contract shall not be applicable to or affect non-Project water or water rights now owned or
1037 hereafter acquired by the Contractor or any user of such water within the Contractor's Service Area.
1038 Any such water shall not be considered Project Water under this Contract. In addition, this Contract
1039 shall not be construed as limiting or curtailing any rights which the Contractor or any water user
1040 within the Contractor's Service Area acquires or has available under any other contract pursuant to
1041 Federal Reclamation law.

1042 OPERATION AND MAINTENANCE BY OPERATING NON-FEDERAL ENTITY

1043 28. Omitted.

1044 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

1045 29. The expenditure or advance of any money or the performance of any obligation of
1046 the United States under this Contract shall be contingent upon appropriation or allotment of
1047 funds. Absence of appropriation or allotment of funds shall not relieve the Contractor from any
1048 obligations under this Contract. No liability shall accrue to the United States in case funds are
1049 not appropriated or allotted.

1050 BOOKS, RECORDS, AND REPORTS

1051 30. (a) The Contractor shall establish and maintain accounts and other books and
1052 records pertaining to administration of the terms and conditions of this Contract, including: the
1053 Contractor's financial transactions, water supply data, and Project land and right-of-way
1054 agreements; the water users' land-use (crop census), land ownership, land-leasing and water use
1055 data; and other matters that the Contracting Officer may require. Reports thereon shall be
1056 furnished to the Contracting Officer in such form and on such date or dates as the Contracting
1057 Officer may require. Subject to applicable Federal laws and regulations, each party to this
1058 Contract shall have the right during office hours to examine and make copies of the other party's
1059 books and records relating to matters covered by this Contract.

1060 (b) Notwithstanding the provisions of subdivision (a) of this Article, no
1061 books, records, or other information shall be requested from the Contractor by the Contracting
1062 Officer unless such books, records, or information are reasonably related to the administration or
1063 performance of this Contract. Any such request shall allow the Contractor a reasonable period of
1064 time within which to provide the requested books, records, or information.

1065 (c) Omitted.

1066 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

1067 31. (a) The provisions of this Contract shall apply to and bind the successors and
1068 assigns of the parties hereto, but no assignment or transfer of this Contract or any right or interest
1069 therein shall be valid until approved in writing by the Contracting Officer.

1070 (b) The assignment of any right or interest in this Contract by either party
1071 shall not interfere with the rights or obligations of the other party to this Contract absent the
1072 written concurrence of said other party.

1073 (c) The Contracting Officer shall not unreasonably condition or withhold his approval
1074 of any proposed assignment.

1075 SEVERABILITY

1076 32. In the event that a person or entity who is neither (i) a party to a Project contract,
1077 nor (ii) a person or entity that receives Project Water from a party to a Project contract, nor (iii)
1078 an association or other form of organization whose primary function is to represent parties to
1079 Project contracts, brings an action in a court of competent jurisdiction challenging the legality or
1080 enforceability of a provision included in this Contract and said person, entity, association, or
1081 organization obtains a final court decision holding that such provision is legally invalid or
1082 unenforceable and the Contractor has not intervened in that lawsuit in support of the plaintiff(s),
1083 the parties to this Contract shall use their best efforts to (i) within 30 days of the date of such
1084 final court decision identify by mutual agreement the provisions in this Contract which must be
1085 revised, and (ii) within three months thereafter promptly agree on the appropriate revision(s).
1086 The time periods specified above may be extended by mutual agreement of the parties. Pending
1087 the completion of the actions designated above, to the extent it can do so without violating any
1088 applicable provisions of law, the United States shall continue to make the quantities of Project
1089 Water specified in this Contract available to the Contractor pursuant to the provisions of this
1090 Contract which were not found to be legally invalid or unenforceable in the final court decision.

1091 RESOLUTION OF DISPUTES

1092 33. Should any dispute arise concerning any provisions of this Contract, or the
1093 parties' rights and obligations thereunder, the parties shall meet and confer in an attempt to
1094 resolve the dispute. Prior to the Contractor commencing any legal action, or the Contracting
1095 Officer referring any matter to Department of Justice, the party shall provide to the other party
1096 30 days' written notice of the intent to take such action; Provided, That such notice shall not be
1097 required where a delay in commencing an action would prejudice the interests of the party that
1098 intends to file suit. During the 30-day notice period, the Contractor and the Contracting Officer
1099 shall meet and confer in an attempt to resolve the dispute. Except as specifically provided,

1100 nothing herein is intended to waive or abridge any right or remedy that the Contractor or the
1101 United States may have.

1102 OFFICIALS NOT TO BENEFIT

1103 34. No Member of or Delegate to Congress, Resident Commissioner, or official of the
1104 Contractor shall benefit from this Contract other than as a water user or landowner in the same
1105 manner as other water users or landowners.

1106 CHANGES IN CONTRACTOR'S SERVICE AREA

1107 35. (a) While this Contract is in effect, no change may be made in the
1108 Contractor's Service Area, by inclusion or exclusion of lands, dissolution, consolidation, merger,
1109 or otherwise, except upon the Contracting Officer's written consent.

1110 (b) Within 30 days of receipt of a request for such a change, the Contracting
1111 Officer will notify the Contractor of any additional information required by the Contracting
1112 Officer for processing said request, and both parties will meet to establish a mutually agreeable
1113 schedule for timely completion of the process. Such process will analyze whether the proposed
1114 change is likely to: (i) result in the use of Project Water contrary to the terms of this Contract;
1115 (ii) impair the ability of the Contractor to pay for Project Water furnished under this Contract or
1116 to pay for any Federally-constructed facilities for which the Contractor is responsible; and (iii)
1117 have an impact on any Project Water rights applications, permits, or licenses. In addition, the
1118 Contracting Officer shall comply with the NEPA and the ESA. The Contractor will be
1119 responsible for all costs incurred by the Contracting Officer in this process, and such costs will
1120 be paid in accordance with Article 25 of this Contract.

1121 FEDERAL LAWS

1122 36. By entering into this Contract, the Contractor does not waive its rights to contest
1123 the validity or application in connection with the performance of the terms and conditions of this
1124 Contract of any Federal law or regulation; Provided, That the Contractor agrees to comply with
1125 the terms and conditions of this Contract unless and until relief from application of such Federal

1126 law or regulation to the implementing provision of the Contract is granted by a court of
1127 competent jurisdiction.

1128 NOTICES

1129 37. Any notice, demand, or request authorized or required by this Contract shall be
1130 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or
1131 delivered to the Area Manager, Bureau of Reclamation, Northern California Area Office, 16349
1132 Shasta Dam Boulevard, Shasta Lake, California 96019, and on behalf of the United States, when
1133 mailed, postage prepaid, or delivered to the Board of Directors of the Bella Vista Water District,
1134 11368 East Stillwater Way, Redding, California 96003. The designation of the addressee or the
1135 address may be changed by notice given in the same manner as provided in this Article for other
1136 notices.

1137 CONFIRMATION OF CONTRACT

1138 38. The Contractor, after the execution of this Contract, shall promptly seek to secure
1139 a decree of a court of competent jurisdiction of the State of California, confirming the execution
1140 of this Contract. The Contractor shall furnish the United States a certified copy of the final
1141 decree, the validation proceedings, and all pertinent supporting records of the court approving
1142 and confirming this Contract, and decreeing and adjudging it to be lawful, valid, and binding on
1143 the Contractor.

1144 AMENDATORY CONTRACT

1145 39. The parties hereto acknowledge and agree that Part A (i.e., Articles 2 through 10)
1146 of Contract No. 14-06-200-851A is replaced by this Contract. The respective duties, covenants,
1147 and obligations of the parties in Contract No. 14-06-200-851A which are not replaced by this
1148 Contract shall continue in full force and effect pending prompt completion of good faith
1149 negotiations between the parties to agree upon an amendatory contract.

EXHIBIT A

[Map or Description of Contractor's Service Area]

EXHIBIT B
[Initial Rates and Charges]

2004 Water Rates and Charges for Interim Renewal Contract No. 14-06-200-851-A-IR9
Bella Vista Water District – Cow Creek Unit

	<u>Cost of Service</u>		<u>Calculated</u>
	<u>Irrigation</u>	<u>M&I</u>	<u>Payment Capacity 1/ Irrigation</u>
<u>COST OF SERVICE RATES:</u>			
Capital Rates	\$10.25	\$24.85	\$ 0.00
O&M Rates:			
Water Marketing	7.59	5.01	7.59
Storage	5.83	6.38	5.83
Direct Pumping	4.35	4.35	4.35
Deficit Rates:			
Interest Bearing	0.02	22.53	0.02
CFO/PFR Adjustment Rate 3/	<u>1.77</u>	<u>1.64</u>	<u>1.77</u>
TOTAL	<u>\$29.81</u>	<u>\$64.77</u>	<u>\$19.56</u>

IRRIGATION 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.

	<u>\$56.32</u>	<u>\$56.32</u>
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Section 205(a)(3) Rate is applicable to a Limited Recipient that did not receive irrigation water on or before October 1, 1981.

	<u>\$72.99</u>	<u>\$72.99</u>
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M&I FULL COST RATE:

	<u>\$80.02</u>
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CHARGES UNDER P.L. 102-575 TO THE RESTORATION FUND 2/

Restoration Payments (3407(d)(2)(A))	<u>\$ 7.82</u>	<u>\$15.64</u>	<u>\$ 0.00</u>
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1/ Established pursuant to the results of the Payment Capacity Analysis for the Clear Creek CSD and Bella Vista WD as announced by letter dated October 2, 1996.

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).

3/ Chief Financial Officer (CFO) adjustment and Provision for Replacement (PFR) expense is being distributed over a 5-year period beginning in FY 2003 for those contractors that requested those costs be deferred.

EXHIBIT C

GUIDELINES FOR DETERMINING IF PROJECT WATER
IS PUT TO USE AS IRRIGATION WATER

A. Objective:

1. Achieve the proper use of Project Water irrespective of landholding size.
2. Obtain reimbursement to the Reclamation Fund for Project Water at the appropriate Rates.

B. Focus:

1. Usually, the Rates for Irrigation Water are significantly less than the Rates for M&I Water. Contractors that have both irrigation and M&I as purposes of use in their contracts have to determine the appropriate Rates to charge their customers for Project Water. That determination becomes more difficult for smaller landholdings because activities on a rural residence may appear to be similar to activities on a farm or ranch.
2. To qualify as Irrigation Water, Project Water must be used primarily in the production of crops or livestock for sale or barter beyond the quantity needed for personal use.

C. Criteria to consider:

1. Existence of a business or development plan; and
2. Crop or livestock sales or barter; and/or
3. Improvements to land, including but not limited to buildings (barns, storage facilities, workshop, livestock shed), irrigation system, leveling, corrals, fencing, fruit or nut trees, vines, etc.); and
4. Related enterprises involving the landholder. For example, Project Water diverted to irrigate pasture for horses used in a cattle operation would be at the Rates for Irrigation Water in contrast to Project Water diverted to irrigate pasture for horses used only for personal enjoyment which would be at the Rates for M&I Water.

D. Decision:

1. The Contractor shall be responsible for ascertaining whether Project Water delivered by it is put to use as Irrigation Water or M&I Water. In the past, Reclamation's focus has been on landholdings operated in units of less than two acres. More recently, that focus has been on landholdings operated in units of less than five acres.
2. The guidelines recognize that the Contractor surveyed all landholdings between two and five acres during the term of its first interim renewal contract to determine if those landholders were paying the appropriate Rates for Project Water. If the purpose of use has not changed since that survey was completed, those landholders will not be required to submit a new application to the Contractor to receive Project Water at the Rates for Irrigation Water. If the landholder but not the purpose of use has changed after the survey was completed but prior to execution of this Contract, those landholders will not be required to submit a

new application requesting Project Water at the Rates for Irrigation Water. The Contractor will require a new application requesting Project Water at the Rates for Irrigation Water when there is a change in ownership of any of those landholdings after the date of execution of this Contract.

E. Review:

A decision made by the Contractor may be reviewed by Reclamation. If Reclamation does not agree with the Contractor's decision, Reclamation shall provide notification, in writing, to the Contractor explaining specifically why Reclamation believes the decision made by the Contractor to deliver Irrigation Water to the landholding was not done so in accordance with these guidelines. Within 30 days of receipt of such notification, Reclamation and the Contractor shall meet and confer to determine what corrective actions should be taken to resolve the disagreement in accordance with these guidelines. If Reclamation and the Contractor cannot resolve the disagreement within 90 days of that notification, Reclamation shall, thereafter, provide its final determination, in writing to the Contractor. The Contractor retains the right to appeal up to and including the Commissioner of Reclamation any final decision they are in disagreement with.

F. Documentation:

These guidelines presume a landholding is only eligible to receive Project Water at the Rates for M&I Water unless documentation is provided to the Contractor to show it qualifies for Irrigation Water or an application by a landholder requesting new service for Irrigation Water is approved by the Contractor. The Contractor shall retain such documentation for a period of six years after the initial determination is made that Project Water is being used for irrigation purposes or after a landholder no longer is using Project Water for irrigation purposes, whichever is longer.