

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

LONG-TERM RENEWAL CONTRACT BETWEEN THE UNITED STATES
AND
4-E WATER DISTRICT
PROVIDING FOR PROJECT WATER SERVICE
FROM THE BLACK BUTTE PROJECT
AND
AGREEMENT ON DIVERSION OF WATER

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5 AND
6 4-E WATER DISTRICT
7 PROVIDING FOR PROJECT WATER SERVICE
8 FROM THE BLACK BUTTE PROJECT
9 AND
10 AGREEMENT ON DIVERSION OF WATER

11 THIS CONTRACT, made this 4th day of March, 2005, in

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

21 WITNESSETH, That:

22 EXPLANATORY RECITALS

23 [1st] WHEREAS, the United States has constructed and is operating the Central Valley
24 Project (Project), California, for diversion, storage, carriage, distribution and beneficial use, for
25 flood control, irrigation, municipal, domestic, industrial, fish and wildlife mitigation, protection
26 and restoration, generation and distribution of electric energy, salinity control, navigation and
27 other beneficial uses, of waters of the Sacramento River, the American River, the Trinity River,
28 and the San Joaquin River and their tributaries; and

29 [1.1] WHEREAS, the United States has constructed the Orland Project which is being
30 operated by the Orland Water Users' Association pursuant to Contract No. 14-06-200-3502
31 dated August 26, 1954, as amended by the contract dated August 24, 1960; and

32 [1.2] WHEREAS, the Contractor asserts that it has rights to divert, is diverting, and
33 will continue to divert for reasonable beneficial use water from the natural flow of Elk Creek, a
34 tributary of Stony Creek; and

35 [1.3] WHEREAS, the United States asserts that it has rights to divert, is diverting, and
36 will continue to divert waters from said Creeks in connection with the operation of the Project;
37 and

38 [1.4] WHEREAS, the Contractor's rights to divert from Elk Creek are junior to those of
39 the United States; and

40 [1.5] WHEREAS, the Contractor has a continuing need of additional water for
41 agricultural purposes; and

42 [2nd] WHEREAS, the United States constructed the Black Butte Dam and Reservoir for
43 flood control and storage, which were integrated into the Project and, which will be used in part
44 for the furnishing of water to the Contractor pursuant to the terms of this Contract; and

45 [2.1] WHEREAS, the water rights of all lands and the use thereof within the watershed
46 of Stony Creek and its tributaries were adjudicated by the U.S. District Court for the Northern
47 District of California, Second Division, in United States of America, Plaintiff, v. H. C. Angle, et
48 al., Defendants, Equity Number 30, hereinafter referred to as the Angle Decree; and

49 [2.2] WHEREAS, the United States is willing to make water stored in the Black Butte
50 Reservoir available to the Contractor pursuant to the exchange contract No. 14-06-200-1020A,
51 dated June 26, 1964, between the United States and the Orland Water Users' Association; and

52 [3rd] WHEREAS, the rights to Project Water were acquired by the United States
53 pursuant to California law for operation of the Project; and

54 [4th] WHEREAS, the Contractor and the United States entered into Contract
55 No. 3-07-20-W0312, as amended by Letter of Agreement No. 03-WC-20-2228 on November 18,
56 2002, which established terms for the delivery to the Contractor of Project Water from August 5,
57 1983, through March 31, 2020, hereinafter referred to as the "Existing Contract," and

58 [5th] WHEREAS, the Contractor and the United States have pursuant to subsection
59 3404(c)(3) of the Central Valley Project Improvement Act (CVPIA), subsequently entered into a
60 binding agreement identified as Binding Agreement No. 3-07-20-W0312-BA, which sets out the
61 terms pursuant to which the Contractor agreed to renew the Existing Contract before its
62 expiration date after completion of a programmatic environmental impact statement and other
63 appropriate environmental documentation and negotiation of a renewal contract, and which also
64 sets out the consequences of a subsequent decision not to renew; and

65 [6th] WHEREAS, Section 3404(c) of the CVPIA provides for long-term renewal of the
66 Existing Contract following completion of appropriate environmental documentation, including a
67 programmatic environmental impact statement (PEIS) pursuant to the National Environmental

68 Policy Act (NEPA), analyzing the direct and indirect impacts and benefits of implementing the
69 CVPIA and the potential renewal of all existing contracts for Project Water; and

70 [7th] WHEREAS, the United States has completed the PEIS and all other appropriate
71 environmental review necessary to provide for long-term renewal of the Existing Contract; and

72 [8th] WHEREAS, the Contractor has requested the long-term renewal of the Existing
73 Contract, pursuant to the terms of the Existing Contract, Federal Reclamation law, and the laws
74 of the State of California, for water service from the Project; and

75 [9th] WHEREAS, the United States has determined that the Contractor has fulfilled all
76 of its obligations under the Existing Contract; and

77 [10th] WHEREAS, the Contractor has demonstrated to the satisfaction of the
78 Contracting Officer that the Contractor has utilized the Project Water supplies available to it for
79 reasonable and beneficial use and, based upon a needs analysis cooperatively prepared by the
80 Contracting Officer and the Contractor, has demonstrated projected future demand for water use
81 that exceeds the Contract Total to be made available to it pursuant to this Contract; and

82 [11th] WHEREAS, water obtained from the Project has been relied upon by urban and
83 agricultural areas within California for more than 50 years, and is considered by the Contractor
84 as an essential portion of its water supply; and

85 [12th] WHEREAS, the economies of regions within the Project, including the
86 Contractor's, depend upon the continued availability of water, including water service from the
87 Project; and

88 [13th] WHEREAS, the Secretary intends through coordination, cooperation, and
89 partnerships to pursue measures to improve water supply, water quality, and reliability of the
90 Project for all Project purposes; and

91 [14th] WHEREAS, the mutual goals of the United States and the Contractor include: to
92 provide for reliable Project Water supplies; to control costs of those supplies; to achieve
93 repayment of the Project as required by law; to guard reasonably against Project Water
94 shortages; to achieve a reasonable balance among competing demands for use of Project Water;
95 and to comply with all applicable environmental statutes, all consistent with the legal obligations
96 of the United States relative to the Project; and

97 [15th] WHEREAS, the parties intend by this Contract to develop a more cooperative
98 relationship in order to achieve their mutual goals; and

99 [16th] WHEREAS, the United States and the Contractor are willing to enter into this
100 Contract pursuant to Federal Reclamation law on the terms and conditions set forth below;

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

103 DEFINITIONS

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

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

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

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

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

117 (e) "Contract Total" shall mean the maximum amount of water to which the
118 Contractor is entitled under subdivisions (a)(1) and (2) of Article 3 of this Contract;

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

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

125 (h) "Eligible Lands" shall mean all lands to which Irrigation Water may be
126 delivered in accordance with Section 204 of the Reclamation Reform Act of October 12, 1982
127 (96 Stat. 1263), as amended, hereinafter referred to as RRA;

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

131 (j) "Full Cost Rate" shall mean an annual rate as determined by the
132 Contracting Officer that shall amortize the expenditures for construction properly allocable to the
133 Project irrigation or M&I functions, as appropriate, of facilities in service including all O&M
134 deficits funded, less payments, over such periods as may be required under Federal Reclamation
135 law, or applicable contract provisions. Interest will accrue on both the construction expenditures
136 and funded O&M deficits from October 12, 1982, on costs outstanding at that date, or from the
137 date incurred in the case of costs arising subsequent to October 12, 1982, and shall be calculated
138 in accordance with subsections 202(3)(B) and (3)(C) of the RRA. The Full Cost Rate includes

139 actual operation, maintenance, and replacement costs consistent with Section 426.2 of the Rules
140 and Regulations for the RRA;

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

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

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

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

150 (o) Omitted;

151 (p) Omitted;

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

155 (r) Omitted;

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

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

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

164 that is diverted or scheduled to be diverted each month by the Contractor which is in excess of
165 the Base Supply;

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

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

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

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

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

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

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

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

188 (dd) "Base Supply" shall mean the quantity of water described in subdivision
189 (a)(1) of Article 3 and Exhibit "C" which the United States agrees may be diverted by the
190 Contractor from Elk Creek each month during the period December through the following
191 March 15 without payment to the United States for such quantities diverted;

192 TERM OF CONTRACT

193 2. (a) This Contract shall be effective March 1, 2005, through February 28,
194 2030, and supersedes the Existing Contract. In the event the Contractor wishes to renew this
195 Contract beyond February 28, 2030, the Contractor shall submit a request for renewal in writing
196 to the Contracting Officer no later than two years prior to the date this Contract expires.

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

202 (2) The conditions which must be met for this Contract to be renewed
203 are: (i) the Contractor has prepared a water conservation plan that has been determined by the
204 Contracting Officer in accordance with Article 26 of this Contract to meet the conservation and
205 efficiency criteria for evaluating such plans established under Federal law; (ii) the Contractor is
206 implementing an effective water conservation and efficiency program based on the Contractor's
207 water conservation plan as required by Article 26 of this Contract; (iii) the Contractor is
208 maintaining all water measuring devices and implementing all water measurement methods as
209 approved by the Contracting Officer pursuant to Article 6 of this Contract; (iv) the Contractor
210 has reasonably and beneficially used the Project Water supplies made available to it and, based
211 on projected demands, is reasonably anticipated and expects to fully utilize for reasonable and
212 beneficial use the quantity of Project Water to be made available to it pursuant to such renewal;

213 (v) the Contractor is complying with all terms and conditions of this Contract; and (vi) the
214 Contractor has the physical and legal ability to deliver Project Water.

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

225 (c) Omitted.

226 (d) The Contracting Officer shall make a determination ten years after the
227 date of execution of this Contract, and every five years thereafter during the term of this
228 Contract, of whether a conversion of the relevant portion of this Contract to a contract under said
229 subsection 9(d) of the Reclamation Project Act of 1939 can be accomplished pursuant to the Act
230 of July 2, 1956 (70 Stat. 483). The Contracting Officer shall also make a determination ten years
231 after the date of execution of this Contract and every five years thereafter during the term of this
232 Contract of whether a conversion of the relevant portion of this Contract to a contract under
233 subsection 9(c)(1) of the Reclamation Project Act of 1939 can be accomplished.

234 Notwithstanding any provision of this Contract, the Contractor reserves and shall have all rights
235 and benefits under the Act of July 2, 1956 (70 Stat. 483). The Contracting Officer anticipates
236 that during the term of this Contract, all authorized Project construction expected to occur will

237 have occurred, and on that basis the Contracting Officer agrees upon such completion to allocate
238 all costs that are properly assignable to the Contractor, and agrees further that, at any time after
239 such allocation is made, and subject to satisfaction of the condition set out in this subdivision,
240 this Contract shall, at the request of the Contractor, be converted to a contract under subsection
241 9(d) or 9(c)(1), whichever is applicable, of the Reclamation Project Act of 1939, subject to
242 applicable Federal law and under stated terms and conditions mutually agreeable to the
243 Contractor and the Contracting Officer. A condition for such conversion to occur shall be a
244 determination by the Contracting Officer that, account being taken of the amount credited to
245 return by the Contractor as provided for under Federal Reclamation law, the remaining amount
246 of construction costs assignable for ultimate return by the Contractor can probably be repaid to
247 the United States within the term of a contract under said subsection 9(d) or 9(c)(1), whichever is
248 applicable. If the remaining amount of costs that are properly assignable to the Contractor
249 cannot be determined during the term of this Contract, the Contracting Officer shall notify the
250 Contractor, and provide the reason(s) why such a determination could not be made. Further, the
251 Contracting Officer shall make such a determination as soon thereafter as possible so as to
252 permit, upon request of the Contractor and satisfaction of the condition set out above, conversion
253 to a contract under subsection 9(d) or 9(c)(1), whichever is applicable. In the event such
254 determination of costs has not been made at a time which allows conversion of this Contract
255 during the term of this Contract or the Contractor has not requested conversion of this Contract
256 within such term, the parties shall incorporate in any subsequent renewal contract as described in
257 subdivision (b) of this Article a provision that carries forth in substantially identical terms the
258 provisions of this subdivision.

259 (e) The Contractor recognizes that this Contract is subject to the terms and
260 conditions of Contract No. 14-06-200-1020A, between the United States and the Orland Water
261 Users' Association. In the event that Contract No. 14-06-200-1020A is terminated, this Contract
262 shall also be considered terminated.

263 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

264 3. (a) (1) The Contractor is hereby entitled and authorized to divert from Elk
265 Creek, subject to the terms and conditions contained herein, the 15 acre-feet of Base Supply
266 shown in Exhibit C of this Contract for beneficial use within the area shown on Exhibit "A".

267 (2) During each Year, consistent with all applicable State water rights,
268 permits, and licenses, Federal law, and subject to the provisions set forth in Articles 11 and 12
269 of this Contract, the Contracting Officer shall make available for delivery to the Contractor
270 20 acre-feet of Project Water shown in Exhibit C of this Contract for irrigation purposes.
271 Water Delivered to the Contractor in accordance with this subdivision shall be scheduled and
272 paid for pursuant to the provisions of Articles 4 and 7 of this Contract.

273 (b) Because the capacity of the Project to deliver Project Water has been
274 constrained in recent years and may be constrained in the future due to many factors including
275 hydrologic conditions and implementation of Federal and State laws, the likelihood of the
276 Contractor actually receiving the amount of Project Water set out in subdivision (a) of this
277 Article in any given Year is uncertain. The Contracting Officer's modeling referenced in the
278 PEIS projected that the Contract Total set forth in this Contract will not be available to the
279 Contractor in many years. During the most recent five years, the Recent Historic Average of
280 water made available to the Contractor was 18 acre-feet. Nothing in subdivision (b) of this
281 Article shall affect the rights and obligations of the parties under any provision of this Contract.

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

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

301 (e) The Contractor shall comply with requirements applicable to the
302 Contractor in biological opinion(s) prepared as a result of a consultation regarding the execution
303 of this Contract undertaken pursuant to Section 7 of the Endangered Species Act of 1973 (ESA),
304 as amended, that are within the Contractor's legal authority to implement. The Existing
305 Contract, which evidences in excess of 21 years of diversions for irrigation purposes of the
306 quantities of water provided in subdivision (a)(2) of Article 3 of this Contract, will be considered
307 in developing an appropriate baseline for biological assessment(s) prepared pursuant to the ESA,
308 and any other needed environmental review. Nothing herein shall be construed to prevent the
309 Contractor from challenging or seeking judicial relief in a court of competent jurisdiction with

310 respect to any biological opinion or other environmental documentation referred to in this
311 Article.

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

325 (g) The Contractor may request permission to reschedule for use during the
326 subsequent Year some or all of the Water Made Available to the Contractor during the current
327 Year, referred to as "carryover." The Contractor may request permission to use during the
328 current Year a quantity of Project Water which may be made available by the United States to
329 the Contractor during the subsequent Year, referred to as "preuse." The Contracting Officer's
330 written approval may permit such uses in accordance with applicable statutes, regulations,
331 guidelines, and policies.

332 (h) The Contractor's right pursuant to Federal Reclamation law and applicable
333 State law to the reasonable and beneficial use of Water Delivered pursuant to this Contract
334 during the term thereof and any subsequent renewal contracts, as described in Article 2 of this
335 Contract, during the terms thereof shall not be disturbed so long as the Contractor shall fulfill all

336 of its obligations under this Contract and any renewals thereof. Nothing in the preceding
337 sentence shall affect the Contracting Officer's ability to impose shortages under Article 11 or
338 subdivision (b) of Article 12 of this Contract or applicable provisions of any subsequent renewal
339 contracts.

340 (i) Omitted.

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

349 TIME FOR DELIVERY OF WATER

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

359 (b) On or before each March 1 and at such other times as necessary, the
360 Contractor shall submit to the Contracting Officer a written schedule, satisfactory to the

361 Contracting Officer, showing the monthly quantities of Base Supply and Project Water to be
362 delivered by the United States to the Contractor pursuant to this Contract for the Year
363 commencing on such March 1. The Contracting Officer shall use all reasonable means to deliver
364 Base Supply and Project Water according to the approved schedule for the Year commencing on
365 such March 1.

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

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

376 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

377 5. (a) Base Supply and Project Water scheduled pursuant to subdivision (b) of
378 Article 4 of this Contract shall be delivered to the Contractor at the existing point of diversion on
379 Elk Creek shown on Exhibit "A" and any additional point or points of delivery either on Project
380 facilities or another location or locations mutually agreed to in writing by the Contracting Officer
381 and the Contractor.

382 (b) The Contracting Officer shall make all reasonable efforts to maintain
383 sufficient levels of water in Black Butte Reservoir to deliver Project Water to the Contractor.

384 (c) The Contractor shall deliver Irrigation Water in accordance with any
385 applicable land classification provisions of Federal Reclamation law and the associated

386 regulations. The Contractor shall not deliver Project Water to land outside the Contractor's
387 Service Area unless approved in advance by the Contracting Officer.

388 (d) All Water Delivered to the Contractor pursuant to this Contract shall be
389 measured and recorded with equipment furnished, installed, operated, and maintained by the
390 Contractor at the point or points of delivery established pursuant to subdivision (a) of this
391 Article. Upon the request of either party to this Contract, the Contracting Officer shall
392 investigate the accuracy of such measurements and shall take any necessary steps to adjust any
393 errors appearing therein. For any period of time when accurate measurements have not been
394 made, the Contracting Officer shall consult with the Contractor prior to making a final
395 determination of the quantity delivered for that period of time.

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

409 MEASUREMENT OF WATER WITHIN THE CONTRACTOR'S SERVICE AREA

410 6. (a) The Contractor has established a measuring program satisfactory to the
411 Contracting Officer. The Contractor shall ensure that all surface water delivered for irrigation

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

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

438 measuring devices and/or measuring methods as required by the Contracting Officer to ensure
439 compliance with subdivision (a) of this Article.

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

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

446 (e) The Contractor shall inform the Contracting Officer on or before the 10th
447 calendar day of each month of the quantity of Irrigation Water taken during the preceding month.

448 RATES AND METHOD OF PAYMENT FOR WATER

449 7. (a) The Contractor shall pay the United States as provided in this Article for
450 all Delivered Water at Rates, Charges, and the Tiered Pricing Component established in
451 accordance with (i) the Secretary's ratesetting policy for Irrigation Water adopted in 1988. Such
452 ratesetting policy shall be amended, modified, or superseded only through a public notice and
453 comment procedure; (ii) applicable Federal Reclamation law and associated rules and
454 regulations, or policies; and (iii) other applicable provisions of this Contract. Payments shall be
455 made by cash transaction, electronic funds transfer, or any other mechanism as may be agreed to
456 in writing by the Contractor and the Contracting Officer. The Rates, Charges, and Tiered Pricing
457 Component applicable to the Contractor upon execution of this Contract are set forth in Exhibit
458 "B," as may be revised annually.

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

461 (1) Prior to July 1 of each Calendar Year, the Contracting Officer shall
462 provide the Contractor an estimate of the Charges for Project Water that will be applied to the
463 period October 1, of the current Calendar Year, through September 30, of the following Calendar

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

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

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

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

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

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

515 Contract shall be no more than the otherwise applicable Rate for Irrigation Water under
516 subdivision (a) of this Article.

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

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

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

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

538 (j) (1) Beginning at such time as deliveries of Project Water in a Year
539 exceed 80 percent of the Contract Total, then before the end of the month following the month of
540 delivery the Contractor shall make an additional payment to the United States equal to the

541 applicable Tiered Pricing Component. The Tiered Pricing Component for the amount of Water
542 Delivered in excess of 80 percent of the Contract Total, but less than or equal to 90 percent of the
543 Contract Total, shall equal one-half of the difference between the Rate established under
544 subdivision (a) of this Article and the Irrigation Full Cost Water Rate. The Tiered Pricing
545 Component for the amount of Water Delivered which exceeds 90 percent of the Contract Total
546 shall equal the difference between (i) the Rate established under subdivision (a) of this Article
547 and (ii) the Irrigation Full Cost Water Rate.

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

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

561 (k) For the term of this Contract, Rates under the respective ratesetting
562 policies will be established to recover only reimbursable O&M (including any deficits) and
563 capital costs of the Project, as those terms are used in the then-current Project ratesetting
564 policies, and interest, where appropriate, except in instances where a minimum Rate is applicable
565 in accordance with the relevant Project ratesetting policy. Changes of significance in practices
566 which implement the Contracting Officer's ratesetting policies will not be implemented until the

567 Contracting Officer has provided the Contractor an opportunity to discuss the nature, need, and
568 impact of the proposed change.

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

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

579 NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICITS

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

583 SALES, TRANSFERS, OR EXCHANGES OF WATER

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

593 economic and social effects, including environmental justice, of the proposed water transfers on
594 both the transferor and transferee.

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

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

619 (d) For the purpose of determining whether Section 3405(a)(1)(M) of the
620 CVPIA applies to the Contractor as a transferor or transferee of Project Water, the Contracting
621 Officer acknowledges that the Contractor is within a county, watershed, or other area of origin,
622 as those terms are utilized under California law, of water that constitutes the natural flow of the
623 Sacramento River and its tributaries above the confluence of the American and Sacramento
624 Rivers.

625 APPLICATION OF PAYMENTS AND ADJUSTMENTS

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

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

642 TEMPORARY REDUCTIONS--RETURN FLOWS

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

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

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

665 CONSTRAINTS ON THE AVAILABILITY OF WATER

666 12. (a) In its operation of the Project, the Contracting Officer will use all
667 reasonable means to guard against a Condition of Shortage in the quantity of water to be made

668 available to the Contractor pursuant to this Contract. In the event the Contracting Officer
669 determines that a Condition of Shortage appears probable, the Contracting Officer will notify the
670 Contractor of said determination as soon as practicable.

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

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

682 (d) Omitted.

683 (e) Omitted.

684 UNAVOIDABLE GROUNDWATER PERCOLATION

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

689 RULES AND REGULATIONS

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

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WATER AND AIR POLLUTION CONTROL

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

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QUALITY OF WATER

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

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

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WATER ACQUIRED BY THE CONTRACTOR
OTHER THAN FROM THE UNITED STATES

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17. (a) Water or water rights, including Base Supply water furnished pursuant to this Contract, now owned or hereafter acquired by the Contractor other than from the

720 United States and Irrigation Water furnished pursuant to the terms of this Contract may be
721 simultaneously transported through the same distribution facilities of the Contractor subject to
722 the following: (i) if the facilities utilized for commingling Irrigation Water and non-Project
723 water were constructed without funds made available pursuant to Federal Reclamation law, the
724 provisions of Federal Reclamation law will be applicable only to the Landholders of lands which
725 receive Irrigation Water; (ii) the eligibility of land to receive Irrigation Water must be established
726 through the certification requirements as specified in the Acreage Limitation Rules and
727 Regulations (43 CFR Part 426); (iii) the water requirements of Eligible Lands within the
728 Contractor's Service Area can be established and the quantity of Irrigation Water to be utilized is
729 less than or equal to the quantity necessary to irrigate such Eligible Lands; and (iv) if the
730 facilities utilized for commingling Irrigation Water and non-Project water are/were constructed
731 with funds made available pursuant to Federal Reclamation law, the non-Project water will be
732 subject to the acreage limitation provisions of Federal Reclamation law, unless the Contractor
733 pays to the United States the incremental fee described in 43 CFR 426.15. In determining the
734 incremental fee, the Contracting Officer will calculate annually the cost to the Federal
735 Government, including interest, on storing or delivering non-Project water, which for purposes
736 of this Contract shall be determined as follows: The quotient shall be the unpaid distribution
737 system costs divided by the total irrigable acreage within the Contractor's Service Area. The
738 incremental fee per acre is the mathematical result of such quotient times the interest rate
739 determined using Section 202 (3) of the Act of October 12, 1982 (96 Stat. 1263). Such
740 incremental fee will be charged to each acre of excess or full cost land within the Contractor's
741 Service Area that receives non-Project water through Federally financed or constructed facilities.
742 The incremental fee calculation methodology will continue during the term of this Contract
743 absent the promulgation of a contrary Reclamation-wide rule, regulation, or policy adopted after
744 the Contractor has been afforded the opportunity to review and comment on the proposed rule,

745 regulation, or policy. If such rule, regulation, or policy is adopted it shall supersede this
746 provision.

747 (b) Water or water rights, including Base Supply water furnished pursuant to
748 this Contract, now owned or hereafter acquired by the Contractor, other than from the United
749 States, may be stored, conveyed, and/or diverted through Project facilities, subject to the
750 completion of appropriate environmental documentation, with the approval of the Contracting
751 Officer and the execution of any contract determined by the Contracting Officer to be necessary,
752 consistent with the following provisions:

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

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

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

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

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

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

780 OPINIONS AND DETERMINATIONS

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

791 (b) The Contracting Officer shall have the right to make determinations
792 necessary to administer this Contract that are consistent with the provisions of this Contract, the
793 laws of the United States and of the State of California, and the rules and regulations
794 promulgated by the Secretary of the Interior. Such determinations shall be made in consultation
795 with the Contractor to the extent reasonably practicable.

796 COORDINATION AND COOPERATION

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

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

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

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

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

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

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

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

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

836 CHARGES FOR DELINQUENT PAYMENTS

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

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

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

854 EQUAL OPPORTUNITY

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

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

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

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

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

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

884 (f) In the event of the Contractor's noncompliance with the nondiscrimination
885 clauses of this Contract or with any of the said rules, regulations, or orders, this Contract may be
886 canceled, terminated, or suspended, in whole or in part, and the Contractor may be declared
887 ineligible for further Government contracts in accordance with procedures authorized in said
888 amended Executive Order, and such other sanctions may be imposed and remedies invoked as

889 provided in said Executive Order, or by rule, regulation, or order of the Secretary of Labor, or as
890 otherwise provided by law.

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

900 GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

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

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

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

913 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

914 23. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964
915 (42 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (P.L. 93-112, as amended), the
916 Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.) and any other applicable civil rights
917 laws, as well as with their respective implementing regulations and guidelines imposed by the
918 U.S. Department of the Interior and/or Bureau of Reclamation.

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

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

933 PRIVACY ACT COMPLIANCE

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

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

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

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

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

959 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

960 25. In addition to all other payments to be made by the Contractor pursuant to this
961 Contract, the Contractor shall pay to the United States, within 60 days after receipt of a bill and

962 detailed statement submitted by the Contracting Officer to the Contractor for such specific items
963 of direct cost incurred by the United States for work requested by the Contractor associated with
964 this Contract plus indirect costs in accordance with applicable Bureau of Reclamation policies
965 and procedures. All such amounts referred to in this Article shall not exceed the amount agreed
966 to in writing in advance by the Contractor. This Article shall not apply to costs for routine
967 contract administration.

968 26. Omitted.

969 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

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

977 28. Omitted.

978 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

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

984 BOOKS, RECORDS, AND REPORTS

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

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

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

999 (c) Omitted.

1000 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

1001 31. (a) The provisions of this Contract shall apply to and bind the successors and
1002 assigns of the parties hereto, but no assignment or transfer of this Contract or any right or interest
1003 therein shall be valid until approved in writing by the Contracting Officer.

1004 (b) The assignment of any right or interest in this Contract by either party
1005 shall not interfere with the rights or obligations of the other party to this Contract absent the
1006 written concurrence of said other party.

1007 (c) The Contracting Officer shall not unreasonably condition or withhold his
1008 approval of any proposed assignment.

1009 SEVERABILITY

1010 32. In the event that a person or entity who is neither (i) a party to a Project contract,
1011 nor (ii) a person or entity that receives Project Water from a party to a Project contract, nor (iii)
1012 an association or other form of organization whose primary function is to represent parties to
1013 Project contracts, brings an action in a court of competent jurisdiction challenging the legality or
1014 enforceability of a provision included in this Contract and said person, entity, association, or
1015 organization obtains a final court decision holding that such provision is legally invalid or
1016 unenforceable and the Contractor has not intervened in that lawsuit in support of the plaintiff(s),
1017 the parties to this Contract shall use their best efforts to (i) within 30 days of the date of such
1018 final court decision identify by mutual agreement the provisions in this Contract which must be
1019 revised, and (ii) within three months thereafter promptly agree on the appropriate revision(s).

1020 The time periods specified above may be extended by mutual agreement of the parties. Pending
1021 the completion of the actions designated above, to the extent it can do so without violating any
1022 applicable provisions of law, the United States shall continue to make the quantities of Project
1023 Water specified in this Contract available to the Contractor pursuant to the provisions of this
1024 Contract which were not found to be legally invalid or unenforceable in the final court decision.

1025 RESOLUTION OF DISPUTES

1026 33. Should any dispute arise concerning any provisions of this Contract, or the
1027 parties' rights and obligations thereunder, the parties shall meet and confer in an attempt to
1028 resolve the dispute. Prior to the Contractor commencing any legal action, or the Contracting
1029 Officer referring any matter to Department of Justice, the party shall provide to the other party
1030 30 days' written notice of the intent to take such action; Provided, That such notice shall not be
1031 required where a delay in commencing an action would prejudice the interests of the party that
1032 intends to file suit. During the 30-day notice period, the Contractor and the Contracting Officer
1033 shall meet and confer in an attempt to resolve the dispute. Except as specifically provided,
1034 nothing herein is intended to waive or abridge any right or remedy that the Contractor or the
1035 United States may have.

1036 OFFICIALS NOT TO BENEFIT

1037 34. No Member of or Delegate to Congress, Resident Commissioner, or official of the
1038 Contractor shall benefit from this Contract other than as a water user or landowner in the same
1039 manner as other water users or landowners.

1040 CHANGES IN CONTRACTOR'S SERVICE AREA

1041 35. (a) While this Contract is in effect, no change may be made in the
1042 Contractor's Service Area, by inclusion or exclusion of lands, dissolution, consolidation, merger,
1043 or otherwise, except upon the Contracting Officer's written consent.

1044 (b) Within 30 days of receipt of a request for such a change, the Contracting
1045 Officer will notify the Contractor of any additional information required by the Contracting
1046 Officer for processing said request, and both parties will meet to establish a mutually agreeable
1047 schedule for timely completion of the process. Such process will analyze whether the proposed

1048 change is likely to: (i) result in the use of Project Water contrary to the terms of this Contract;
1049 (ii) impair the ability of the Contractor to pay for Project Water furnished under this Contract or
1050 to pay for any Federally-constructed facilities for which the Contractor is responsible; and (iii)
1051 have an impact on any Project Water rights applications, permits, or licenses. In addition, the
1052 Contracting Officer shall comply with the NEPA and the ESA. The Contractor will be
1053 responsible for all costs incurred by the Contracting Officer in this process, and such costs will
1054 be paid in accordance with Article 25 of this Contract.

1055 FEDERAL LAWS

1056 36. By entering into this Contract, the Contractor does not waive its rights to contest
1057 the validity or application in connection with the performance of the terms and conditions of this
1058 Contract of any Federal law or regulation; Provided, That the Contractor agrees to comply with
1059 the terms and conditions of this Contract unless and until relief from application of such Federal
1060 law or regulation to the implementing provision of the Contract is granted by a court of
1061 competent jurisdiction.

1062 NOTICES

1063 37. Any notice, demand, or request authorized or required by this Contract shall be
1064 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or
1065 delivered to the Area Manager, Bureau of Reclamation, Northern California Area Office,
1066 16349 Shasta Dam Boulevard, Shasta Lake, California 96019, and on behalf of the
1067 United States, when mailed, postage prepaid, or delivered to the 4-E Water District, c/o Kenneth
1068 Hopkins, Attorney at Law, P.O. Box 1190, Willows, California 95988. The designation of the
1069 addressee or the address may be changed by notice given in the same manner as provided in this
1070 Article for other notices.

1071 CONFIRMATION OF CONTRACT

1072 38. The Contractor, after the execution of this Contract, shall promptly seek to secure
1073 a decree of a court of competent jurisdiction of the State of California, confirming the execution
1074 of this Contract. The Contractor shall furnish the United States a certified copy of the final
1075 decree, the validation proceedings, and all pertinent supporting records of the court approving
1076 and confirming this Contract, and decreeing and adjudging it to be lawful, valid, and binding on
1077 the Contractor.

1078 AGREEMENT ON WATER QUANTITIES

1079 39. (a) During the term of this Contract, and any renewals thereof, it shall
1080 constitute full agreement as between the United States and the Contractor as to the quantities of
1081 water and the allocation thereof between Base Supply and Project Water which may be diverted
1082 by the Contractor from Elk Creek for beneficial use on the land shown on Exhibit "A" which
1083 said diversion, use and allocation shall not be disturbed so long as the Contractor shall fulfill all
1084 of its obligations hereunder, and the Contractor shall not claim any right against the United
1085 States in conflict with the provisions hereof.

1086 (b) Nothing herein contained is intended to or does limit rights of the
1087 Contractor against other than the United States or of the United States against any person other
1088 than the Contractor; Provided, however, That in the event the Contractor, the United States, or
1089 any other person shall become party to a general adjudication of rights to the use of water of the
1090 Sacramento River system, this Contract shall not jeopardize the rights or position of either party
1091 hereto or of any other person and the rights of all such persons in respect to the use of such water
1092 shall be determined in such proceedings the same as if this Contract had not been entered into,
1093 and if final judgment in any such general adjudication shall determine that the rights of the
1094 parties hereto are different from the rights as assumed herein, the United States shall submit to
1095 the Contractor an amendment to give effect to such judgment and the Contract shall be deemed
1096 to have been amended accordingly unless within 60 days after submission of such amendment to
1097 the Contractor, the Contractor elects to terminate the Contract or within the same period of time
1098 the parties agree upon mutually satisfactory amendments to give effect to such judgment.

1099 (c) In the event this Contract terminates, the rights of the parties to thereafter
1100 divert and use water shall exist as if this Contract had not been entered into. However, the fact
1101 that this Contract places a limit on the total supply to be diverted annually by the Contractor
1102 during the contract term and segregates it into Base Supply and Project Water shall not
1103 jeopardize the rights or position of either party with respect to its water rights or the yield thereof

1104 at all times after the contract terminates. It is further agreed that the Contractor at all times will
1105 first use water to the use of which it is entitled by virtue of its own water rights, and neither the
1106 provisions of this Contract, action taken thereunder, nor payments made thereunder to the United
1107 States by the Contractor shall be construed as an admission that any part of the water used by the
1108 Contractor during the term of this Contract was in fact water to which it would not have been
1109 entitled under water rights owned by it nor shall receipt of payments thereunder by the United
1110 States from the Contractor be construed as an admission that any part of the water used by the
1111 Contractor during the term of this Contract was in fact water to which it would have been
1112 entitled under water rights owned by it.

1113 HAZARDOUS WASTE

1114 40. (a) The Contractor shall comply with all applicable Federal, State, and local
1115 laws and regulations, and Reclamation policies and instructions, existing or hereafter enacted or
1116 promulgated, concerning any hazardous material that will be used, produced, transported, stored
1117 or disposed of on or in lands, waters or facilities owned by the United States or administered by
1118 Reclamation.

1119 (b) "Hazardous material" means any substance, pollutant or contaminant
1120 listed as hazardous under the Comprehensive Environmental Response, Compensation, and
1121 Liability Act of 1980, as amended, 42 U.S.C. 9601, et seq., and the regulations promulgated
1122 pursuant to that Act.

1123 (c) The Contractor may not allow contamination of lands, waters or facilities
1124 owned by the United States or administered by Reclamation by hazardous materials, thermal
1125 pollution, refuse, garbage, sewage effluent, industrial waste, petroleum products, mine tailings,
1126 mineral salts, pesticides (including, but not limited to, the misuse of pesticides), pesticide
1127 containers or any other pollutants.

1128 (d) The Contractor shall report to Reclamation, within 24 hours of its
1129 occurrence, any event which may or does result in pollution or contamination adversely affecting
1130 lands, water or facilities owned by the United States or administered by Reclamation.

1131 (e) Violation of any of the provisions of this Article shall constitute grounds
1132 for immediate termination of this Contract and shall make the Contractor liable for the cost of
1133 full and complete remediation and/or restoration of any Federal resources or facilities that are
1134 adversely affected as a result of the violation.

1135 (f) The Contractor agrees to include the provisions contained in paragraphs
1136 (a) through (e) of this Article in any subcontract or third party contract it may enter into pursuant
1137 to this Contract.

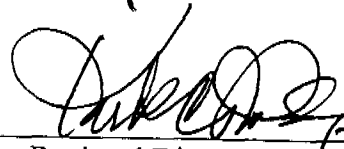
1138 (g) Reclamation agrees to provide information necessary for the Contractor,
1139 using reasonable diligence, to comply with the provisions of this Article.

1140 IN WITNESS WHEREOF, the parties hereto have executed this Contract as of
1141 the day and year first above written.

1142

THE UNITED STATES OF AMERICA

1143
1144
1145

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

1146 (SEAL)

APPROVED AS TO LEGAL
FORM AND SUFFICIENCY

OFFICE OF REGIONAL SOLICITOR
DEPARTMENT OF THE INTERIOR

1147
1148

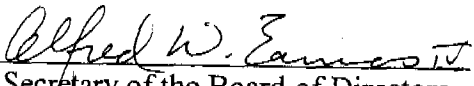
4-E WATER DISTRICT

1149
1150

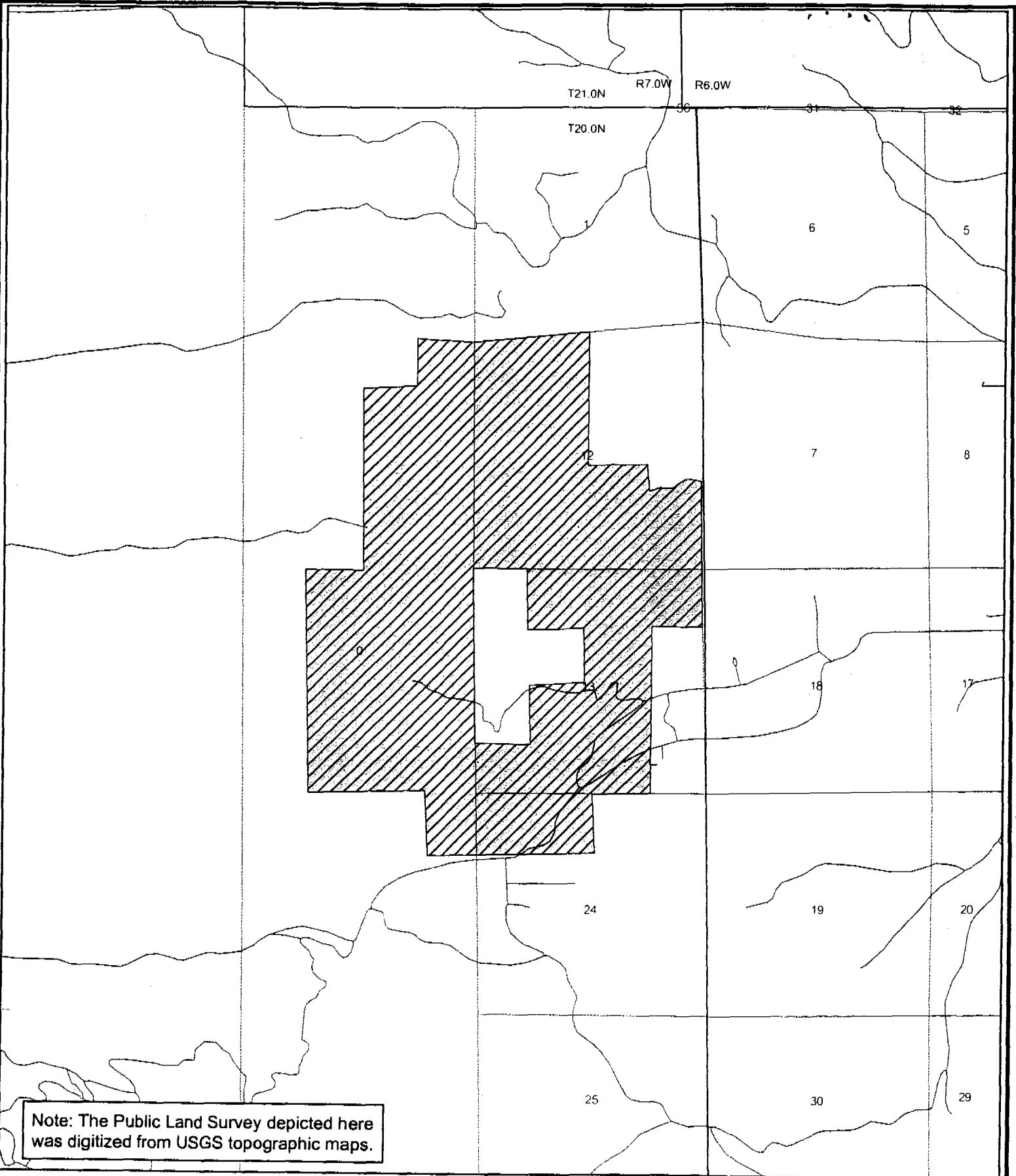
By: 
President of the Board of Directors

1151 Attest:



1152
1153

By: 
Secretary of the Board of Directors

1154 (H:\public\Willows Final LTRC's\2005-01-31 4-E LTRC Final Draft Contract.doc)



Note: The Public Land Survey depicted here was digitized from USGS topographic maps.

-  Contractor's Service Area
-  District Boundary

4-E Water District
 Contract No. 3-07-20-W0312-LTR1
 Exhibit A

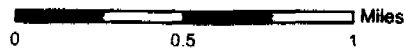


EXHIBIT B

4-E WATER DISTRICT
2005 Water Rates and Charges per Acre-Foot

<u>COST OF SERVICE RATES:</u>	<u>Agriculture</u>
Capital Rates	\$ 2.14
O&M Rates:	
Water Marketing	\$6.61
Storage	\$5.93
Deficit Rates:	
Interest Bearing	\$0.00
CFO/PFR Adjustment Rate 1/	\$2.84
TOTAL	<u>\$17.52</u>

FULL-COST RATES:

Section 202(3) Rate is applicable to a Qualified Recipient or to a Limited Recipient receiving irrigation water on or before October 1, 1981. \$25.60

Section 205(a)(3) Rate is applicable to a Limited Recipient that did not receive irrigation water on or before October 1, 1981. \$28.51

TIERED PRICING COMPONENTS:

Tiered Pricing Component >80% <=90% of Contract
 Total [Full Cost Rate – COS Rate / 2] \$4.04

Tiered Pricing Component >90% of Contract
 Total [Full Cost Rate – COS Rate] \$8.08

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

Restoration Payments (3407(d)(2)(A)) \$ 7.93

1/ 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.

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).

EXHIBIT C

SCHEDULE OF MONTHLY DIVERSIONS OF WATER

	<u>Base Supply</u> (Acre-Feet)	<u>Project Water</u> (Acre-Feet)	<u>Total Supply</u> (Acre-Feet)
January	<u>5</u>	<u>0</u>	<u>5</u>
February	<u>4</u>	<u>0</u>	<u>4</u>
March	<u>1</u>	<u>1</u>	<u>2</u>
April	<u>0</u>	<u>2</u>	<u>2</u>
May	<u>0</u>	<u>3</u>	<u>3</u>
June	<u>0</u>	<u>3</u>	<u>3</u>
July	<u>0</u>	<u>2</u>	<u>2</u>
August	<u>0</u>	<u>2</u>	<u>2</u>
September	<u>0</u>	<u>2</u>	<u>2</u>
October	<u>0</u>	<u>3</u>	<u>3</u>
November	<u>0</u>	<u>2</u>	<u>2</u>
December	<u>5</u>	<u>0</u>	<u>5</u>
Total	<u>15</u>	<u>20</u>	<u>35</u>

Contractor: 4-E Water DistrictAddress: c/o Kenneth Hopkins, Attorney at Law, P.O. Box 1190, Willows, CA 95988Point(s) of Diversion: 20/7 - 23A South Fork Elk Creek

Irrigable Area in Acres: 40

Revised: August 28, 2002

BOARD OF DIRECTORS
4-E WATER DISTRICT

* * *

Resolution No. 05-1

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RESOLUTION APPROVING LONG-TERM RENEWAL CONTRACT BETWEEN
THE UNITED STATES AND 4-E WATER DISTRICT
PROVIDING FOR PROJECT WATER SERVICE FROM THE
BLACK BUTTE PROJECT AND AGREEMENT ON DIVERSION OF WATER

AS A BASIS AND PREMISE for this Resolution, the Board of Directors of 4-E WATER DISTRICT finds and states as follows:

1. District has negotiated with the United States for a long-term renewal contract providing for project water service from the Black Butte Project and agreement on diversion of water;
2. The United States has presented to District a Long-Term Contract and Agreement, being Contract No. 3-07-20-S0312-LTR1, pursuant to such negotiation, a copy of which is attached hereto as Exhibit "A";
3. The Board of Directors believes that it would be in the best interests of the District to approve and execute the proposed form of Contract.

NOW, THEREFORE, be it RESOLVED and ORDAINED that:

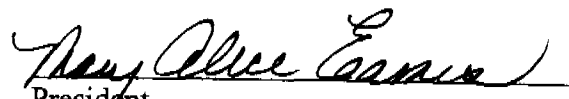
1. The Board of Directors has fully and completely reviewed the Contract presented to it.
2. The President and Secretary of this District are authorized and directed to execute the Contract and to convey the executed Contract, together with a certified copy of this Resolution to the United States.

PASSED AND ADOPTED at a meeting of the Board of Directors on February 24, 2005, at Moraga, California, by the following vote:

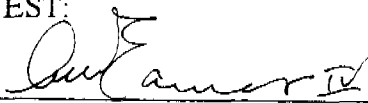
AYES: 5

NOES: 0

ABSENT: —


President

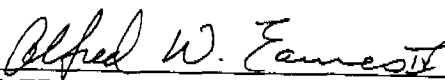
ATTEST:


Secretary

CERTIFICATION

* * *

I, ALFRED W. EAMES IV, hereby certify that I am the duly appointed and acting Secretary of the 4-E WATER DISTRICT, a California water district; that the foregoing is a full, true, and correct copy of Resolution 05-1 of the Board of Directors of the District passed and adopted on February 24, 2004.



ALFRED W. EAMES, IV, Secretary
4-E WATER DISTRICT